



UNHCR

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

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Re: Comments by the United Nations High Commissioner for Refugees (UNHCR) to the Ministry of the Interior's proposal on how to improve statistics on detention in Finland

To: The Ministry of the Interior

The UNHCR Regional Office for the Baltic and Nordic Countries is pleased to submit its comments on the Ministry of the Interior's proposal on how to improve statistics on detention in Finland to the Ministry.

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,

Karolina Lindholm Billing
Senior Regional Legal Officer



UNHCR

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

Comments by the United Nations High Commissioner for Refugees (UNHCR) on the Finnish Ministry of the Interior's proposal to improve statistics on detention

Introduction

UNHCR appreciates the opportunity to present its comments on the Ministry of the Interior's proposal on how to improve statistics on detention in Finland.

UNHCR provides these comments as the agency entrusted by the United Nations General Assembly with the responsibility for providing international protection to refugees and other persons within its mandate, and for assisting governments in seeking permanent solutions to the problem of refugees. As set forth in its Statute, UNHCR fulfils its international protection mandate by, inter alia, "[p]romoting the conclusion and ratification of international conventions for the protection of refugees, supervising their application and proposing amendments thereto." UNHCR's supervisory responsibility under its Statute is reiterated in Article 35 of the 1951 Convention relating to the Status of Refugees (hereafter 'the 1951 Convention') according to which State parties undertake to "co-operate with the Office of the United Nations High Commissioner for Refugees [...] in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of the Convention". The same commitment is included in Article II of the 1967 Protocol relating to the Status of Refugees ("the 1967 Protocol"). Finland is a party to the 1951 Convention since 10 October 1968.

Article 31 in the 1951 Convention exempts refugees coming directly from a country of persecution from being penalized on account of their illegal entry or presence, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence. The same Article provides that Contracting States shall not apply to the movements of such refugees, restrictions other than those which are necessary. This provision is complemented by UNHCR's Executive Committee Conclusion No. 44 (XXXVII) which stipulates that, in view of the hardship it involves, detention of asylum-seekers should normally be avoided.

UNHCR's Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers¹ from 1999 (hereafter 'UNHCR's Guidelines on detention') provide further guidance on the interpretation and application of Article 31 and ExCom Conclusion No. 44, and affirm that detention of asylum-seekers is inherently undesirable.

¹UN High Commissioner for Refugees, UNHCR's Revised Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers, 26 February 1999, available at: <http://www.unhcr.org/refworld/docid/3c2b3f844.html>

Statistics on detention

UNHCR has noted that there are no statistics available on detention outside the Metsälä Detention Unit in Finland. Consequently, UNHCR has urged the Finnish authorities to develop mechanisms that would enable UNHCR and, for example, the human rights Treaty Monitoring Bodies to obtain reliable statistics on persons detained pursuant to the Aliens Act. UNHCR therefore welcomes the current proposal to develop statistics on detention. The findings by the Ministry's working group - that various statistics available today give widely different pictures on the use of detention in Finland - clearly supports the need to develop a mechanism within which reliable statistics can be generated. As the Ministry concludes, this is needed in order to enable an informed public debate on the use of detention pursuant to the Aliens Act and to give UNHCR and relevant Treaty Monitoring Bodies a clear picture on the use of detention in Finland.

The Ministry suggests that, from a technical and practical point of view, the most feasible option is to develop statistics on detention in the context of the new operation steering system of the Police, 'VITJA'. This is foreseen to be operational in 2014. The alternative - to use the already operational 'UMA' information system of the migration authorities - was considered as too cumbersome for the Police. Whereas UNHCR is not in position to judge which information system is the most feasible from a practical and technical point of view, we take the opportunity to stress that, regardless of which system is used, the availability of information for actors in the field of migration and asylum has to be ensured. We further wish to underline the importance of ensuring interconnectivity between the VITJA and UMA systems, as is emphasized in the Ministry's proposal.

The Ministry's proposal also lists which information on detention is to be included in the information system in the future. The proposal does not explicitly state that the migration status of the person detained will be one piece of information that will be included; however, text contained earlier in the proposal seems to imply that grounds for detention are amongst the information to be included. Nonetheless, UNHCR takes this opportunity to emphasize the importance of recording the migration status of detained individuals. From the perspective of UNHCR's mandate and supervisory role, it is essential to know to which extent detention is applied to asylum-seekers arriving in the country and to which extent it is used as pre-removal detention.

Conclusion

In conclusion, UNHCR wishes to thank the Ministry for its commitment to develop mechanisms that will improve the recording and production of statistics on detention. This commitment is yet another example of Finland's efforts to uphold good human rights standards in the treatment of asylum-seekers and refugees. UNHCR also sees the commitment as a manifestation of the excellent cooperation we enjoy with the Government of Finland.

UNHCR, Regional Office for the Baltic and Nordic Countries, Stockholm
3 August 2012