

Comments by the United Nations High Commissioner for Refugees (UNHCR) Regional Representation for Northern Europe to the Finnish Ministry of the Interior on the draft National Programme for the Asylum, Migration and Integration Fund 2014 – 2020

I. Introduction

1. The UNHCR Regional Representation for Northern Europe (RRNE) is grateful to the Ministry of the Interior of Finland for the invitation to comment on the draft National Programme for the Asylum, Migration and Integration Fund.
2. UNHCR has a direct interest in proposals in the field of asylum, as the agency entrusted by the United Nations General Assembly with the mandate to provide international protection to refugees and, together with Governments, 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 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 Relating to the Status of Refugees (hereafter ‘1951 Convention’). Such guidelines are included in the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status (‘UNHCR Handbook’) and subsequent Guidelines on International Protection³. This supervisory responsibility is reiterated in Article 35 of the 1951 Convention, and in Article II of the 1967 Protocol relating to the Status of Refugees⁴.
3. UNHCR’s supervisory responsibility has also been reflected in European Union law, including by way of a general reference to the 1951 Convention in Article 78(1) of the Treaty on the Functioning of the European Union (“TFEU”)⁵, as well as in Declaration 17 to the Treaty of Amsterdam, which provides that “*consultations shall be established with the United Nations High Commissioner for Refugees ... on matters relating to asylum policy*”⁶.

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”).

² *Ibid.*, paragraph 8(a).

³ UN High Commissioner for Refugees (UNHCR), *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.refworld.org/docid/4f33c8d92.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 European Union, *Consolidated version of the Treaty on the Functioning of the European Union*, 13 December 2007, OJ C 115/47 of 9.05.2008, available at:

<http://www.unhcr.org/refworld/docid/4b17a07e2.html>.

⁶ European Union, *Declaration on Article 73k of the Treaty establishing the European Community*, OJ C 340/134 of 10.11.1997, available at:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:11997D/AFI/DCL/17: EN:HTML>.

4. UNHCR therefore welcomes the opportunity to provide UNHCR's comments on the draft national programme for the Asylum, Migration and Integration Fund (AMIF) for Finland. UNHCR shared preliminary recommendations on priority areas for funding under the Finnish national programme for the 2014-2020 Asylum and Migration Fund (AMF) on 4 September 2013. These recommendations form basis for UNHCR's observations below on the draft programme.

II. Observations

Goal 1. Developing the Common European Asylum System

5. UNHCR welcomes the national programme's proposed prioritization of development of the national asylum system and resettlement under this goal.
6. In its letter of 4 September 2013, UNHCR had suggested the prioritization of improved quality of asylum procedures, including quality decisions and quality monitoring and assessment at all stages of the procedure; continuous capacity-building of relevant authorities; quality of interpretation and legal counseling/legal aid, as well as information provided to asylum seekers. UNHCR therefore welcomes that access to legal counseling is reflected in the programme. UNHCR suggests that quality of interpretation is also included in regards to the asylum procedure and that information to asylum-seekers be included not only under the goal, but also as the prioritized actions. The quality of interpretation and information are crucial aspects for correct decision making which were highlighted in the findings of the project on quality of asylum decisions in the EU⁷.
7. UNHCR welcomes that the draft programme highlights reception conditions for vulnerable asylum-seekers and their special needs. In its letter of 4 September 2013, UNHCR stressed support to improve identification and assistance to asylum-seekers with specific needs, particularly victims of torture - with a focus on their rehabilitation and the conduct of asylum-procedures which take account of their specific situations with regard to credibility assessment and burden of proof. UNHCR would suggest the inclusion of victims of torture, who have special needs in both reception and the asylum process, in the prioritized actions. UNHCR would further suggest the inclusion of credibility assessment and burden of proof in the prioritized actions relating to asylum-seekers with specific needs. Recent UNHCR studies and training on credibility assessment has brought further attention to the crucial value of correct credibility assessment for ensuring correct identification of persons with protection needs⁸.
8. UNHCR welcomes the inclusion of resettlement in the national priorities. The explicitly formulated goals to find placements for refugees more quickly in municipalities, to streamline practices between authorities and to enhance information gathering and distribution on situations in countries of origin and first asylum are all welcomed by UNHCR. UNHCR especially welcomes the

⁷ UN High Commissioner for Refugees (UNHCR), Further Developing Asylum Quality in the EU (FDQ): Summary Project Report, September 2011, available at: <http://www.refworld.org/docid/4e85b41f2.html>

⁸ UN High Commissioner for Refugees (UNHCR), Beyond Proof, Credibility Assessment in EU Asylum Systems : Full Report, May 2013, available at: <http://www.refworld.org/docid/519b1fb54.html>

priority to cooperate between authorities, NGO's, other member states and UNHCR to share information, best practices and experiences to support resettlement and develop the system.

9. UNHCR has in its letter of 4 September 2013 proposed that the national program would include protection of children, including those intercepted en route through EU Member States and children being, or at risk of being trafficked. Due to the complexity of these cases, dedicated resources and expertise are often required to deal fair and efficiently with these cases. In the current draft programme UNHCR notes that children are not included as a priority. UNHCR would therefore like to suggest this to be reconsidered and that activities to be supported with AMIF funding could include activities aimed at: improving the identification of unaccompanied and separated children; ensuring child-friendly administrative procedures taking into account the best interests of the child, including effective procedure for the appointment of a guardian, improved techniques in relation to age assessment; and the provision of child-specific and child-friendly information and availability of counseling.

Goal 2. Integration and Legal Migration

10. UNHCR welcomes that the draft programme stresses the dialogue between communities and the participation of migrants. Participation is in the program foreseen in relation to sport, youth and cultural activities, as well as for information. UNHCR however considers that refugee participation in other aspects can add significant value. Through recent engagement, in Finland, with groups of refugees, the importance of their participation in the planning, design and implementation of practices that have an impact on themselves, their families and their communities were demonstrated. This participation can add significant value throughout the asylum processes and settlement particularly when made available to all groups in an Age-, Gender- and Diversity (AGD) sensitive manner. In its letter of 4 September 2013 UNHCR highlighted the importance of the inclusion of measures to enhance AGD and participatory approaches as a cross-cutting prioritized theme for AMF funding. UNHCR believes many of the desired outcomes of the national programme will be better achieved by integrating AGD-considerations and participatory approaches as a cross-cutting theme. UNHCR therefore recommends that this aspect is included in the AMIF programme. The integration priorities stressing employment and learning the national languages is welcomed by UNHCR as is the emphasis laid on the early stages of integration.
11. In the context of integration, UNHCR would like to reiterate our recommendation of including in the AMIF programme support to the improvement of family reunification procedures, including family tracing; evidence assessment; travel documents and travel. Family reunification for refugees often serve as a protection tool for other refugee family members in precarious situations. It brings much needed stability and peace of mind to refugees settling in their new country. As such the ability of beneficiaries of international protection to reunify with their family members is critical for their ability to focus on integration in their new home country, and thus a central element of an integration policy and program.

12. UNHCR also recommends including awareness-raising to improve the asylum and integration space in Finland and prevent and combat racism, xenophobia and intolerance in the Finnish national AMIF programme.

Goal 3. Return

13. UNHCR notes that the issue of detention is prioritized under the return-goal in the draft programme. There is a reference to the legislation concerning detention now being under review, however it remains unclear how the AMIF-funds could be used to develop detention. UNHCR would therefore recommend that this be better clarified. In particular, UNHCR has stressed the importance of having alternatives to detention and therefore welcomes that, in connection to detention, also development of alternatives to detention are mentioned. UNHCR suggests that developing alternatives to detention could be prioritized more strongly.

UNHCR Regional Representation for Northern Europe
May 2014