



Replies by the Government of Finland to the questionnaire by the Special Rapporteur on the human rights of migrants

1 February 2021

The Government of Finland presents the following replies to the questionnaire sent by the Special Rapporteur on 22 December 2020.

Question 1: Please provide information on any relevant legislation or policy in relation to the right to seek and enjoy asylum in your country, which guarantees that migrants including asylum seekers' protection needs are examined individually, and they are not pushed back at the international border without access to this assessment and other relevant procedures. Grateful if you could kindly submit the original text of the legislation or policy, accompanied by an English translation if it is in a language other than English, French or Spanish.

The right to seek asylum cannot be restricted at any times. This fact is an integral part of the Finnish legal system; although it is not explicitly provided for in law, it has its basis on the EU and international obligations binding upon Finland.

The section 147 of the Aliens Act (non-refoulement) provides that "No one may be denied admittance or stay and sent back, deported or, as a result of refusal of entry, returned to an area where he or she could be subject to the death penalty, torture, persecution or other treatment violating human dignity or from where he or she could be sent to such an area." The principle of non-refoulement is also enshrined in the Constitution of Finland, where the section 9(4) provides that "A foreigner shall not be deported, extradited or returned to another country, if in consequence he or she is in danger of a death sentence, torture or other treatment violating human dignity".

Under section 95 of the Aliens Act, an application for international protection shall be lodged with police or border control authorities upon entry into the country or as soon as possible after the entry.

The Section 98 of the same Act provides on deciding on applications for international protection, including on individual assessment. The section expressly provides that "the requirements for issuing a residence permit are assessed individually for each applicant by taking account of the applicant's evidence on his or her circumstances in the State in question and of real time information on the circumstances in that State obtained from various sources".



The original text of the Aliens Act in Finnish:

<https://finlex.fi/fi/laki/ajantasa/2004/20040301#L6P95>

The English translation:

<https://finlex.fi/fi/laki/kaannokset/2004/en20040301.pdf>

Views by non-governmental organizations

The Finnish Refugee Council has not encountered or suspected incidents where any kind of “pushbacks” of asylum seekers would have occurred by the Finnish border control or other officials at the international borders of Finland. There is no evidence of violations of the right to seek asylum in Finland.

Question 2: Please provide information on any existing good practices or measures taken (such as screening and referral mechanisms at borders) in your country to ensure that persons crossing international borders in mixed movements are protected according to international human rights law. Please indicate any specific measures aimed at reducing vulnerabilities of migrants, including by applying a human rights-based, gender- and disability-responsive, as well as age- and child-sensitive approach.

In Finland, an application for international protection is registered and lodged immediately after it has been made at the border or within the territory. This allows immediate (electronic) referral of the application to the Finnish Immigration Service, and thus initiation of the asylum process without delay.

Persons applying for international protection are informed of asylum procedures and of their rights and responsibilities throughout the process. Under section 95a of the Aliens Act, the police or border control authorities shall provide such information to the applicant upon receipt of the application for international protection. This information may also be provided by the Finnish Immigration Service or the reception center as soon as possible after the application has been submitted. The information is provided in the applicant’s native language or in a language which, on reasonable grounds, he or she can be expected to understand.

Every applicant is entitled to accommodation in a reception center as well as to reception services immediately from the beginning of the process. Unaccompanied minor asylum seekers are accommodated in the facilities suitable for their age, for example in group homes. The needs and possible vulnerabilities of an individual applicant are taken into account in the provision of services.

Question 3: Please provide information on existing restrictions or limitations in law and in practice in relation to the right to claim and seek asylum at international borders in your country (e.g., border controls, restricted access to territory) and elaborate the impact of these restrictions on the protection of the rights of migrants crossing international borders.

No limitations, see the answer to question 1.



Border controls and travel restrictions imposed by Finland due to the COVID-19 pandemic do not affect the right to seek asylum.

Views by non-governmental organizations

The Finnish Refugee Advice Centre draws attention to the fact that Finland and Russia agreed to restrict the traffic at the Salla and Raja-Jooseppi border crossings in northern Finland for 180 days in spring 2016 in such a manner that only citizens of Finland and the Union State of Russia and Belarus, and their family members, were permitted to pass through. Other border crossing points between Finland and Russia remained in use. These restrictions are no longer in place.

Question 4: Please provide information on any concrete instances of pushbacks, including an analysis on the circumstances of the event.

No instances of pushbacks.

Question 5: Please indicate any specific challenges that your Government has encountered, in the context of the COVID-19 pandemic, on ensuring the human rights of migrants crossing international borders, either by land or by sea.

The number of new asylum seekers has clearly decreased in Finland during the coronavirus pandemic, as only a bit less than 1300 new applications were lodged in 2020. This reflects well the situation in the EU, where the overall number of applications has decreased significantly in 2020 compared with 2019. Travel restrictions imposed by many countries, partial lockdowns, limited airline and other connections, as well as other preventive health measures continue to reduce possibilities to move from one country to another, including the possibilities to reach the EU for seeking international protection.

However, even during the exceptional circumstances caused by the COVID-19, applications for international protection can be submitted normally in Finland. The police or Border Guard receive the application when the asylum seeker arrives in Finland, and guide the applicant to a reception centre.

Asylum interviews were temporarily interrupted from 16 March to 14 April 2020. After this, they were resumed gradually when interview rooms were equipped with necessary protective equipment (such as protective glass between the participants). The asylum unit of the Finnish Immigration Service also explored and utilized different technological solutions for conducting interviews. This included the use of videoconference equipment which allowed conducting interviews without the need for all participants to be present in the same room. These measures allowed for the continuation of interviews rather quickly while at the same time ensuring the health and safety of applicants and staff.

Due to suspension of asylum interviews, COVID-19 has caused delays in the processing of asylum applications, when already planned interviews had to be cancelled. Because of this,



the Immigration Service has explored means to streamline its processes while ensuring the applicants are afforded all the procedural rights and safeguards as required by law.

Due to COVID-19, resettlement selection interviews were not held at the countries where the applicants are residing but were conducted as virtual selection missions by remote interviews. More selections have also been made by dossier selection.

Both incoming and outgoing Dublin transfers (regulation 604/2013) were suspended during 19 March 2020 – 18 May 2020 because of COVID-19 situation. After that the incoming transfers were gradually resumed with limited capacity. Outgoing transfers were resumed at the same time, but the restrictions for transfers laid down by the other MS were respected.

Question 6: Please indicate any challenges and/or obstacles faced by Governmental institutions or civil society organizations and individuals in protecting the human rights of migrants at international borders, including those in distress at sea and in situations where pushbacks or pullbacks are likely to take place.

No challenges/obstacles reported.

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