



UNHCR

United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

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Stockholm, 15 March 2013

Your code: SM077:00/2011
Our code: 082/ROBNC/2013

Dear Mr Visanen,

**Re: Comments by the United Nations High Commissioner for Refugees (UNHCR)
to the Future of Migration 2020 Strategy Proposal**

The UNHCR Regional Office for the Baltic and Nordic Countries is pleased to submit its comments on the Future of Migration 2020 Strategy Proposal to the Ministry of the Interior.

As always, UNHCR appreciates the constructive relationship between Finland and UNHCR, and we thank you for your consideration of this important matter.

We remain at your disposal for any clarifications required.

Yours sincerely,

Pia Prytz Phiri
Regional Representative

Mr. Pentti Visanen
Director General
Ministry of the Interior
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FINLAND

Comments by the UNHCR Regional Representation for the Baltic and Nordic Countries on the Government of Finland's proposal for a Future of Migration 2020-strategy

Introduction

1. UNHCR would like to express its appreciation to the Finnish Ministry of the Interior for the possibility to provide comments on the proposal for a Future of Migration 2020-strategy. The proposed strategy has been drafted in a most transparent manner, which has enabled UNHCR to participate in round table discussions on international protection and irregular immigration and submit preliminary observations on these topics as well as on family reunification and integration in the course of the drafting process. UNHCR is also very pleased with the fact that the topics addressed in the proposed strategy have been analysed and approached from the perspective of the impact on gender equality and non-discrimination. Mainstreaming of age gender and diversity considerations is a priority topic for UNHCR. In the preliminary comments of 23 March 2012, UNHCR thus advised Finland to apply the age, gender and diversity approach throughout the preparation of the strategy. The Government of Finland is in mainstreaming its migration strategy showing a good practice on an international level.
2. UNHCR notes that the proposed strategy is a comprehensive migration strategy in which labour migration plays a significant part. Based on UNHCR's mandate responsibilities summarized below, the following comments are primarily focused on the topics of international protection, integration and family unity, which are addressed in the proposal.
3. The international protection of refugees is based on the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees (1951 Convention). UNHCR is entrusted by the United Nations General Assembly with the mandate to provide international protection to refugees and, together with Governments, to seek permanent solutions to the problems of refugees¹. According to its Statute, UNHCR fulfils its mandate inter alia by "[p]romoting the conclusion and ratification of international conventions for the protection of refugees, supervising

¹ UN General Assembly, Statute of the Office of the United Nations High Commissioner for Refugees, 14 December 1950, A/RES/428(V), available at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b3628> ("UNHCR Statute").

their application and proposing amendments thereto[.]”² 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.³ This supervisory responsibility is reiterated in Article 35 of the 1951 Convention and Article II of the 1967 Protocol⁴.

4. As the agency entrusted to support Governments in their search for durable solutions for refugees, UNHCR also has a direct interest in strategies aimed at facilitating the integration of refugees and other beneficiaries of international protection. UNHCR’s Executive Committee, of which Finland is a member since 1979, has unanimously recognized that integration into their host societies is the principal durable solution for refugees in the industrialized world.⁵
5. While the 1951 Convention is silent on the question on family reunification and family unity, the Final Act of the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons recommends that Member States “take the necessary measures for the protection of the refugee’s family, especially with a view to (...) [e]nsuring that the unity of the refugee’s family is maintained particularly in cases where the head of the family has fulfilled the necessary conditions for admission to a particular country.”⁶ UNHCR’s Executive Committee (“ExCom”) has adopted a series of conclusions that reiterate the fundamental importance of family unity and reunification and call for facilitated entry on the basis of liberal criteria of family members of persons recognized in need of international protection.⁷ In addition, UNHCR has emphasized that family reunification is an important element for the integration of beneficiaries of international protection in their host societies. ExCom Conclusion No. 104 in particular notes the potential role of family members in promoting the smoother and more rapid integration of refugee families given that they can reinforce the social support system of refugees. UNHCR therefore has a direct interest in and competence to advise Member States and EU institutions in relation to policy issues which have a direct impact on the lives of its persons of concern, including in relation to family unity and family reunification.

² Ibid., paragraph 8(a).

³ UN High Commissioner for Refugees, *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, December 2011, HCR/1P/4/ENG/REV. 3, available at: <http://www.unhcr.org/refworld/docid/4f33e8d92.html>

⁴ According to Article 35 (1) of the 1951 Convention, UNHCR has the “duty of supervising the application of the provisions of the [1951] Convention”.

⁵ UN High Commissioner for Refugees, *Conclusion on Local Integration*, 7 October 2005, No. 104 (LVI) - 2005, para. (j), available at: <http://www.unhcr.org/refworld/docid/4357a91b2.html>.

⁶ UN Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, *Final Act of the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons*, 25 July 1951, A/CONF.2/108/Rev.1, available at: <http://www.unhcr.org/refworld/docid/40a8a7394.html>.

⁷ See in particular, ExCom Conclusions on Family Reunion, No. 9 (XXVIII), 1997 and No. 24 (XXXII), 1981; ExCom Conclusion on Refugee Children and Adolescents, No. 84 (XLVIII), 1997; and ExCom Conclusion on the Protection of the Refugee’s Family, No. 88 (L), 1999. All ExCom Conclusions are compiled in UNHCR, *Thematic Compilation of Executive Committee Conclusions*, June 2011, Sixth edition, available at: <http://www.unhcr.org/refworld/docid/4e8006a62.html>.

General observations

6. As a general comment, UNHCR welcomes the fact that the proposal is formulated in a very sensitive and sensible manner, through the use of neutral language which aims at treating migration issues with an open mind. UNHCR appreciates that the positive aspects of migration and the value of the skills that migrants bring to Finnish society are highlighted in the proposal. At the same time, risks of alienation in the context of immigration are also openly discussed. The balanced way the proposal is written provides a platform for an informed debate on migration.
7. While international protection does not play a significant role in the proposal, UNHCR notes with appreciation that the proposed goal is that Finland will continue in the future to provide high quality protection and assure those granted international protection equal rights.

Annual resettlement quota

8. The importance of finding durable solutions is duly highlighted in the proposal. The Finnish refugee resettlement quota will continue to be part of the Finnish policies on international protection, though the proposal is silent on the size of the yearly Finnish quota for resettlement. The current quota of 750 has remained on the same level for many years. In the 1997 program on migration, the Government promised to raise the quota to 1000 persons per year. UNHCR urges the Government to implement this goal.
9. UNHCR recommends including the following goal in the strategy:

The yearly Finnish resettlement quota will in be raised to a minimum of 1,000 persons.

Fair and efficient asylum procedures

10. Despite comparatively low numbers of asylum-seekers, a drop in the number of applicants since 2009 and despite additional resources granted to the Finnish Immigration Service, Finland still has a considerable asylum backlog and processing times remain too long. Asylum-seekers wait many months for their asylum interview and decisions are thereafter not made within a reasonable time. In 2012, the average processing time in the first instance was 332 days in the normal procedure. The Government is currently implementing two projects with the aim to shortening the processing times.
11. An efficient status determination procedure is necessary not only to legitimize the asylum system but also to end the precarious situation of asylum-seekers and enable them to find solutions to their temporary situation. Fair and efficient asylum procedures are therefore in the interest of both States and applicants for international protection. In the comments to the recast Asylum Procedures Directive, UNHCR supported the proposal by the European Commission to introduce a six-month time limit to conclude the procedure⁸. This requirement emerges, *inter alia*, from

⁸ UN High Commissioner for Refugees, *UNHCR comments on the European Commission's proposal for a Directive of the European Parliament and of the Council on minimum standards on procedures in Member*

jurisprudence of the Court of Justice of the EU. The right to have “his or her affair handled [...] within a reasonable time” is also set out by Article 41 of the Charter. In UNHCR’s view, the essential first step towards this goal is to ensure high quality first instance procedures. UNHCR is therefore pleased that the importance of ‘frontloading’ is reflected in the proposal, which foresees increased cooperation between the authorities involved. According to the proposal, all applications should be processed without delay and within a reasonable time. UNHCR trusts this goal also applies equally to applications for asylum and to applications for family reunification.

Principle of non-penalization

12. In the context of irregular immigration, the proposal stresses that in the fight against irregular immigration, the right to international protection should always be taken into account. UNHCR recalls that the right to asylum is recognized as a basic human right.⁹ In exercising this right, asylum-seekers are often forced to arrive at, and enter, state territory without prior authorization, such as entry visas. Hence, the situation of asylum-seekers differs fundamentally from that of ordinary migrants in that they may not be in a position to comply with legal formalities for entry. A non-penalization clause for illegal entry or presence was thus included in Article 31 of the 1951 Convention in recognition of the difficulties asylum-seekers often have in complying with immigration, including entry, formalities.

13. UNHCR recommends including the following goal in the strategy:

All measures aimed at combating irregular immigration should be protection sensitive and in line with international refugee and human rights law standards, including exemption of asylum-seekers and refugees from penalization on account of their illegal entry or stay, in line with Article 31 of the 1951 Convention.

Integration

14. Integration in the refugee context has been defined by UNHCR’s Executive Committee as a dynamic and multi-faceted two-way process leading to full and equal membership in society. This includes preparedness by refugee communities to adapt to host societies without giving up their cultural identity, and readiness by the receiving communities and institutions to welcome refugees and meet the needs of a diverse population.¹⁰
15. Integration into the society is a process that begins from the moment a person arrives in Finland. Hence, the ability of persons who have been recognized as being in need of international protection to integrate into Finnish society is thus influenced by the reception they receive upon their initial arrival to the country, as asylum-seekers.

States for granting and withdrawing international protection (COM(2009)554, 21 October 2009), August 2010, available at: <http://www.unhcr.org/refworld/docid/4c63ebd32.html>

⁹ Article 14 of the Universal Declaration of Human Rights provides that “Everyone has the right to seek and to enjoy in other countries asylum from persecution” and Article 18 of the Charter of Fundamental Rights of the EU enshrines the right to asylum.

¹⁰ UN High Commissioner for Refugees, *Conclusion on Local Integration*, 7 October 2005, No. 104 (LVI) - 2005, available at: <http://www.unhcr.org/refworld/docid/4357a91b2.html>

Reception policies for asylum-seekers should be designed to minimize isolation and separation from host communities and make the waiting time meaningful while building on individual skills and resources and empowering asylum-seekers and refugees to become active members of society, thus increasing their chances of successful integration in the host state.

16. UNHCR recommends including the following goal in the strategy:

Reception policies and conditions should be age, gender and diversity sensitive, meaningful for the individual and designed with a view to support integration.

Equal access to services

17. In most countries, including Finland, persons in need of international protection rely on mainstream services to provide for their needs in relation to health, education, employment, social and other services once they have been granted refugee status or other forms of international protection. However, in some instances, the available services do not have the capacity to cater for the specific needs of this population, which sometimes need additional, targeted support in order to avoid destitution and social marginalization. UNHCR is very pleased that the proposed strategy contains the objective to ensure that public sector services are suitable for immigrants. Furthermore, the proposal foresees tailored services for specific needs immigrants may have. On this point, the proposal fully corresponds to UNHCR's suggestions put forward during the drafting of the proposal.

Municipality placements

18. Both resettled refugees and those granted international protection, or other forms of residence permits in the Finnish asylum process still need to wait for prolonged periods for municipality placements, which is a cause of concern. This leads to a situation where refugees remain, for example, in camps in first countries of asylum and in reception centers in Finland for lengthy periods, which delays their integration. The ability of refugees selected for resettlement to integrate into Finnish society is directly related to their ability to arrive quickly to Finland and begin the integration process in their new home. It is therefore of paramount importance to resolve the current situation and to put in place a system capable of working smoothly in the future.
19. According to the proposal, methods to speed up municipality placements of refugees will be studied and the system to financially support municipalities will be streamlined. As much as this goal is welcomed, UNHCR had hoped for the issue of municipality placements to receive more attention in the strategy. The goal should be to have a system in place for placements in municipalities that enables resettled refugees to arrive in Finland, and those given residence permits in the asylum procedure to move out from reception centers, within a reasonable time. In emergency cases those resettled should be able to arrive without delay.

20. UNHCR recommends including the following goal in the strategy:

The municipality placement system should ensure that refugees selected for resettlement and those granted international protection or other forms of residence permits in the Finnish asylum process, are speedily allocated placements in municipalities to facilitate their rapid integration into Finnish society.

Combating racism and xenophobia

21. Racism and xenophobia are factors contributing to the lack of protection space in the world. Integration can only be successful if refugees are welcomed, regardless of their ethnic, religious or cultural background. Integration entails the meeting of cultures, which, when well-mediated, can be a driver for development and growth. In line with UNHCR's strong interest in ensuring that measures are taken to prevent discrimination, intolerance, xenophobia and racism,¹¹ the Office encourages and supports initiatives that support interaction and foster social cohesion. UNHCR is pleased that the proposal addresses the important issues of equal treatment, good ethnic relations, social cohesion and the fight against all forms of discrimination. The recognition in the proposal, that politicians' and authorities' way to discuss immigration impact on public conception of immigration is one that UNHCR fully subscribes to.

Family reunification

22. The proposal mentions family reunification in connection with labor migration and only once in connection with international protection. According to the proposal, beneficiaries of international protection should have the right to family reunification in accordance with international obligations. In this context, UNHCR wishes to recall that the family is the fundamental unit of society entitled to protection by society and the State.¹²

23. The reality for many refugees coming to Finland is that they have lost contact with their family members who would otherwise play an essential role in helping the refugee rebuild his or her life in the new country. It is with this in mind that UNHCR advocates for family reunification mechanisms which are swift and efficient in order to bring families together as early as possible.¹³ UNHCR views family reunification as particularly important for refugee integration. Refugees have expressed that they often find it difficult to concentrate on establishing a new life in the host society, and e.g. learning a new language, if they are concerned about the well-being of a spouse, children or other family members. In addition, the family can provide essential

¹¹ See for example UN High Commissioner for Refugees, *Combating Racism, Racial Discrimination, Xenophobia and Related Intolerance through a Strategic Approach*, December 2009, available at: <http://www.unhcr.org/refworld/docid/4b30931d2.html>

¹² See, UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), Article 16(3) available at: <http://www.unhcr.org/refworld/docid/3ae6b3712c.html>; and UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, Article 23(1), available at: <http://www.unhcr.org/refworld/docid/3ae6b3aa0.html>.

¹³ UN High Commissioner for Refugees, *Refugee Family Reunification. UNHCR's Response to the European Commission Green Paper on the Right to Family Reunification of Third Country Nationals Living in the European Union (Directive 2003/86/EC)*, February 2012, available at: <http://www.unhcr.org/refworld/docid/4f55e1ef2.html>.

support which will assist beneficiaries of international protection in adapting to their new environment.

24. While family reunification rights are limited to core family members in Finnish law, UNHCR wishes to note that extended family links can be very strong in other cultures. UNHCR therefore encourages Finland to adopt a pragmatic and flexible approach to requests for family reunification with other dependent family members who were living in the same household as the refugee prior to flight. UNHCR Executive Committee has, for example, in para. 5 of Executive Committee Conclusion No. 24 recommended that States apply liberal criteria in identifying those family members who can be admitted with a view to promoting a comprehensive reunification of the family¹⁴. Accordingly, the notion of “family” should not be limited to the so-called “nuclear family”, but should also encompass those dependent family members who are living in the same household, and should encompass not only legally married couples but also couples forming a genuine and stable unit (including couples of the same sex).

25. UNHCR recommends including the following goal in the strategy:

Family reunification is a critical tool that enables split families to exercise their right to family unity, which also greatly facilitates the integration of beneficiaries of international protection.

Conclusion

26. UNHCR wishes to conclude by reiterating its appreciation towards the Finnish Ministry of the Interior for the transparent and inclusive drafting process of the proposal for a Future of Migration 2020-strategy. The outcome is a text that treats refugee and immigration issues from a positive view point without avoiding difficult issues. UNHCR is pleased with many of the goals included in the proposal. With the addition of the goals recommended in these comments, UNHCR is assured that the Government of Finland will have a strong migration strategy which will inform protection sensitive and human rights based migration policies well into 2020.

**UNHCR Regional Representation for the Baltic and Nordic Countries,
Stockholm, 15 March 2013**

¹⁴ See UN High Commissioner for Refugees, *Conclusions Adopted by the Executive Committee on the International Protection of Refugees*, December 2009, 1975 – 2009 (Conclusion No. 1 – 109), available at: <http://www.unhcr.org/refworld/docid/4b28bf1f2.html>