

Lausunto

06.03.2025

Asia: VN/1196/2025

Lausuntopyyntö hallituksen esitysluonnoksesta laiksi väliaikaisista toimenpiteistä välineellistetyn maahantulon torjumiseksi annetun lain 7 §:n muuttamisesta

Lausunnonantajan lausunto

Voitte kirjoittaa lausuntonne alla olevaan tekstikenttään

UNHCR Observations on the Proposal for amending Section 7 of the Act on Temporary Measures to Combat Instrumentalized Immigration

Hallituksen esitys eduskunnalle laiksi väliaikaisista toimenpiteistä välineellistetyn maahantulon torjumiseksi annetun lain 7 §:n muuttamisesta

I. Introduction

1. The United Nations High Commissioner for Refugees (UNHCR) Representation for the Nordic and Baltic Countries appreciates the opportunity to provide observations on the “Government’s Proposal to the Parliament for amending Section 7 of the Act on Temporary Measures to Combat Instrumentalized Immigration” (Hallituksen esitys eduskunnalle laiksi väliaikaisista toimenpiteistä välineellistetyn maahantulon torjumiseksi annetun lain 7 §:n muuttamisesta) - hereafter the “Proposal”. [1]

2. UNHCR has a direct interest in law proposals related to asylum, as the agency entrusted by the United Nations (UN) General Assembly with the mandate to provide international protection to refugees and, together with Governments, seek permanent solutions to the problems of refugees. [2] Paragraph 8 of UNHCR’s Statute confers responsibility on UNHCR for supervising international conventions for the protection of refugees, [3] whereas the 1951 Convention relating to the Status of Refugees [4] and its 1967 Protocol (hereafter collectively referred to as “1951 Convention”) oblige State Parties to cooperate with UNHCR in the exercise of its mandate, in particular facilitating UNHCR’s duty of supervising the application of the provisions of the 1951 Convention (Article 35 of

the 1951 Convention and Article II of the 1967 Protocol). This has also been reflected in European Union (EU) law, including by way of reference to the 1951 Convention in Article 78(1) of the Treaty on the Functioning of the EU. [5] The UN General Assembly has also entrusted UNHCR with a global mandate to provide protection to stateless persons world-wide and for preventing and reducing statelessness. [6]

3. UNHCR's supervisory responsibility is exercised in part by the issuance of interpretative guidelines on the meaning of provisions and terms contained in international refugee instruments, in particular the 1951 Convention. Such guidelines are included in the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status and subsequent Guidelines on International Protection. [7] UNHCR also fulfils its supervisory responsibility by providing comments on legislative and policy proposals impacting on the protection and durable solutions for forcibly displaced and stateless people.

II. Scope of the Proposal

4. The Proposal provides that the validity of the Act on Temporary Measures to Combat Instrumentalized Immigration (482/2024), adopted on 22 July 2024 and valid for one year, is extended for another 18 months, until 31 December 2026. No other amendments are proposed to the Act.

5. The stated aim of the Act is to effectively combat pressure on Finland in the form of instrumentalization of immigration along the eastern border, strengthen border security, prepare for the most serious situations of instrumentalization of immigration, and proactively prepare for hybrid threats. Whilst the Act has not been applied to date, the Proposal to amend the Act and extend the period of validity has been introduced to reflect an assessment that the security situation remains unchanged with continuing need to prepare for hybrid threats and, therefore, the need to extend the validity of the Act. The Act will be applied if Finland's national security is deemed to be seriously at threat.

III. Observations

6. UNHCR acknowledges the challenges faced by Finland and shares the concerns of the Government about the dangers of politicization of asylum and migration.

7. UNHCR wishes to seize this opportunity to refer to the UNHCR Observations on the proposal to enact a law on temporary measures (Hallituksen esitys eduskunnalle laiksi väliaikaisista toimenpiteistä välineellistetyin maahantulon torjumiseksi) submitted to Finland on 25 March 2024

[8] and the UNHCR expert opinion (asiantuntijalausunto) on the proposal to enact a law on temporary measures to combat instrumentalized immigration submitted to Finland and its Administrative Committee on 30 May 2024. [9]

8. UNHCR's position and recommendations remain the same and is further elaborated in its recent Legal considerations on asylum and non-refoulement in the context of 'instrumentalization' of 26 September 2024. [10]

IV. Conclusions

9. Instead of the proposed extension of the validity of the Act, UNHCR recommends that Finland considers alternative options. States can both address security concerns and implement fair and humane policies towards asylum-seekers, in line with the 1951 Convention, including through the following:

- Implementing border procedures as outlined in the EU Pact on Migration and Asylum (EU Pact), with legal and practical safeguards that comply with international refugee law;
- Strengthening fair and efficient asylum procedures, which swiftly identify vulnerable people in need of immediate support, as well as those who are not in need of international protection;
- Expediting dignified returns to countries of origin for individuals not in need of international protection.

10. UNHCR remains committed to a continued constructive dialogue with Finland.

UNHCR Representation for Nordic and Baltic Countries

March 2025

ENDNOTES:

[1] The full presentation of the Proposal by the Ministry of the Interior, including explanatory notes and proposed legislative text (in Finnish): Väliaikaisista toimenpiteistä välineellistetyn maahantulon torjumiseksi annetun lain voimassaolon jatkaminen, Hankenumero SM001:00/2025, <https://intermin.fi/hankkeet/hankesivu?tunnus=SM001:00/2025>.

[2] UN General Assembly, Statute of the Office of the United Nations High Commissioner for Refugees, 14 December 1950, A/RES/428(V) <https://www.refworld.org/docid/3ae6b3628.html> (“the Statute”).

[3] Ibid, para. 8(a). According to para. 8(a) of the Statute, UNHCR is competent to supervise international conventions for the protection of refugees. The wording is open and flexible and does not restrict the scope of applicability of the UNHCR’s supervisory function to one or other specific international refugee convention. UNHCR is therefore competent qua its Statute to supervise all conventions relevant to refugee protection, UNHCR’s supervisory responsibility, October 2002, <http://www.refworld.org/docid/4fe405ef2.html>, pp. 7–8.

[4] UN General Assembly, Convention Relating to the Status of Refugees, 28 July 1951, United Nations Treaty Series, No. 2545, vol. 189 <http://www.unhcr.org/refworld/docid/3be01b964.html>. According to Article 35 (1) UNHCR has the “duty of supervising the application of the provisions of the Convention”.

[5] EU, Consolidated version of the Treaty on the Functioning of the European Union, 26 October 2012, OJ L. 326/47-326/390, <https://www.refworld.org/docid/52303e8d4.html>.

[6] UN General Assembly Resolution A/RES/50/152, 9 February 1996, <http://www.unhcr.org/refworld/docid/3b00f31d24.html>, reiterated in subsequent resolutions, including A/RES/61/137 of 25 January 2007, <http://www.unhcr.org/refworld/docid/45fa902d2.html>, A/RES/62/124 of 24 January 2008 <http://www.unhcr.org/refworld/docid/47b2fa642.html>, and A/RES/63/148 of 27 January 2009 <http://www.unhcr.org/refworld/docid/4989619e2.html>.

[7] UNHCR, Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection Under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees, April 2019, HCR/1P/4/ENG/REV. 4, <https://www.refworld.org/docid/5cb474b27.html>.

[8] UNHCR, UNHCR Observations on the proposal to enact a law on temporary measures, 25 March 2024, <https://www.refworld.org/legal/natlegcomments/unhcr/2024/en/147739>.

[9] UNHCR, UNHCR expert opinion (asiantuntijalausunto) on the proposal to enact a law on temporary measures to combat instrumentalized immigration, 30 May 2024, <https://www.eduskunta.fi/FI/vaski/JulkaisuMetatieto/Documents/EDK-2024-AK-24739.pdf>.

[10] UNHCR, Legal considerations on asylum and non-refoulement in the context of ‘instrumentalization’, 26 September 2024, <https://www.refworld.org/policy/legalguidance/unhcr/2024/en/148736>.

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