

Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report
Universal Periodic Review: 3rd Cycle, 27th Session

FINLAND

I. BACKGROUND INFORMATION

Finland acceded to the *1951 Convention relating to the Status of Refugees* and to the *1967 Protocol* on 10 October 1968 (hereinafter collectively referred to as the “*1951 Convention*”). Finland has also acceded to the *1954 Convention Relating to the Status of Stateless Persons* (the *1954 Convention*) on 10 October 1968, the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*) on 7 August 2008 and the *1997 European Convention on Nationality* on 6 August 2008.

Finland has a well-established asylum system in place, and the Finnish *Aliens Act*¹ contains most of the domestic legal provisions relating to asylum. The Ministry of the Interior has the overall responsibility for the issues covered by the Act. The Finnish Immigration Service (“Migri”) is responsible for handling all asylum applications, i.e. examining applications for asylum and taking decisions at first instance. These include, *inter alia*, decisions to grant or refuse refugee status or subsidiary protection. The *Aliens Act* is the main legislative instrument, regulating both material and procedural aspects of how applications for asylum are determined in Finland. The Helsinki Administrative Court examines asylum cases in the second instance and the Supreme Administrative Court in the third and final instance.

During 2015, over 32,000 asylum applications were registered in Finland, which was near to a ten-fold increase compared to 2013 and 2014. By 15 June 2016, Finland had received 3,103 asylum applications, and the Government expects 10,000 applications to be lodged in 2016. Afghanistan and Iraq are the main countries of origin of the asylum-seekers in Finland. Following the reform of the decision-making process in the first instance at Migri in 2012, Finland has considerably increased the refugee recognition rate. In 2015, a rise in the refugee recognition rate could also be seen for refugees from countries in conflict.

The unexpected increase in the number of asylum-seekers in 2015 has led to a series of restrictive measures taken by the Finnish Government. On 8 December 2015, an 80-point action plan was published with the short-term aim of “stemming the uncontrolled influx of asylum-seekers” to Finland. The most notable points, which have led to amendments of the legislation during the spring of 2016, include the abolishment of “humanitarian protection” (a

¹ Finland: Act No. 301/2004 of 2004, Aliens Act [Finland], 30 April 2004, available at: <http://www.finlex.fi/fi/laki/kaannokset/2004/en20040301.pdf> and <http://www.refworld.org/docid/4b4d93ad2.html>.

national protection category);² restrictions on family reunification;³ and restrictions on legal aid for asylum-seekers.⁴ Changes will also be made to the appeals process, including through restrictions to the possibility to appeal to the Supreme Court, restrictions to the possibility of submitting supplementary information to the court, and reductions in the appeal period. UNHCR regrets that some of the amendments, while staying within minimum safeguards, restrict current good practices in Finland.

Furthermore, Finland was quick to respond to the rise in asylum applications by increasing the staff of the asylum unit of Migri and the Helsinki Administrative Court. The aim of Migri is to process all of the pending applications filed in 2015 by September 2016.

During the first two months of 2016, the majority of the asylum-seekers in Finland, some 15-30 individuals per day, arrived via Finland's border with the Russian Federation in the Northern Lapland region. These arrivals stopped on 1 March. In the course of March, as a result of a bilateral decision between Finland and the Russian Federation, restrictions were introduced on the two northernmost border-crossing points, allowing only citizens from Finland, Russia and Belarus and their family members to cross during a six-month period.

The Finnish *Nationality Acts* serves as the key piece of legislation with regards to the granting of Finnish citizenship. Most stateless persons have come to Finland from abroad and include stateless asylum-seekers, resettled refugees and 'non-returnable' rejected asylum-seekers. In 2012-2013, UNHCR undertook a *Mapping of Statelessness in Finland*⁶ which analysed Finland's compliance with the standards set out in the *1954 Convention* and the *1961 Convention*. Many good practices to prevent statelessness were identified, including that Finnish nationality is automatically granted to children born in Finland who would otherwise become stateless. However, a gap identified is that Finland lacks a formal statelessness determination procedure that can lead to the granting of a status as stateless, and corresponding rights under the *1954 Convention*.

Finland currently has an annual resettlement quota of 750 places. In 2014 and 2015, the quota was temporarily raised to 1,050. In 2016, the quota, including the emergency quota, is exclusively allocated to Syrians from Turkey. Based on the existing allocation decision,

² Comments by the UN High Commissioner for Refugees (UNHCR) Regional Representation for Northern Europe on the draft Law Proposal of 10 November 2015, amending the *Aliens Act* of the Republic of Finland, available at: http://www.unhcr-northerneurope.org/fileadmin/user_upload/Documents/PDF/Finland/Law_Comments_Humanitarian_Protection_2015_Finland.pdf.

³ Comments by the UN High Commissioner for Refugees (UNHCR) Regional Representation for Northern Europe on the draft Law Proposal amending the *Aliens Act* of the Republic of Finland, available at: http://www.unhcr-northerneurope.org/fileadmin/user_upload/Documents/PDF/Finland/Law_Comments_Aliens_Act_FRU_2016_Finland.pdf.

⁴ Comments by the UN High Commissioner for Refugees (UNHCR) Regional Representation for Northern Europe on the Law Proposal 32/2016 amending the *Aliens Act* and related laws of the Republic of Finland, available at: http://www.unhcr-northerneurope.org/fileadmin/user_upload/Documents/PDF/Finland/20160418-FIN-Legislative_Comments-Legal_Aid-Administration_and_Legal_Affairs_Committees.pdf.

⁵ *Nationality Act (359/2003)* [Finland], 359/2003, 1 June 2003, available at: <http://www.refworld.org/docid/3ae6b51614.html> and <http://www.finlex.fi/fi/laki/kaannokset/2003/en20030359.pdf>.

⁶ UN High Commissioner for Refugees (UNHCR), *Mapping Statelessness in Finland*, November 2014, available at: <http://www.refworld.org/docid/546da8744.html>.

Finland was one of the first countries in April 2016 to resettle Syrians from Turkey as part of the *EU – Turkey Statement of 7 March 2016*.⁷

Based on estimates that every third asylum-seeker will be granted residence in Finland, there will be a need for 10,000 municipality placements; so far however, only 4,000 places have been secured. The shortage of municipality placements thus remains a serious concern in Finland, affecting both the integration of refugees who have been granted asylum in Finland through the asylum procedure, as well as the timely arrival and settlement of refugees admitted for resettlement under the quota, including emergency cases.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Positive developments linked to 2nd cycle UPR recommendations

Linked to 2nd cycle UPR recommendations no. 89.33: “Ensure that women who are victims of trafficking are recognized as such and provided with protection and assistance (United Kingdom and Slovenia);” 89.34: “Implement existing procedures upholding internationally recognized standards in combating trafficking in persons and conduct necessary training for law enforcement to properly identify and protect victims of trafficking (USA);” and 90.14: “Step up its effort to prevent violence against women, particularly victims of trafficking, by providing adequate protection and assistance, especially shelters, funding and staffs for these shelters (Thailand).”⁸

The Government has drafted a National Action Plan against Human Trafficking,⁹ to be implemented in 2016 – 2017. UNHCR welcomes the Action Plan and many of its propositions, including the focus on training, awareness raising and international cooperation. In addition, Finland has amended the legislation strengthening the National Assistance System for Victims of Trafficking. Through a clearer structure of the National Assistance System, the protection of victims is to be strengthened and the human rights and equal treatment of victims ensured. A recovery time for victims was also introduced, as well as more stringent rules on victim identification.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 2nd cycle UPR recommendations

Issue 1: Trafficking in persons

Linked to 2nd cycle UPR recommendations no. 89.33: “Ensure that women who are victims of trafficking are recognized as such and provided with protection and assistance

⁷ See *Statement of the EU Heads of State or Government*, 7 March 2016, available at: http://dsms.consilium.europa.eu/952/Actions/Newsletter.aspx?messageid=3885&customerid=34411&password=enc_4A324861386134314E363137_enc.

⁸ All recommendations made to Finland during its 2nd cycle UPR can be found in: “Report of the Working Group on the Universal Periodic Review: Finland,” A/HRC/21/8, 5 July 2012, available at: www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A-HRC-21-8_en.pdf.

⁹ Draft National Action Plan against Human Trafficking, 03.02.2016, SM163404 1 (2), 00.02.04, SMDno-2016-152, Lausuntopyyntö: Luonnos Ihmiskaupan vastaiseksi toimintaohjelmaksi vuosille 2016 – 2017, Ihmiskaupanvastaintoimintaohjelma-2016/2017. The draft action plan is still in process and therefore not publicly available. It was only shared with UNHCR for comments.

(United Kingdom and Slovenia);” and 89.34: “Implement existing procedures upholding internationally recognized standards in combating trafficking in persons and conduct necessary training for law enforcement to properly identify and protect victims of trafficking (USA);”

According to civil society, there are still victims of trafficking who are afraid and do not have the courage to seek help from the authorities. If victims are not identified and found, it is difficult for the authorities to solve and prevent trafficking crimes. UNHCR understands accurate data concerning such victims is lacking, including how many cases are left hidden. The Minority Ombudsman has in her capacity as national rapporteur on trafficking in the periodical report to the Finnish Parliament in 2014¹⁰ stated that asylum-seekers in Finland who have become victims of trafficking in other States than Finland are in a problematic situation. The fact that signs of trafficking have been detected does not necessarily lead to initiation of the identification process or the victim to be referred to the National Assistance System for victims of trafficking. The report further noted that when signs of trafficking are detected, the application of *Regulation (EU) No 604/2013* of the European Parliament and of the Council of 26 June 2013, establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast),¹¹ may lead to the victim being returned to the country where he or she has become victim.¹²

There is still no best interests determination procedure established for child victims of trafficking in Finland. According to the Joint UN Commentary,¹³ Member States are encouraged to ensure that all actions in relation to children are guided by the principles of protection and respect for children’s rights. The treatment of children should follow a determination of their best interests. Member States are encouraged to provide for a formal best interests determination procedure for decisions having a long-term impact on a trafficked child’s future, such as the determination of a durable solution. The UNHCR publication *Speaking for Ourselves*¹⁴ highlights good practices in Finland concerning refugee participation in the planning, design and implementation of activities that have an impact on their lives, families and communities. Such participation can add significant value particularly when made available to all groups in an Age, Gender and Diversity (AGD) sensitive manner. UNHCR has thus recommended that the anti-trafficking work in Finland aims at making sure that all victims of trafficking, be they women or men, boys or girls, are covered and have an equal opportunity to get their voice heard.

Recommendations:

UNHCR recommends that the Government of Finland:

¹⁰ Kansallinen Ihmisoikeusraportti – *Kertomus 2014*, available at:

http://www.syrjinta.fi/documents/10181/10854/55526_ihmiskaupparaportti_2014_fin_web.pdf/20fe062b-64c0-4e31-82e1-30cc3ef9392e.

¹¹ European Union: Council of the European Union, *Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)*, 29 June 2013, OJ L 180/31-180/59; 29.6.2013, (EU)No 604/2013, available at: <http://www.refworld.org/docid/51d298f04.html>.

¹² Kansallinen Ihmisoikeusraportti – *Kertomus 2014*, p. 36, see footnote 10 above.

¹³ UNHCR, Prevent. *Combat. Protect: Human Trafficking*, November 2011, available at: <http://www.refworld.org/docid/4edcbf932.html>.

¹⁴ UNHCR, *Speaking for Ourselves: Hearing Refugee Voices, A Journey Towards Empowerment*, May 2014, available at: <http://www.refworld.org/docid/537afd9e4.html>

- a. Strengthen further the identification of victims of trafficking, including women and children in the asylum procedure;
- b. Adopt procedures for the determination of the best interests of the child who are victims of trafficking or children of victims; and
- c. Apply age, gender, diversity and participatory approaches to the anti-trafficking work.

Issue 2: Detention

Linked to 2nd cycle UPR recommendation no. 89.48: “Apply alternative measures to the detention of asylum-seekers and irregular immigrants, including children and other vulnerable people, and establish a mechanism to examine this practice (Uruguay).”

The Government presented a draft law proposal (32/2016), to amend the *Finnish Aliens Act* (301/2004) on 15 April 2016¹⁵ in order to introduce two new forms of alternatives to detention, i.e. directed residence (with reporting conditions), and home curfew for children. The stated aim of the draft law proposal is to improve the efficiency of the asylum procedure and to ensure the removal of rejected asylum-seekers from the country. With the proposed control measures (“*turvaamistoimet*”), the Government also aims to improve the preparations in order to administer larger numbers of asylum-seekers. The draft law proposal further seeks to limit the use of detention of children and persons with specific needs. UNHCR is concerned that the grounds governing the use of directed residence are not sufficiently circumscribed, and that directed residence could potentially be applied to a large number of asylum-seekers and lack in predictability. UNHCR thus sees a risk that directed residence could, rather than as an alternative to detention, be used as an alternative to “open” reception, in order to manage asylum-seekers during the various stages of the asylum process. As the legislative amendments seek to introduce a real alternative to detention for unaccompanied and separated children seeking asylum, there is, in UNHCR’s view, no longer a need for Finland to continue the detention of such children.¹⁶ Recently, the Parliament adopted amendments to the *Aliens Act* (HE 32/2016)¹⁷, entailing that a periodic court review of detention decisions will no longer be automatic, and will depend on a request of the detained individual. In UNHCR’s view, as a minimum procedural guarantee, asylum-seekers have the right to be brought promptly before a judicial, or other independent authority, to have a detention decision reviewed. This review should ideally be automatic and take place in the first instance within 24-48 hours after the initial decision.¹⁸ UNHCR remains concerned that the provision of basic human rights, such as holding a hearing on the legality of the detention, is subjected to the request of the concerned individual.

Recommendations:

UNHCR recommends that the Government of Finland:

¹⁵ Draft Law Proposal (Hallituksen esitys eduskunnalle laeiksi ulkomaalaislain ja eräiden siihen liittyvien lakien muuttamisesta), available at: <http://www.finlex.fi/fi/esitykset/he/2016/20160032>.

¹⁶ UN High Commissioner for Refugees (UNHCR), Comments by the UNHCR Regional Representation for Northern Europe on the draft Law Proposal of 15 April 2016 amending the Aliens Act of the Republic of Finland, May 2016, available at: <http://www.refworld.org/docid/574fec5e4.html>.

¹⁷ See: https://www.eduskunta.fi/FI/vaski/eduskunnanvastaus/Sivut/EV_102+2016.aspx; however, the President has not yet ratified it, and therefore it’s not yet in the Statutes collection. Details concerning the process are available at: https://www.eduskunta.fi/FI/vaski/Kasittelytiedot/Valtiopaivaasia/Sivut/HE_32+2016.aspx.

¹⁸ UN High Commissioner for Refugees (UNHCR), *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*, 2012, Guideline 7, para. 47 (iii), available at: <http://www.refworld.org/docid/503489533b8.html>.

- a) Review the grounds and procedural safeguards for directed residence to ensure that directed residence becomes an alternative to detention, not an alternative to open reception;
- b) Introduce a general ban on the detention of children; and
- c) Retain the automatic periodic court review of decisions to detain asylum-seekers as an important legal safeguard;

Issue 3: Non-discrimination, racism and xenophobia

Linked to 2nd cycle UPR recommendations no. 89.17-25., 89.39-41 concerning instances of discrimination, racism and xenophobia (Algeria, Chile, Egypt, Hungary, Iran, Morocco, Namibia, Palestine, Portugal).

During the 2nd UPR cycle, instances of discrimination, racism and xenophobia in Finland were noted, and UNHCR regrets that these concerns remain in this cycle. Following the increase in the number of asylum-seekers in 2015, the public and political discourse and the general atmosphere towards asylum-seekers and refugees have become increasingly harsh. Reports about sexual assaults, of which asylum-seekers have been suspected, contribute to this. Racist or xenophobic comments and argumentation by both private individuals and politicians have become more common. Attacks against reception centres and asylum-seekers have increased, and street patrolling by the vigilante group “Soldiers of Odin” have become commonplace. In Finland, a legal framework for combating racism¹⁹ is in place, however, its implementation needs to be improved.

¹⁹ *Constitution of Finland (731/1999), Chapter 2, Section 6 Equality, Subsection 2*, “No one shall, without an acceptable reason, be treated differently from other persons on the ground of sex, age, origin, language, religion, conviction, opinion, health, disability or other reason that concerns his or her person”; Translation into English available at: <http://www.finlex.fi/en/laki/kaannokset/1999/en19990731.pdf>;

Criminal Code of Finland (39/1889, amended 13.5.2011/511), Chapter 6 Sentencing, Section 5, “The following are grounds for increasing the punishment: (...) (4) the crime has been motivated by race, colour, national or ethnic origin, religion or beliefs, sexual orientation or disability or by other comparable ground (...)”; Translation into English available at: <http://www.finlex.fi/en/laki/kaannokset/1889/en18890039.pdf>;

Non-Discrimination Act (21/2004, as amended by several acts, including No. 84/2009), available at: <http://www.finlex.fi/en/laki/kaannokset/2004/en20040021.pdf>; see further: *Responding to racism in Finland*, available at: http://cms.horus.be/files/99935/MediaArchive/pdf/finland_en.pdf;

The following is also worth mentioning: The Ministry of the Interior and the Police have launched several measures to combat hate crime. Since 2015, Finland has participated in the Good Practice Plus EU-project whose aim is to safeguard minority communities from hate crime through several measures, including, but not limited to providing proactive victim support services to these communities and their members as well as encouraging reporting to authorities. The project focuses especially on communities being targeted by islamophobic hate crimes. The Ministry of the Interior has also launched an initiative to the Office of the Prosecutor General for including suspected hate crimes in the list of crimes that require notification to the prosecutor already during the pre-trial investigation. The aim of this is to provide the prosecutor with necessary oversight to ensure that hate motives are sufficiently investigated in the pre-trial phase of the criminal process. This is a necessity for hate motives to be identified in the prosecutor's demands for sentencing. There are no recent figures, but a study from 2008 revealed that hate motives as grounds for increasing the punishment has not been used in courts of law to almost any degree. The outcome of the initiative is pending. The National Police College conducts an annual review of hate crime that has been reported to the police. As noted, the number of cases has not risen and remains at around 800 cases a year. The vast majority of these cases pertain to racially motivated hate crime. The review currently being drafted will also update the statistics on application of hate motives as grounds for more severe sentencing. The Ministry of the Interior will during 2016 conduct an investigation into how hate crimes are identified and reported, how they are investigated and how victim services are provided. The investigation will provide proposals and recommendations to be implemented towards better countering hate crime in the future (Extract from UNHCR's contribution to the 2015 ODIHR Annual Hate Crime Report).

Recommendations:

UNHCR recommends that the Government of Finland:

- a) Actively continue to combat racism, discrimination and xenophobia;
- b) Ensure full implementation of relevant laws combating racism; and
- c) Step up its efforts, in the public discourse including media, to actively and clearly condemn all racially motivated hate speech and actions, racially motivated crimes and attacks against immigrants.

Additional protection challenges**Issue 4: Legal aid in the asylum procedures**

As previously mentioned, recent amendments to the Finnish *Aliens Act* and related legislation (HE 32/2016) introduced a number of restrictions to the Finnish asylum system, including significant reductions of legal aid in the first instance. Through these amendments, State-sponsored legal aid during the first instance procedure is only provided on exceptional grounds, for example, where the applicant is in a vulnerable position, such as unaccompanied children. Further, legal aid is no longer to be paid according to the amount of work that a lawyer has done in a case, but is based on a fixed fee per case.

UNHCR regrets that Finland has introduced restrictions on free legal aid for asylum-seekers and stressed in its observations²⁰ on the law proposal that access to legal assistance and representation is an essential procedural safeguard. Asylum-seekers are often unable to articulate cogently the elements relevant to an asylum claim without the assistance of a qualified counsellor. At the same time, the efficiency of first instance procedures is dependent on whether the grounds for international protection are accurately identified at an early stage. UNHCR considers that investing in the first instance procedure is in line with the principle of “frontloading”, and that the provision of legal aid early in the process has the potential of enhancing the quality and timeliness of decisions, which are less likely to be overturned at second instance, and may thus reduce the number of appeals.

Recommendation:

UNHCR recommends that the Government of Finland:

- Continue to provide access to State-sponsored legal aid in the first instance for all asylum-seekers.

Issue 5: Family reunification

Finland has also restricted the potential for family reunification by introducing a “sufficient resources” requirement in the *Aliens Act*. The “sufficient resources” requirement must be fulfilled in cases where the sponsor in Finland has been granted subsidiary protection. The requirement is also applied to persons granted refugee status under the *1951 Convention*, including resettled refugees, if an application for family reunification has not been submitted within three months after the sponsor was granted international protection. In cases of family

²⁰ See: Comments by the UN High Commissioner for Refugees (UNHCR) Regional Representation for Northern Europe on the Law Proposal 32/2016 amending the *Aliens Act* and related laws of the Republic of Finland, available at: http://www.unhcr-northern-europe.org/fileadmin/user_upload/Documents/PDF/Finland/20160418-FIN-Legislative_Comments-Legal_Aid-Administration_and_Legal_Affairs_Committees.pdf.

formation, i.e. where the family was formed after the sponsor received residence in Finland, the requirement should in principle always be met. Exemptions can be made on exceptional grounds or if necessary due to the best interests of the child. There is, however, no general rule of exemption where the sponsor in Finland is an unaccompanied child.

UNHCR has, in its observations²¹ on the law proposal, expressed regret that the family reunification mechanism, as a legal entry channel, is restricted through the introduction of a resource requirement. The right to live together as a family unit is protected by a variety of internationally recognized rights under both international and European human rights law, such as Article 16 of the *Convention on the Rights of the Child*,²² to which Finland is a State party. UNHCR is concerned that requiring sufficient resources for family reunification of refugees, in cases where the application for family reunification is not submitted within three months after the granting of their status, does not appropriately take into account the particularities of the situation of persons who have had to flee, or the special circumstances that have led to the separation of their families. UNHCR also considers that the humanitarian needs of persons granted subsidiary protection are not different from those recognized as refugees under the *1951 Convention*, and that differences in entitlements are therefore not justified in terms of the individual's flight experience and protection needs.

As most asylum-seekers are compelled to pay to human smugglers large sums of money to reach Europe in order to exercise their right to seek asylum, families are often unable to travel together and thus rely on the possibility of legal family reunification if a member of the family is granted international protection. The restrictions introduced thus risk leading to more individuals, especially women and children, having to resort to smugglers. As family reunification as a legal entry channel becomes more restricted, the risk of trafficking may thus increase, which would run counter to Finland's pursuit to fight against trafficking in persons. In addition, UNHCR notes with great concern that separation of family members can have devastating consequences for the well-being of refugees, while family reunification will have a positive effect on integration in all its aspects, including employment.

Recommendations:

UNHCR recommends that the Government of Finland:

- a) Refrain from applying the sufficient resources requirement to refugees and other beneficiaries of international protection; and
- b) Apply the exceptions to the "sufficient resources" requirement flexibly to refugees recognized under the 1951 Convention, and other beneficiaries of international protection with specific needs, including to children in compliance with Finland's obligations according to the *Convention on the Rights of the Child*.

Issue 6: Statelessness

²¹ See: Comments by the UN High Commissioner for Refugees (UNHCR) Regional Representation for Northern Europe on the draft Law Proposal amending the *Aliens Act* of the Republic of Finland, available at: http://www.unhcr-northern europe.org/fileadmin/user_upload/Documents/PDF/Finland/Law_Comments_Aliens_Act_FRU_2016_Finland.pdf

²² See also *Universal Declaration of Human Rights* (Article 16(3)); the *International Covenant on Civil and Political Rights*, (Article 17); the *International Covenant on Economic, Social and Cultural Rights*, (Article 10); the *European Convention for the Protection of Human Rights and Fundamental Freedoms* (Article 8).

Finland's legislation on nationality is comprehensive in terms of preventing statelessness through the acquisition of Finnish nationality by descent, the grant of nationality to stateless children born in Finland and the prevention of statelessness upon loss, renunciation and deprivation of Finnish nationality. Particularly commendable is the automatic grant of Finnish nationality to children born in Finland who would otherwise be stateless regardless of their residence status in Finland. However, certain gaps exist in regard to determining statelessness, ensuring that stateless persons can enjoy the rights to which they are entitled, and in regard to the registration of persons with "unknown" nationality (or variations thereof) and the maintenance of data and statistics. While Finland has a well-functioning determination of citizenship status procedure in which a person's nationality, or lack thereof, can be verified, it can currently not result in the granting of a status as a stateless person. The determination of citizenship status procedure could thus be developed into a full-fledged statelessness determination procedure, which could lead to the granting of a status of a stateless person, and the issuance of a residence permit and access to the rights set out in the *1954 Convention*. In regard to registration and maintenance of data, UNHCR found, in its *Mapping of Statelessness in Finland*, some inconsistencies in the way persons are registered as being of "unknown nationality", or variations thereof, in the Population Information System and Register of Aliens. Finally, Finland maintains a number of reservations to the *1954 Convention*, namely a general reservation with regard to more favourable treatment for nationals of the other Nordic Countries as well as reservations to Articles 7(2), 8, 12(1), 24 (1), 25 and 28. In the UNHCR *Mapping of Statelessness in Finland*, it was found that some of the reservations may no longer be relevant in light of developments following Finland's accession to the *1954 Convention* in 1968, and the current nationality legislation.

Recommendations:

UNHCR recommends that the Government of Finland:

- a) Introduce a full-fledged Statelessness Determination Procedure, which can lead to the granting of a status of a stateless person, the issuance of a residence permit and enjoyment of the rights set out in the *1954 Convention*; and
- b) Review the reservations to the *1954 Convention* with a view to lifting them; and
- c) Harmonize the definitions used when registering persons' nationality or lack thereof.

Human Rights Liaison Unit
Division of International Protection
UNHCR
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ANNEX

Excerpts of Concluding Observations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedure mandate holders

FINLAND

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to Finland.

I. Universal Periodic Review

Recommendation ²³	Recommending State/s	Position ²⁴
Migrants, asylum-seekers and refugees		
89.10. Take further legislative and institutional measures for the promotion and protection of human rights including those of the immigrants;	Nepal	Supported
Sexual and Gender-based Violence		
89.16. Take effective legal and practical measures to eliminate all forms of discrimination and violence against women and children, in particular women and children with disabilities, immigrant and refugee women and children, and women and children from ethnic and religious minorities, especially Muslims and Roma;	Iran	Supported
89.14. Undertake further measures aimed at protection of women's rights, including prevention of violence;	Ukraine	Supported
89.15. Continue its efforts in eliminating discrimination and preventing violence against women and children;	Indonesia	Supported
89.46. Evaluate the internal guidelines and criteria with regards to risk assessment in the countries of origin of asylum-seekers and ensure a continuous flow of information and education on these internal guidelines;	Sweden	Supported
89.47. Take concrete measures to reduce the resort to detention of migrants solely for immigration purposes;	Brazil	Supported
89.48. Apply alternative measures to the detention of asylum-seekers and irregular immigrants, including children and other vulnerable	Uruguay	Supported

²³ All recommendations made to Finland during its 2nd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of Finland" (05 July 2012), available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FISession13.aspx>.

²⁴ Finland's views and replies can be found in: *Addendum* (7 September 2012), available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FISession13.aspx>.

people, and establish a mechanism to examine this practice;		
90.24. Address overcrowding in the immigration detention facility by increasing the capacity of the existing facility or by making additional facilities available to ensure proper treatment of those detained;	Norway	Supported ²⁵
Non-discrimination, racism and xenophobia		
89.17. Continue to combat racism and discrimination and adopt effective national legislation in this regard;	Palestine	Supported
89.18. Strengthen efforts to restrict the outbreaks of racism and xenophobia, especially the manifestations of racism on the Internet, as was recommended by CERD;	Spain	Supported
89.19. Persevere in its efforts to prevent and combat xenophobia, in particular on the Internet;	Morocco	Supported
89.20. Step up its efforts to combat racism and xenophobia and ensure that racially-motivated crimes are promptly detected, investigated and sanctioned;	Algeria	Supported
89.21. Increase the attention and effective measures to fight against discrimination faced by minorities, ensuring the protection of their rights;	Spain	Supported
89.22. Strengthen mechanisms aimed at combating discrimination, racism and xenophobia, and persevere in the adoption of measures to promote tolerance and respect of foreigners and members of national, racial and ethnic minorities;	Chile	Supported
89.23. More stringent monitoring mechanisms to address the rise in racist and racially-motivated crimes and xenophobic acts, and ensure effective detection, investigation, prosecution, and punishment;	Egypt	Supported
89.24. Continue its efforts to combat racism, intolerance and discrimination as well as to strive towards the integration of Roma and immigrants;	Portugal	Supported
89.25. Strengthen its measures to protect the rights of foreigners, immigrants, asylum-seekers and the Roma as well as enhance its integration programmes to enforce the principles of equality and non-discrimination, which are enshrined in its Constitution;	Namibia	Supported
89.39. Implement strict measures, including in the area of legislation, to combat hate speech and other manifestations of racism and xenophobia, including on the internet, in line with the obligations under articles 19 and 20 of ICCPR;	Egypt	Supported
89.40. Take effective measures to combat racist propaganda and the xenophobic material on the Internet;	Iran	Supported

²⁵ **Addendum:** “40. The detention unit for persons detained on the basis of the Aliens Act, located in the Metsäliä reception centre in Helsinki, has accommodation capacity for 40 persons, which is insufficient. Detained aliens are increasingly being kept in facilities of the police and the Border Guard, although this arrangement should be exceptional. The need to set up a new detention unit and/or to expand the capacity of the Metsäliä unit has been recognized but it has not yet been realized due to a lack of finances. (90.24).”

89.41. Share its best practices acquired in fighting internet spread racism, including the results of the last measures that is the ratification of relevant instruments, modification of the Criminal Code, police monitoring of the internet;	Hungary	Supported
89.44. Consider the possibility of establishing new measures to strengthen the respect for the rights of migrants and fight against all forms of discrimination they suffer;	Argentina	Supported
Right to education		
89.26. Pursue appropriate, efficient policies to eliminate the social exclusion of the most vulnerable groups, in particular mentally disabled children, immigrant and refugee children and children from ethnic minorities at schools;	Slovakia	Supported
Trafficking in humans		
89.33. Ensure that women who are victims of trafficking are recognized as such and provided with protection and assistance;	UK and Slovenia	Supported
89.34. Implement existing procedures upholding internationally recognized standards in combating trafficking in persons and conduct necessary training for law enforcement to properly identify and protect victims of trafficking;	USA	Supported
89.45. Implement training programs in the field of human rights for the police and the forces of order, especially directed at improving the treatment of asylum-seekers and immigrants in an irregular situation and consider ratifying the ICRMW of 1990;	Ecuador	Supported
90.14. Step up its effort to prevent violence against women, particularly victims of trafficking, by providing adequate protection and assistance, especially shelters, funding and staffs for these shelters;	Thailand	Supported ²⁶
UASC		
89.49. Adopt specified standards for accommodation of unaccompanied children and establish additional conditions for the appointment of a guardian for them;	Thailand	Supported
89.50. Give more attention to asylum-seekers and unaccompanied minors in cases of family reunion;	Iraq	Supported
Torture		

²⁶ **Addendum:** “24. The Government considers it important to protect and assist appropriately victims of violence against women and human trafficking. The third Internal Security Programme 2011–2015 envisages e.g. increasing the number and regional coverage of services for victims of crime.

25. Legislative projects are going on regarding the criminalisation of human trafficking, an assistance system for victims of human trafficking, and special personal security. The Government’s intention is that the Welfare Act under preparation contains a provision on which the need for support because of violence in close relationship and family can be based.

26. Training is provided to authorities for strengthening their capacities to identify victims of human trafficking, to assist them and to refer them to the assistance system, in accordance with the revised National Plan of Action against Trafficking in Human Beings and its recommendations. In practice e.g. the Border Guard refers persons to the assistance system, when necessary. (90.14).”

90.26. Investigate the cases of rendition flights where Finland's participation is suspected and bring to justice those involved, considering additionally the possibility of compensation for victims of torture in conformity with internal legislation and international legislation.	Ecuador	Partially supported ²⁷
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II. Treaty Bodies

Committee on Economic, Social and Cultural Rights

Concluding Observations, (17 December 2014), E/C.12/FIN/CO/6

Refugees and asylum seekers

14. The Committee is concerned about the challenges faced by asylum seekers and refugees in their enjoyment of economic, social and cultural rights, particularly due to the lack of access to identity documents and the shortage of municipality placements for refugees accepted for resettlement from abroad (art. 2, para. 2).

The Committee recommends that the State party provide asylum seekers and refugees with recognized identification cards to ensure their enjoyment of economic, social and cultural rights in the State party. The Committee also urges the State party to take the necessary measures to expand the availability of municipality placements to ensure the prompt resettlement of refugees and to promote their full integration in the State party's society.

Access to health-care services

²⁷ **Addendum:** "42. Finland does not permit the use of its air space or airports for flights transporting persons in violation of human rights treaties or international humanitarian law. The Government of Finland has wanted to investigate, as thoroughly as possible and with all the available means, the expressed allegations that the Finnish air space or airports might have been used for illegal transports of persons.

43. Finland has investigated the allegations since 2005, and conducted the latest investigation in 2011-2012. Information was requested extensively from relevant authorities and the Embassy of the United States in Finland. All relevant flight data was made public on 3 November 2011 by the Ministry for Foreign Affairs. Since then the Ministry has also responded to new allegations expressed to it by non-governmental organizations.

44. The Ministry for Foreign Affairs has collected and published all available information on the alleged rendition flights. The material available to the Ministry has not in any manner supported the allegations that Finnish authorities would have been in any way party to illegal rendition flights. With the means available to us we have found no evidence either to support claims that any aircraft illegally transporting persons have without the knowledge of Finnish authorities landed at Finnish airports. At the same time, it is to be recognized that the allegations concern flights conducted several years ago and the limited information available does not permit overall definitive conclusions concerning all flights.

45. After exhausting all avenues of investigation available to it, the Ministry for Foreign Affairs has concluded its inquiries in to the matter. Since these investigations have not disclosed anything to indicate illegal activity, Finland has no legal grounds for prosecution in the matter and therefore cannot accept the recommendation "to bring to justice those involved".

46. The Ministry for Foreign Affairs has also forwarded the material collected during the investigations to the Parliamentary Ombudsman. The Ombudsman is now examining the matter. The Ombudsman is an independent supervisory body, and the Government of Finland cannot anticipate the outcome of the examination. The Government will await the conclusion of the review by the Ombudsman. (90.26)."

27. The Committee is concerned that irregular migrants and asylum seekers do not have access to health-care services other than emergency health-care services (art. 12).

The Committee recommends that the State party take steps to ensure that irregular migrants, asylum seekers and refugees have access to all necessary health-care services, and reminds the State party that health facilities, goods and services should be accessible to everyone without discrimination, in line with article 12 of the Covenant. The Committee draws the State party's attention to its general comment No. 14 (2000) on the right to the highest attainable standard of health.

Right to education

28. The Committee remains concerned about the difficulties faced by children of immigrant background and Roma children in the education system, particularly as regards the persistence of discrimination and bullying, the high number of children in special education and the high drop-out rate (arts. 13 and 14).

Following on its previous recommendation (E/C.12/FIN/CO/5, para. 28), the Committee urges the State party to redouble its efforts to ensure equal access to inclusive education for all children, including children of immigrant background and Roma children, and to intensify its effort to continue to reduce the drop-out rates of children from these groups. The Committee also recommends that the State party systematically collect disaggregated data on bullying in schools, strengthen the measures adopted to combat this phenomenon, and assess the effectiveness of such measures.

Committee on the Elimination of all Forms of Discrimination against Women

Concluding Observations, (10 March 2014), CEDAW/C/FIN/CO.7

Migrant women

30. The Committee welcomes the State party's Government Integration Programme and numerous inclusion and integration projects aimed at promoting equal opportunities for migrant women, including in the labour market. The Committee nevertheless remains concerned that migrant women have only limited access to employment and health services. It is also concerned that migrant women are particularly vulnerable to various forms of violence, including domestic violence, female genital mutilation and so-called honour killing, and may encounter difficulties in gaining access to social and protection services against such forms of violence owing to legal illiteracy or fear of losing their residence permit or of being deported if they are in an irregular situation.

31. The Committee recommends that the State party:

- (a) Strengthen measures to eliminate discrimination against migrant women, both in society at large and within their communities;**
- (b) Develop targeted programmes and strategies to increase the awareness of migrant women of their rights and access to education, professional training, employment, health care and other basic services, as well as free legal aid and effective remedies if their rights have been violated;**

- (c) **Conduct comprehensive studies on discrimination against migrant women and collect statistics in employment, health care and on forms of violence that they may experience, with a view to identifying gaps and establishing policies directed at addressing multiple or intersecting forms of discrimination against migrant women.**

Human Rights Committee

Concluding Observations, (22 August 2013), CCPR/C/FIN/CO/6

Trafficking in persons

9. Despite the information furnished by the State party regarding the steps taken to protect victims of trafficking in persons, the Committee remains concerned by the State party's shortcomings in identifying women victims of trafficking. The Committee is particularly concerned about cases whereby women have been trafficked into the State party for the purposes of prostitution, but have only been identified as witnesses, rather than also being identified as victims of human trafficking, and are thus prevented from having adequate protection and assistance (art. 8).

The State party should continue its efforts to combat trafficking in human beings and consider amending its laws to ensure that victims of human trafficking, particularly female victims of sexual abuse and exploitation, are identified as such, in order to provide them with appropriate assistance and protection. The State party should also run public awareness campaigns, continue training police and immigration officers and strengthen its cooperation mechanisms with neighbouring countries to prevent trafficking in persons.

Detention centres

10. The Committee reiterates its concern that the Metsälä detention centre, the only detention unit for asylum seekers and irregular migrants in Finland, is frequently overcrowded and many such individuals, including unaccompanied or separated children, pregnant women and persons with disabilities, are placed in police detention facilities for prolonged periods of time (arts. 9 and 10).

The State party should use alternatives to detaining asylum seekers and irregular migrants whenever possible. The State party should also guarantee that administrative detention for immigration purposes is justified as reasonable, necessary and proportionate in the light of the specific circumstances, and subjected to periodic evaluation and judicial review, in accordance with the requirements of article 9 of the Covenant. The State party should strengthen its efforts to improve living conditions in the Metsälä detention centre.

Asylum procedure

15. The Committee is concerned at the accelerated asylum procedure established under the Aliens Act, which provides for an extremely short time frame for asylum applications to be thoroughly considered and for the applicant to properly prepare his or her case. The

Committee is further concerned that appeals under the accelerated asylum procedure do not have automatic suspensive effect (art. 2 and 7).

The State party should ensure that all persons in need of protection receive appropriate and fair treatment in all asylum procedures and that appeals under the accelerated asylum procedure have a suspensive effect.

Committee on the Elimination of Racial Discrimination

Concluding Observations, (23 October 2012), CERD/C/FIN/CO/20-22

Situation of immigrants, including asylum seekers

16. The Committee takes note of legislative, administrative and policy measures taken by the State party to combat discrimination against immigrants and to promote equality, such as the Promotion of Integration Act of 2010, the YES project, and the work of the Discrimination Monitoring Group. However, the Committee remains concerned that anti-immigrant sentiment has been increasing in the State party. It is also concerned at the continued marginalization of immigrants, especially with regard to employment, housing and social services. The Committee is further concerned that police activity during the week of intensive enforcement of laws regarding illegal entry may cross the line into racial or ethnic profiling (arts. 2 and 5).

The Committee recommends that the State party enhance its measures aimed at promoting understanding and tolerance among different ethnic groups residing in the territory of the State party. The Committee also recommends that the State party take concrete measures to implement the Promotion of Integration Act and to adopt the Government programme for integration for 2012-2015, in order to foster the integration of immigrants with regard to employment, housing, education and social and health-care services. The State party should further avoid racial or ethnic profiling, including by strengthening internal police guidelines on the subject. The Committee requests that the State party provide it with information on specific measures taken as well as on their concrete results.

Education of Roma and immigrant children

17. While noting the reduction of bullying in schools achieved through the KiVa programme and the State party's efforts to reduce negative stereotyping of Roma through rap-music television spots aimed at young people, the Committee remains concerned at the persistence of bullying of Roma children and immigrant children in schools (arts. 2 and 7).

Recalling its general recommendations No. 27 (2000) on discrimination against Roma and No. 30 (2009) on discrimination against non-citizens, the Committee recommends that the State party continue to strengthen its efforts to protect Roma children and immigrant children from bullying in schools.

Situation of asylum seekers

18. While noting the State party's intent to curtail the detention of unaccompanied minor asylum seekers, the Committee is concerned about the detention of asylum seekers belonging

to vulnerable groups, such as pregnant women and persons with disabilities and victims of torture. The Committee is also concerned that, because of overcrowding in the Metsälä Detention Centre, asylum seekers are sometimes detained in police facilities. The Committee is further concerned that, because of inadequate funding from the national Government, there is insufficient housing in the municipalities for successful asylum applicants. Moreover, the Committee is concerned that the use of expedited procedures for adjudicating asylum applications and the lack of automatic suspensive effect of an appeal may risk the *refoulement* of persons entitled to asylum, especially those with pending appeals.

The Committee recommends that the State party employ alternatives to the detention of asylum seekers whenever possible and that asylum seekers not be detained in police facilities. The Committee also recommends that the national Government provide adequate funding to the municipalities for the provision of housing to successful asylum applicants. The Committee further recommends that the State party carefully examine its use of accelerated procedures in asylum cases to avoid any risk of *refoulement* of persons entitled to asylum, and provide automatic suspensive effect to appeals of rejected asylum applications.

Committee on the Rights of the Child

Concluding Observations, (3 August 2011), CRC/C/FIN/CO/4

The Committee's previous recommendations

6. The Committee notes with concern that various concerns and recommendations made upon consideration of the State party's third periodic report (CRC/C/15/Add.272) of 2005 have been insufficiently addressed. The Committee notes that those concerns and recommendations are reiterated in the present concluding observations.

7. The Committee urges the State party to take all necessary measures to address the recommendations contained in the concluding observations on the third periodic report that have not been sufficiently implemented, including those related to discrimination against children from ethnic minorities and immigrant children, respect for the views of the child, the rights of asylum-seeking children, deinstitutionalization of children and adolescent health.

Non-discrimination

25. The Committee notes the State party's efforts to reform the Non-discrimination Act, namely to expand the scope of its application, and its plans to establish the Office of the Ombudsman on equal treatment. However, the Committee remains concerned at the prevalence of discrimination against children with disabilities, immigrant and refugee children and children from ethnic minorities, such as Roma children. It is also concerned at the social exclusion and structural discrimination of the Roma population, which leads to increase in substance abuse, mental health problems and a poor standard of living for Roma children.

26. The Committee urges the State party to strengthen efforts to combat all forms of discrimination, including discrimination against children with disabilities, immigrant and refugee children and children from ethnic minorities. It further recommends that

the State party place high priority in the public agenda on preventing and eradicating discrimination through, inter alia, the media and education system. In particular, the State party should, in line with the National Policy on Roma, enhance the measures undertaken to combat ethnic discrimination and social exclusion of the Roma and ensure an adequate standard of living for all Roma children. It recommends that the State party include information in its next periodic report on measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party in follow-up to the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and the outcome document adopted at the 2009 Durban Review Conference.

Follow-up to the United Nations study on violence against children

39. The Committee encourages the State party to:

- (a) Prioritize elimination of all forms of violence against children, including by ensuring implementation of the recommendations of the United Nations study on violence against children, paying particular attention to gender;**
- (b) Provide information on the implementation by the State party of the recommendations of the study in its next periodic report, particularly those highlighted by the Special Representative of the Secretary-General on violence against children, namely:
 - (i) The development of a national comprehensive strategy to prevent and address all forms of violence against children;**
 - (ii) The introduction of an explicit national legal ban on all forms of violence against children in all settings; and**
 - (iii) The consolidation of a national system of data collection, analysis and dissemination, and a research agenda on violence against children;****
- (c) Cooperate with and seek technical assistance from the Special Representative of the Secretary-General on violence against children, the United Nations Children's Fund (UNICEF), the Office of the United Nations High Commissioner for Human Rights and the World Health Organization (WHO), and other relevant agencies, including the International Labour Organization (ILO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Office of the United Nations High Commissioner for Refugees, the United Nations Office on Drugs and Crime, as well as non-governmental organization (NGO) partners.**

Asylum-seeking and refugee children

60. The Committee notes the 2006 Migration Policy Programme, in which the principle of the best interests of the child is taken into account in asylum and refugee policy, and the amendments to the Aliens Act in 2010, which provides for family reunification of unaccompanied children and which means that the age determination procedure by means of medical examination is now regulated by law. However, the Committee remains concerned at the practice of detaining children who seek asylum in the State party. Furthermore, it is concerned that the asylum-seekers aged 16 and above are accommodated in adult units of reception centres and that mental health services, therapy and psychiatric care for unaccompanied minors are insufficient.

61. **The Committee recommends that the State party:**

- (a) **In light of the general comment No. 6 (2005) on treatment of unaccompanied and separated children outside their country of origin, when in doubt as to the age of an asylum-seeker, give him/her the benefit of the doubt, treat him/her as a child, and introduce the possibility for asylum-seekers to appeal the outcome of the age determination;**
- (b) **Avoid accommodating the asylum-seekers aged 16 and above in adult units of reception centres and provide sufficient mental health services, therapy and psychiatric care for unaccompanied minors;**
- (c) **Ensure that detention of asylum-seeking children is carried out as a last resort, for the shortest time possible, when no alternative measures can be applied.**

III. Special Procedures

N/A