

Lausunto

25.10.2024

Asia: VN/1960/2024

Luonnos hallituksen esitykseksi ulkomaalaislain muuttamisesta (perheenyhdistäminen)

Lausunnonantajan lausunto

Millaisia näkemyksiä teillä on vähimmäisikävaatimuksesta?

1. The Finnish Aliens Act does currently not contain a separate provision on the minimum age of spouses as a prerequisite for family reunification. The Proposal seeks to add a new section 38a to the Act, which would set the minimum age requirement of 21 years for spouses in order to grant a residence permit based on family ties, in line with optional Article 4(5) of the FRD. Proposed Section 38a would require that both individuals have turned 21 on the day the residence permit becomes effective. However, the required minimum age of 21 years would not apply to a Finnish citizen. According to the Proposal, the minimum age requirement could prevent abuse of residence permits and prevent forced and early marriages. There would be no possibility to make an exemption from the minimum age requirement.

2. UNHCR cautions against using the provision as a blanket refusal of family reunification for spouses and partners between 18 and 21 years. UNHCR encourages States to adopt an inclusive and culturally sensitive approach to the family. [1] UNHCR recommends that legal marriages above the age of majority, i.e. 18 years old, are recognized with no discrimination. [2] As noted by the Advocate General of the CJEU, “the objective of restricting forced marriages, however legitimate and appropriate, must be counterbalanced by the right of genuinely married couples to exercise their right to family reunification which arises directly from the right to respect for their family life”. [3]

3. The European Commission has advised that if the individual assessment of an application shows that “the justification for Article 4(5), i.e. ensuring better integration and preventing forced marriages, is not applicable, then [Member States] should consider making an exception thus allowing for family reunification in cases in which the minimum age requirement is not fulfilled. For instance, when it is clear from the individual assessment that there is no abuse, e.g. in the case of a common child”. [4] UNHCR regrets that the application of the provision is mandatory and does not require an individual assessment and recommends these two important elements to be reconsidered in view of the above.

4. Furthermore, procedurally, the Proposal sets forth that the minimum age requirement should be met on the day the family member's residence permit comes into effect. A decision on the residence permit application could be made no more than three months before the residence permit takes effect. Taking into account the processing time for residence permits based on family ties, a negative decision, according to the Proposal, should be made on the residence application if it had been submitted more than nine months before the minimum age requirement is met. The current Finnish Aliens Act Section 114 sets forth that in order to be exempted from the maintenance requirements, the refugee must apply for family reunification within three months of receiving the decision on their application for international protection. This means that, in practice, all refugees and their spouses between ages 18-19 seeking family reunification, are subjected to maintenance requirements. UNHCR considers that the window between applying for family reunification within three months of being informed of the decision on refugee status and at the same time being at most 9 months from turning 21 years old, is very narrow. UNHCR foresees that many young forcibly displaced persons would therefore be unable to submit their application within the three months period for maintenance exemption.

5. In light of the above, UNHCR recommends that Finland refrain from using the provision of minimum age requirement for spouses as a blanket refusal of family reunification. UNHCR recommends that Finland apply such provision with caution, taking into account individual circumstances, including potential shared children between spouses, as well as procedural barriers considering the strict three-month timeline for exemption from maintenance requirement for refugees.

ENDNOTES:

[1] The question of what constitutes a family should be informed by the principle of dependency and, in the case of children, Best Interests Procedures (BIP). Relevant considerations include biological and social connections, cultural variations as well as social, emotional and economic ties or dependency factors. UNHCR, Operational Guidelines on Facilitating Family Reunification for Persons in Need of International Protection, 28 March 2024, <https://www.refworld.org/policy/opguidance/unhcr/2024/en/148271>, p. 19. See also, UNHCR ExCom, UNHCR ExCom Conclusion, Family Reunification No. 24 (XXXII) - 1981, 21 October 1981, <https://www.refworld.org/docid/3ae68c43a4>, para. 5 and UNHCR Resettlement Handbook, 2011, July 2011, <https://www.refworld.org/docid/4ecb973c2.html>, p. 180.

[2] UNHCR, UNHCR Observations on the draft proposal "Certain stricter conditions for family immigration and limited possibilities for residence permit due to humanitarian reasons" [Utkast till lagrådsremiss: Vissa skärpta villkor för anhöriginvandring och begränsade möjligheter till uppehållstillstånd av humanitära skäl], 28 March 2023, <https://www.refworld.org/legal/natlegcomments/unhcr/2023/en/124241>

[3] Court of Justice of the European Union, Marjan Noorzia - Conclusions de l'avocat général, Affaire C-338/13, 30 April 2014 <https://www.refworld.org/cases,ECJ,5375eb1e4.html>. See also, CJEU, Noorzia v. Bundesministerin für Inneres, C-338/13, 17 July 2014 <http://www.refworld.org/docid/53ccd5634.html>.

[4] European Commission, Communication from the Commission to the European Parliament and the Council of 2014 on guidance for application of Directive 2003/86/EC on the right to family reunification, COM(2014) 210 final, 3 April 2014, <http://www.refworld.org/docid/583d7d0b7.html>, p. 8.

Millaisia näkemyksiä teillä on toimeentuloedellytyksen asettamisesta alaikäiselle perheenkokoajalle?

1. According to the Proposal, Subsection 4 of Section 114 of the Aliens Act will be amended so that the exception for children regarding the maintenance requirement would only be limited to family members of unaccompanied refugee children. Previously, all under-age sponsors, whether refugees, beneficiaries of subsidiary protection or beneficiaries of temporary protection, were exempted from the maintenance requirement.

2. UNHCR recalls that from 2016 until February 2023, the Aliens Act included a maintenance requirement for all refugee children in Finland. During that period, the law provided for an individual assessment based on the best interests of the child. In 2023, decision was made to remove the maintenance requirement for children based on the right of children to enjoy family life, to ensure the realization of the best interests of the child as fully as possible, and to align Finnish law with established jurisprudence on the matter. [1] When restrictions to family reunification were introduced in 2016, UNHCR advised Finland against the introduction of maintenance requirements. [2]

3. In respect of the possibility to make exceptions to the maintenance requirement for children, it should also be noted that according to Article 3 of the CRC, the best interests of the child shall be a primary consideration in all actions affecting children. This principle applies in all family reunification cases involving children, whether the child is in Finland, in the country of origin or in a third country. A child's right to family life is specifically protected under Articles 9, 10 and 16 of the CRC, which, inter alia, provides that a family reunification application involving a child should be dealt with in a positive, humane and expeditious manner, and that the child has the right to maintain a regular and direct contact with both parents. [3] Further to this, the UN Committee on the Rights of the Child recently urged Finland to facilitate reunification of children, including by removing legal and income obstacles to family reunification, making it possible for all refugees and asylum-seeking children, without discrimination. [4]

4. UNHCR further recalls the jurisprudence of the CJEU, according to which the maintenance requirement must not be used in a manner that would undermine the objective and effectiveness of the FRD. The granting of family reunification is the general rule, and the faculty of the maintenance requirement must therefore be interpreted strictly. The Directive "must be interpreted in the light of its general objective, which is to promote rather than prevent family reunification". [5]

5. In the view of the above, UNHCR recommends Finland to refrain from re-introducing maintenance requirements for family members seeking to unite with their children in Finland, irrespective of the type of protection status the child holds.

ENDNOTES:

[1] The Proposal, p. 17.

[2] UNHCR, Comments by the United Nations High Commissioner for Refugees (UNHCR) Regional Representation for Northern Europe on the draft Law Proposal amending the Aliens Act of the Republic of Finland, February 2016, <https://www.refworld.org/docid/589c77ba4.html>.

[3] United Nations, Convention on the Rights of the Child, 20 November 1989, Treaty Series, vol. 1577, <https://www.refworld.org/legal/agreements/unga/1989/en/18815>.

[4] UN Committee on the Rights of the Child, Concluding observations on the combined fifth and sixth reports of Finland, 15 November 2023, <https://documents.un.org/doc/undoc/gen/g23/111/74/pdf/g2311174.pdf>, p. 13.

[5] European Commission, Communication from the Commission to the European Parliament and the Council on guidance for application of Directive 2003/86/EC on the right to family reunification, 3 April 2014, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52014DC0210>, p. 12, which refers to case of Court of Justice of the European Union, C-578/08, Chakroun, 4 March 2010, para 43; Cases C-356/11 and C-357/11, O. & S., 6 December 2012, para. 74. Marjan Noorzia - Conclusions de l'avocat général, Affaire C-338/13, 30 April 2014 <https://www.refworld.org/cases,ECJ,5375eb1e4.html>.

Millaisia näkemyksiä teillä on asumisaikavaatimuksesta?

1. The Aliens Act does not require a minimum residence period of the sponsor before an application for family reunification can be submitted. According to the Proposal, a new subsection 5 would be added to Section 114, stipulating a minimum two-year residence requirement for beneficiaries of subsidiary protection in order to obtain a residence permit for their family member(s) based on family ties. For refugees, the minimum two-year residence requirement would only apply to situations of a so-called new family member, that is, where the refugee's family is formed after the sponsor's entry in Finland, after the sponsor has been accepted to Finland for resettlement or after the sponsor has received refugee status based on family ties. The residence time requirement would not apply for beneficiaries of temporary protection. The stated objective of the proposed amendment is to promote integration of third country citizens by increasing the sponsor's responsibility of his/her family's integration.

2. The two-year residence period would be counted from the issuance of the first residence permit to the sponsor and to be fulfilled at the time of the application for family reunification. In situations involving resettled refugees or sponsors who have received refugee status based on family ties, the two-year residence period would be counted from the moment the sponsor arrives in Finland. Exceptions may be made in individual cases if there is an exceptionally compelling reason, or the best interest of the child so requires.

3. The reunification process even without the residence period requirement can be very lengthy and result in close family members having to live apart for many years with severe consequences for

their well-being and integration. UNHCR notes with concern that beneficiaries of subsidiary protection and refugees to whom the new requirement applies, will be subjected to an even longer separation from their family members.

4. In UNHCR's view, the ability to reunify with one's family supports the integration process, which States are requested to facilitate as far as possible, pursuant to Article 34 of the 1951 Convention. [1] Prolonged separation of family members during forced displacement can have devastating consequences on peoples' well-being, as well as on their ability to rehabilitate from traumatic experiences of persecution and war and inhibit their ability to learn a new language, search for a job and adapt to their country of asylum. The UNHCR ExCom Conclusion No. 104 on local integration, 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. [2] Research consequently shows that, in most cases, family reunification is the first priority for refugees upon receiving status. [3]. Facilitating family reunification will therefore have a positive effect on integration in all its aspects, including employment.

5. UNHCR is therefore concerned that the proposed measures could hamper rather than facilitate integration. UNHCR advises Finland against introducing a residence period requirement as it may hinder the stated objective of promoting integration.

ENDNOTES:

[1] 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>.

[2] UNHCR, Conclusions on International Protection Adopted by the Executive Committee of the UNHCR Programme 1975 – 2017 (Conclusion No. 1 – 114), Conclusion on Local Integration, October 2017, HCR/IP/3/Eng/REV. 2017, <https://www.refworld.org/docid/5a2ead6b4.html>.

[3] UNHCR, A New Beginning: Refugee Integration in Europe, September 2013, <http://www.refworld.org/docid/522980604.html>.

Millaisia näkemyksiä teillä on alaikäisyyden määritelmästä?

Definition of an underage person (“alaikäisyyden määritelmä”)

1. According to the Proposal, Section 38 of the Aliens Act will be amended so that the granting of a residence permit to a child on the basis of family ties with a refugee sponsor in Finland requires that the child was a minor on the day the sponsor made the application for international protection. Similarly, where a family member of an unaccompanied child with refugee status in Finland is applying for reunification, the child sponsor would have to be under-age on the day he or she applied for international protection. Previously the child was required to be under-age at the time the application for family reunification was initiated. The stated objective of the amendment is to

align the Aliens Act with EU legislation following the preliminary ruling of CJEU regarding Article 10(3) of the FRD. [1]

2. The Proposal notes that, as beneficiaries of subsidiary or temporary protection as well as resettled refugees do not fall under the scope of the FRD, the decision of the CJEU does not apply to them. [2] For these groups, the age of majority will continue to be determined at the time when the application of family reunification was made.

3. UNHCR notes with appreciation the Proposal's aim to strengthen access to family reunification for unaccompanied refugee children. UNHCR, however, is concerned, about the differential access to family reunification depending on the protection status granted to the sponsor and that the less favorable rules will continue to apply to beneficiaries of subsidiary and temporary protection in Finland.

4. UNHCR would like to recall that the length of the asylum procedure is generally outside the control of the applicant and should thus not work to the applicant's disadvantage. While temporary protection applications are generally quickly processed, the standard asylum process in Finland at first instance can take up to six months or even longer and can extend over several years at the appeal stage. [3] Beneficiaries of subsidiary protection in particular would be directly negatively affected by any delays in processing of their claims (see further above at "General Observations").

5. UNHCR thus recommends that Finland apply the proposed definition of an under-age person to all beneficiaries of international protection, including beneficiaries of subsidiary protection and temporary protection.

ENDNOTES:

[1] European Court of Justice, Judgment of the Court (Second Chamber), A and S v Staatssecretaris van Veiligheid en Justitie. Request for a preliminary ruling from the rechtbank Den Haag. Case C-550/16, 12 paril 2018, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62016CJ0550>.

[2] Ibid.

[3] Finnish Immigration Service, Usein kysytyt kysymykset: Turvapaikkahakemusten maksimikäsittelyajasta. n.d. <https://migri.fi/usein-kysyttya-turvapaikkahakemusten-kasittelyajoista>.

Millaisia näkemyksiä teillä on siitä, että kansantervedellinen syy ei enää jatkossa olisi perhesideperustaisen oleskeluluvan epäämisperuste?

1. UNHCR welcomes the amendment to remove endangerment to public health as a reason for denying a residence permit based on family ties for all beneficiaries of international protection thus bringing its legislation in line with the EU Qualification Directive.

Tähän voitte kirjoittaa muita näkemyksiänne ehdotettuja muutoksia ja niiden vaikutuksia koskien.

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 to amend the Aliens Act (family reunification)” (Hallituksen esitys eduskunnalle ulkomaalaislain muuttamisesta (peheenyhdistäminen)) - 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). 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. [5]

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 (“UNHCR Handbook”) [6] 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. General observations

4. UNHCR notes that the Proposal is part of the legislative reform process initiated in the context of the 2023 Government Programme, aimed at tightening the conditions for family reunification made possible by the Council Directive 2003/86/EC (2003) on the Right to Family Reunification (“FRD”). [7] The stated purpose of the Proposal is to ‘increase the immigrant’s own responsibility for their integration and to eradicate harmful phenomena, such as using children as a means of entry into the country as well as forced or sham marriages’. [8]

5. UNHCR welcomes the amendment to remove endangerment to public health as a reason for denying a residence permit based on family ties for all beneficiaries of international protection thus bringing its legislation in line with the EU Qualification Directive.

6. The Proposal however introduces several restrictions to the possibility to obtain a residence permit in Finland based on family reunification. UNHCR observes that, in recent years, the right to family reunification for refugees and beneficiaries of subsidiary protection in Finland has become quite restricted through the introduction of numerous legal, practical, and financial obstacles. [9] UNHCR notes with concern that the current Proposal introduces a reduced set of standards and safeguards as compared to the solid legal protection framework which Finland had developed and administered over decades.

7. The right to family life is enshrined in the Universal Declaration of Human Rights which refers to families as a 'natural and fundamental group unit of society', which is 'entitled to protection by society and the State'. [10] This right becomes binding under international human rights law, as foreseen in the International Covenant on Civil and Political Rights, and the Convention on the Rights of the Child ("CRC"). [11] While there is no explicit provision on family reunification in the 1951 Convention, the Final Act of the UN Conference of Plenipotentiaries affirmed "that the unity of the family [...] is an essential right of the refugee" and recommended Governments to "take the necessary measures for the protection of the refugee's family, especially with a view to ensuring that the unity of the family is maintained." [12] The right to respect for private and family life is also protected under Article 8 of the European Convention on Human Rights and Fundamental Freedoms ("ECHR") [13] and in Article 24 of the Charter of Fundamental Rights of the European Union. [14] Similarly, Article 23(1) of the EU's recast Qualification Directive mandates that States shall ensure that family unity can be maintained. [15] Furthermore, the objective of the EU Family Reunification Directive is to enable family members of non-EU nationals residing lawfully in the EU to legally join them. [16]

8. UNHCR's Executive Committee ("ExCom") has further highlighted the "fundamental importance" of family reunification, emphasizing the need for reunification to take place "with the least possible delay". ExCom has also called on countries of asylum to "apply liberal criteria in identifying those family members who can be admitted with view to promoting a comprehensive reunification of the family". [17] Most recently, ExCom reiterated its call to States to facilitate effective procedures and clear referral pathways for reunification with family members, as well as to consider efforts to bring together persons in relationships of dependency, where appropriate and in accordance with national law; and to promote access to procedures and flexible requirements to restore refugees' family unity and enjoyment of their right to family life. [18]

9. UNHCR wishes to further note that the Court of Justice of the European Union ("CJEU") has emphasized that the objective of the FRD [19] is to promote family reunification. [20] With regard to refugees specifically, it has held that "special attention should be paid to the situation of refugees, since they have been obliged to flee their country and cannot conceivably lead a normal family life there". [21] This has also been recognized by the European Court of Human Rights ("ECtHR"), which

has found that family unity is an essential right for refugees, and they should benefit from a more favourable family reunification regime than other foreigners. [22] States thus have an obligation not only to refrain from interfering with individuals' right to family life, but to facilitate access to it. [23] In addition, jurisprudence of the ECtHR requires States to give effect to the right to family life and family unity through flexible, prompt, and effective access to family reunification. [24]

10. UNHCR has consistently held that family reunification is vital for refugees to enjoy the fundamental right to family life. [25] UNHCR reiterates that the right to family life and the principle of family unity are of particular importance in the refugee context as maintaining and facilitating family unity helps to ensure the physical care, protection, emotional wellbeing and self-reliance of refugees. The family plays an essential role in helping persons rebuild their lives and can provide critical support to adapt to new and challenging circumstances. [26] A prolonged separation can have devastating consequences on the well-being of refugees and their families and as such the possibility of being reunited with one's family is vital for integration. [27] 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.

11. The need to reunite with family members is also one of the key drivers for irregular and unsafe movement. [28] Many families are unable to travel together and rely on legal family reunification procedures being available once a member of the family has been granted international protection. [29] UNHCR is concerned that restricting the family reunification mechanism, as a legal pathway, may lead to more individuals, including women and children, having to resort to smugglers and risky journeys to Europe.

12. UNHCR further notes that many of the restrictions set forth in the Proposal affect forcibly displaced people differently, based on the protection status they hold. Under Article 8 of the European Convention on Human Rights and Fundamental Freedoms ("ECHR"), everyone has the right to respect for their private and family life, irrespective of the type of residence provided. It is not the status of the applicant that is determinative, but whether there is an obstacle preventing the applicant from enjoying family life in his or her home country. [30]

13. Pursuant to Article 3(2)(c) of the FRD, beneficiaries of subsidiary protection are not included in the scope of the Directive. However, further to above, UNHCR notes that the humanitarian needs of individuals granted subsidiary protection are not different from those of refugees, and that differences in requirements for family reunification are therefore not justified in terms of the individual's flight experience and protection needs. [31] The European Commission also considers that the humanitarian protection needs of persons benefiting from subsidiary protection do not differ from those of refugees and encourages Member States to adopt rules that grant similar rights to refugees and beneficiaries of subsidiary protection. [32] This is justified by the fact that the convergence of both protection statuses is also confirmed in the recast Qualification Directive. [33]

14. The principle of non-discrimination further requires that similarly situated individuals should enjoy the same rights and receive similar treatment. [34] In this respect, UNHCR wishes to refer to the ECtHR, which has held that a difference of treatment in “analogous, or relevantly similar, situations”, is discriminatory if it has no objective and reasonable justification, “in other words, if it does not pursue a legitimate aim or if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be realised.” [35] This includes measures impacting upon individuals’ right to family life and family unity, regardless of their immigration or other status. The protection conferred by Article 14 of the ECHR (the prohibition of discrimination) [36] is not limited to different treatment based on characteristics which are personal in the sense that they are innate or inherent, but also relate to the individual’s immigration status. [37] The Council of Europe’s Committee of Ministers has also adopted a Recommendation on family reunion, which equally applies to refugees and “other persons in need of international protection”. [38]

15. Against this background, UNHCR cautions against introducing a differentiation between beneficiaries of international protection with respect to their access to family reunification and recommends that the two categories of beneficiaries of international protection should be subjected to similar requirements and that this be clearly indicated in the Proposal or in the legislative text. [39]

III. Concluding remarks

16. Based on the above observations, UNHCR invites Finland to consider potential amendments to the Proposal in order to:

- a) Ensure effective and meaningful access to family reunification for all forcibly displaced people who are similarly situated, including refugees, beneficiaries of subsidiary protection and beneficiaries of temporary protection;
- b) Ensure that the minimum age requirement in the Finnish Aliens Act is not used as a blanket refusal of family reunification for spouses and partners between 18 and 21 years, and adopt an inclusive and culturally sensitive approach to the definition of family;
- c) Refrain from introducing maintenance requirements for children in need of international protection, irrespective of the child’s protection status;
- d) Refrain from introducing an additional minimum residence period requirement as it may hamper the stated objective of facilitating beneficiaries of international protection’ integration in Finland;
- e) Expand the proposed definition of an underage person to all beneficiaries of international protection, including beneficiaries of subsidiary and temporary protection.

ENDNOTES:

[1] The full presentation of the Proposal by the Ministry of the Interior, including explanatory notes and proposed legislative text (in Finnish): Perheenyhdistämisen edellytysten muuttaminen, Hankenumero SM003:00/2024, <https://intermin.fi/hankkeet/hankesivu?tunnus=SM003:00/2024>.

[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) of the 1951 Convention, UNHCR has the “duty of supervising the application of the provisions of the Convention”.

[5] 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>.

[6] 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>.

[7] Government of Finland, “A strong and committed Finland – the Government’s vision” Programme of Prime Minister Petteri Orpo’s Government, 2023:60, 20 June 2023, <https://urn.fi/URN:ISBN:978-952-383-818-5>.

[8] Proposal, pp. 23-24.

[9] Finnish Refugee Advice Center, Family Reunification Practices in Finland, 15 March 2021, https://www.unhcr.org/neu/wp-content/uploads/sites/15/2021/04/Family-Reunification-Practices-in-Finland-_Report_.pdf,

[10] UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III): <https://www.refworld.org/docid/3ae6b3712c.html>, Article 16(3),

[11] UN General Assembly, , International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171 <https://www.refworld.org/docid/3ae6b3aa0.html>, Article 23(1); United Nations, Convention on the Rights of the Child, 20 November 1989, Treaty Series, vol. 1577, , <https://www.refworld.org/docid/3ae6b38f0.html>, p. 3; UN General Assembly, International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families : resolution / adopted by the General Assembly, 18 December 1990, A/RES/45/158, <https://www.refworld.org/docid/3b00f2391c.html>; and UN General Assembly, International

Covenant on Economic, Social and Cultural Rights, 16 December 1966, United Nations, Treaty Series, vol. 993, <https://www.refworld.org/docid/3ae6b36c0.html>, p. 3.

[12] 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, www.refworld.org/docid/40a8a7394.html.

[13] Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, ETS 5, 4 November 1950, <https://www.refworld.org/legal/agreements/coe/1950/en/18688>, Art. 8.

[14] European Union (EU), Charter of Fundamental Rights of the European Union, 7 December 2000, OJ 2000/C 364/01 of 18 December 2000 (“the Charter”), https://www.europarl.europa.eu/charter/pdf/text_en.pdf.

[15] Council of the European Union, Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), OJ L 337/9-337/26; 20.12.2011, 2011/95/EU, 20 December 2011, <https://www.refworld.org/legal/reglegislation/council/2011/en/84781>.

[16] Council of the EU, Council Directive 2003/86/EC of 22 September 2003 on the Right to Family Reunification, 3 October 2003, OJ L 251/12-251/18; 3.10.2003, 2003/86/EC, <https://www.refworld.org/docid/3f8bb4a10.html>.

[17] UNHCR, Conclusions on International Protection Adopted by the Executive Committee of the UNHCR Programme 1975 – 2017 (Conclusion No. 1 – 114), October 2017, HCR/IP/3/Eng/REV. 2017, <https://www.refworld.org/docid/5a2ead6b4.html>, including No. 9 (XXVIII) on Family Reunion, 1977; No. 24 (XXXII) on Family Reunification, 1981; No. 84 (XLVIII) on Refugee Children and Adolescents, 1997; No. 88 (L), 1999 on the Protection of the Refugee’s Family; No. 104 (LVI), 2005 on Local Integration; and No. 107 (LVIII), 2007 on Children at Risk.

[18] Executive Committee of the High Commissioner’s Programme, Conclusion No. 117 (LXXV): Durable Solutions and Complementary Pathways - Adopted by the Executive Committee (2024), No. 117 (LXXV), October 2024, <https://www.refworld.org/policy/exconc/excom/2024/en/148870>.

[19] See supra note 16.

[20] European Court of Justice, Chakroun v. Minister van Buitenlandse Zaken, C-578/08, , 4 March 2010, <https://www.refworld.org/cases,ECJ,4b962e692.html>, para. 43.

[21] TB, C-519/18, 12 December 2019, <https://curia.europa.eu/juris/liste.jsf?language=en&jur=C,T,F&num=c519/18>, paras. 49-50; K and B, C380/17, 7 November 2018, <https://curia.europa.eu/juris/liste.jsf?language=en&jur=C,T,F&num=c380/17>, para. 53.

[22] ECtHR, Tanda-Muzinga c. France, Appl. no. 2260/10, 10 July 2014, www.refworld.org/cases,ECHR,53be80094.html, para. 75; Mugenzi c. France, Appl. no. 52701/09, 10 July 2014, www.refworld.org/cases,ECHR,53be81784.html, para. 54.

[23] ECtHR, Tuquabo-Tekle and Others v. the Netherlands, Appl. no. 60665/00, 1 December 2005, <https://www.refworld.org/cases,ECHR,43a29e674.html>, para. 42; Jeunesse v. the Netherlands, Appl.

no. 12738/10, ECtHR, 3 October 2014, <https://www.refworld.org/cases,ECHR,584a96604.html>, para. 106 and note 13; UNHCR Statement on family reunification for beneficiaries of international protection issued in the context of the preliminary ruling reference to the Court of Justice of the European Union in the case of CR, GF, TY v. Landeshauptmann von Wien (C-560/20), 22 June 2021, <https://www.refworld.org/docid/60d20abe4.html>, paras. 3.1.1. – 3.1.4.

[24] ECtHR, *Mugenzi v. France*, 10 July 2014, Appl. No. 52701/09, para. 52 and *Tanda-Muzinga v. France*, 10 July 2014, Appl. No. 2260/10, <https://hudoc.echr.coe.int/eng?i=001-145356>, para. 73.

[25] See, for instance, UNHCR recommendations to Finland on strengthening refugee protection in Finland, Europe and globally, April 2023, <https://www.unhcr.org/neu/97889-unhcr-recommendations-to-finland-2.html>.

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[27] UNHCR, *UNHCR recommendations on flexible approaches to family reunification procedures in Europe*, February 2023, <https://www.refworld.org/policy/legalguidance/unhcr/2023/en/96763>.

[28] See *supra* note 26.

[29] UNHCR, *Summary Conclusions on the Right to Family Life and Family Unity in the Context of Family Reunification of Refugees and Other Persons In Need Of International Protection*, 4 December 2017, Expert Roundtable, www.refworld.org/docid/5b18f5774.html, para. 1.

[30] Submission by the Office of the UNHCR in the case of *M.A. v. Denmark* (Application no. 6697/18) before the ECtHR, 21 January 2019, <https://www.refworld.org/docid/5c4591164.html>, para. 3.3.4

[31] *Ibid*, para 3.3.3.

[32] European Commission, *Communication from the Commission to the European Parliament and the Council on guidance for application of Directive 2003/86/EC on the right to family reunification*, 3 April 2014 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52014DC0210>, pp. 24-25.

[33] European Union: Council of the European Union, *Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast)*, 20 December 2011, OJ L.337/9-337/26; 20.12.2011, 2011/95/EU, <http://www.refworld.org/docid/4f197df02.html>, p. 6.

[34] The ECtHR has found that a difference of treatment is discriminatory for the purposes of Article 14 ECHR if it “has no objective and reasonable justification”, that is if it does not pursue a “legitimate aim” or if there is not a “reasonable relationship of proportionality between the means employed and the aim sought to be realised”. The Contracting States enjoy a certain margin of appreciation in assessing whether and to what extent differences in otherwise similar situations justify a different treatment. For jurisprudence, see ECtHR, *Niedzwiecki v. Germany*, 58453/00, 25 October 2005, <http://www.refworld.org/docid/4406d6cc4.html>, and ECtHR, *Okpiz v. Germany*, 59140/00, October

2005, <https://www.refworld.org/cases,ECHR,4406d7ea4.html>; ECtHR, *Biao v. Denmark* (Grand Chamber), 24 May 2016, <http://www.refworld.org/cases,ECHR,574473374.html>; ECtHR, *Hode and Abdi v. The United Kingdom*, 6 November 2012, <http://www.refworld.org/cases,ECHR,509b93792.html>, ECtHR, *M.A. v. Denmark*, 6697/18, 9 July 2021, <https://www.refworld.org/cases,ECHR,60ec0ae24.html>, and *M.T. and others v. Sweden*, 22105/18, 20 October 2022, <https://www.refworld.org/docid/6361454d4.html>.

[35] ECtHR, *Hode and Abdi v. The United Kingdom*, (Application no. 22341/09), November 2012, <http://www.refworld.org/docid/509b93792.html>, para 45.

[36] Article 14 states: “the enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

[37] European Court of Human Rights, *Hode and Abdi v. The United Kingdom*, (Application no. 22341/09), 6 November 2012, paras. 46–47, where the Court found that the rejection of the application of a wife to join her husband in the UK based on the husbands immigration status had been in breach of Article 8 in conjunction with Article 14 ECHR, as the difference in treatment was neither objectively or reasonably justified by the UK.

[38] Council of Europe, Committee of Ministers, Recommendation N° R (99) 23 of the Committee of Ministers to Member States on Family Reunion for Refugees and Other Persons in Need of International Protection, 15 December 1999, Rec(99)23,

<http://www.refworld.org/docid/3ae6b39110.html>.

[39] 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>, para. 135. See also, UNHCR, Observations by the United Nations High Commissioner for Refugees Regional Representation for Northern Europe on the draft law proposal on restrictions of the possibility to obtain a residence permit in Sweden (“Begränsningar av möjligheten att få uppehållstillstånd i Sverige – utkast till lagrådsremiss”), 10 March 2016 <https://www.refworld.org/docid/56e27d7e4.html>. 6 17.

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