

**UNHCR Observations on the Government Proposal to the Parliament for the law
amending the Citizenship Act**
Hallituksen esitys eduskunnalle laiksi kansalaisuuslain muuttamisesta

I. Introduction

1. The United Nations High Commissioner for Refugees (“UNHCR”) Representation for the Nordic and Baltic Countries (“RNB”) appreciates the invitation to provide observations on the Government Proposal to the Parliament for the law amending the Citizenship Act (Hallituksen esitys eduskunnalle laiksi kansalaisuuslain muuttamisesta) - 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 Refugees⁴ 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). This has also been reflected in European Union (“EU”) law, including by way of reference to the 1951 Convention in Article 78(1) of the Treaty on the Functioning of the EU. The UN General Assembly has also entrusted UNHCR with a global mandate to provide protection to stateless persons worldwide and for preventing and reducing statelessness.⁵

¹ The full presentation of the Proposal by the Ministry of the Interior, including explanatory notes and proposed legislative text (in Finnish), is available at Kansalaisuuslain muuttamista valmisteleva hanke, vaihe 1, Hankenumero SM034:00/2023, <https://intermin.fi/hankkeet/hankesivu?tunnus=SM034:00/2023>

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

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 With respect to statelessness, guidelines are included in the UNHCR Handbook on Protection of Stateless Persons (UNHCR Handbook on Statelessness)⁷ and the Guidelines on Statelessness No. 4: Ensuring Every Child's Right to Acquire a Nationality through Articles 1-4 of the 1961 Convention on the Reduction of Statelessness.⁸
4. 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. The Scope of the Proposal

5. The Proposal is part of the first phase of a legislative reform process, in line with the 2023 Government Programme, aimed at tightening the conditions for acquiring Finnish citizenship and encouraging immigrants to integrate into Finnish society.⁹
6. The stated purpose of the Proposal is to encourage and prepare foreign nationals to integrate in Finland by extending the residence requirements for naturalization as a Finnish citizen.¹⁰ The Proposal also aims to minimize security risks by ensuring that the authorities have enough time to gather information about an applicant before deciding whether the applicant can acquire citizenship. Furthermore, the stated objective is to harmonize Finland's residence requirements with other Nordic countries.¹¹

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 UNHCR, Handbook on Protection of Stateless Persons, 30 June 2014, <https://www.refworld.org/policy/legalguidance/unhcr/2014/en/122573>

⁸ UNHCR, Guidelines on Statelessness No. 4: Ensuring Every Child's Right to Acquire a Nationality through Articles 1-4 of the 1961 Convention on the Reduction of Statelessness, HCR/GS/12/04, 21 December 2012, <https://www.refworld.org/policy/legalguidance/unhcr/2012/en/105120>

⁹ See, Finnish Government, "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>.

¹⁰ The second phase of the reform concerns criteria related to integrity and livelihoods, and the third phase will seek to introduce a citizenship test as part of the naturalization process.

¹¹ Proposal, p. 6.

7. According to the Proposal, the residence requirements to be eligible for Finnish citizenship will be increased from the current four years to eight years for beneficiaries of international protection, and from four to five years for stateless people. Sections 13 and 20 respectively of the Citizenship Act would accordingly be amended.
8. Furthermore, the qualifying residence period would start when the residence permit has been granted for both beneficiaries of international protection and stateless people. The more favorable way of counting the qualifying period set out in Section 14 of the Citizenship Act, that is, that the period should be counted from the date of submitting the asylum application, would accordingly be removed. The time taken to process an asylum application would thus no longer be counted towards the period of residence required for acquiring citizenship.
9. In addition, Section 20a will be amended to stipulate that applications for citizenship should be processed on an urgent basis. Moreover, decisions on such applications should be made no later than one year after the application is submitted.
10. Further, the definition of a stateless person contained in Article 2 of the Citizenship Act, will be amended to remove the distinction between voluntary and involuntary statelessness. According to the proposed new wording of Article 2, there will only be one definition according to which “stateless means a person who is not considered a citizen by any state based on its legislation”.
11. UNHCR’s observations with regard to the proposed amendments below are set out in two main sections 1) beneficiaries of international protection and 2) stateless persons.

III. UNHCR Observations

12. UNHCR wishes to welcome the proposed changes to the Finnish Citizenship Act to ensure that applications for citizenship made by beneficiaries of international protection and stateless persons are processed in a timely manner. However, UNHCR regrets the proposed removal of other more favorable criteria for beneficiaries of international protection and stateless people to acquire Finnish citizenship that have been in place in Finland for many years.
13. UNHCR is concerned that the prospects of integration for refugees and stateless people will become restricted through the proposed increased residency requirement to become a Finnish citizen. Coupled with the proposed amendments to the Aliens Act to shorten the length of the fixed-term residence permits and make them subject to regular review, these

developments could have a negative impact on refugees' sense of security and stability, which the international protection regime is intended to provide. In UNHCR's view, these proposals unfortunately represent a reduced set of safeguards as compared to the solid legal protection framework which Finland has developed and administered in the past.

14. UNHCR is furthermore concerned that the Proposal lacks adequate analysis of the impact the proposed amendments may have on beneficiaries of international protection and stateless people. The Proposal does also not incorporate into its analysis the other proposals which are underway. As the various elements of the reform of the Aliens Acts and related legislation are interconnected, UNHCR recommends that a further analysis is undertaken of the combined impact that these changes may have.

Beneficiaries of international protection

15. UNHCR notes that, according to the Proposal, refugees would not only be subject to the same eight-year residence period as other foreign nationals in Finland, but would, in practice, be subject to a longer period of residence before they can acquire citizenship than other foreign nationals due to lengthy processing of international protection applications, including potential appeal processes. UNHCR is concerned that this puts beneficiaries of international protection in a disadvantaged position in comparison to other foreign nationals residing in Finland.
16. While UNHCR acknowledges the integration-oriented aim of the Proposal, UNHCR would like to underline that prolonging the process of naturalization may be counterproductive to integration goals. UNHCR notes that according to Article 34 of the 1951 Convention, Contracting States have a duty to facilitate “as far as possible” the naturalization of refugees.¹²
17. A similar provision is contained in the European Convention on Nationality (“ECN”), to which Finland is a State Party. According to Article 6(4)(g) of the ECN, each State Party “shall facilitate in its internal law the acquisition of its nationality for [...] stateless persons and recognized refugees lawfully and habitually resident on its territory”. The Council of Europe’s Explanatory Report to the Convention contains some examples of favourable conditions, which include a reduction of the length of required residence, less stringent language requirements, a simpler procedure and lower procedural fees.¹³ In UNHCR’s view, the proposed measures aimed at prolonging the naturalization process set forth in the

¹² According to Article 34, “The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall, in particular, make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings”.

¹³ See Council of Europe, Explanatory Report to the European Convention on Nationality, adopted in Strasbourg on 6 November 1997 (ETS No. 166), para. 52.

Proposals are inconsistent with Article 34 of the 1951 Convention and Article 6(4)(g) of the ECN.

18. The asylum process in Finland at first instance can take up to six months and can extend over several years at the appeal stage.¹⁴ UNHCR would like to recall that the length of the asylum procedure is normally outside the control of the applicant and should not generally work to the applicant's disadvantage. UNHCR further recalls that asylum-seekers have the right to remain in the country of asylum pending the examination of the asylum application.¹⁵ They are thus considered to be lawfully in the country of asylum during this time. UNHCR therefore recommends that the time while in the asylum process should count towards eligibility for citizenship.

19. UNHCR is concerned that the proposed amendments risk having a negative impact on refugees' integration in Finland, as being able to acquire citizenship is a key feature of this durable solution. In UNHCR's experience, timely naturalization can have a significant positive impact on integration.¹⁶ A prolonged and uncertain wait for citizenship, on the other hand, can deter refugees from investing in skills specific to Finland, such as learning the Finnish language or pursuing vocational qualifications, thereby impeding their integration prospects. The UNHCR Executive Committee has thus welcomed:

"the practice in States with developed asylum systems of allowing refugees to integrate locally" and calls on these States to continue supporting refugees' ability to attain this durable solution through the timely grant of a secure legal status and residency rights, and/or to facilitate naturalization".¹⁷

Stateless people

20. UNHCR appreciates the measures taken by the Government of Finland to address the challenges in reducing and preventing statelessness in Finland, which were identified in

¹⁴ Finnish Immigration Service, Usein kysytyt kysymykset: Turvapaikkahakemusten maksimikäsittelyajasta. n.d. <https://migri.fi/usein-kysytty-turvapaikkahakemusten-kasittelyajoista>

¹⁵ EU: Council of the European Union, Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), OJ L. 180/60 - 180/95; 29.6.2013, 2013/32/EU, 29 June 2013, <https://www.refworld.org/legal/reglegislation/council/2013/en/97663>, Article 9.

¹⁶ UNHCR, *Note on the Integration of Refugees in the European Union*, May 2007, <https://www.refworld.org/policy/legalguidance/unhcr/2007/en/41624>, para. 40-43; UNHCR, *Note on Refugee Integration in Central Europe*, April 2009, <https://www.refworld.org/policy/legalguidance/unhcr/2009/en/73301>.

¹⁷ UNHCR, ExCom, Conclusion on Local Integration No. 104 (LVI) - 2005, No. 104 (LVI), 7 October 2005, <https://www.refworld.org/policy/exconc/excom/2005/en/114429>.

UNHCR’s mapping of statelessness in Finland in 2014.¹⁸ UNHCR welcomes the removal of the distinction between voluntary and involuntary statelessness, thus bringing the definition of a stateless persons in Finnish law closer to the definition contained in Article 1(1) of the 1954 Convention. However, to bring Finnish law fully into conformity with the Convention, UNHCR recommends adding to the definition “under the operation of its law”. This addition is important as a State may not in practice follow the letter of the law, even going so far as to ignore its substance. The reference to “under the operation of its law” covers situations where the written law is substantially modified when it comes to its implementation in practice. Establishing whether an individual is not considered as a national by the country concerned thus requires a careful analysis of how a State applies its nationality laws in an individual’s case in practice and any review/appeal decisions that may have had an impact on the individual’s status. Applying this approach of examining an individual’s position in practice may lead to a different conclusion than one derived solely from analysis of the nationality laws of a country in the individual’s case.¹⁹

21. Similarly, as noted above with regards to refugees, UNHCR is concerned that the integration prospects of stateless persons are hampered if the residency requirement for eligibility for citizenship with respect to stateless people would be increased from four to five years. Moreover, as the qualifying years of residence would only start from the time when a stateless person first receives a residence permit, instead of at the time of making the application, the actual period that a stateless person would have to wait for citizenship would be even longer.
22. According to Article 32 of the 1954 Convention relating to the Status of Stateless Persons, States shall, as far as possible, facilitate the naturalization of stateless persons and “in particular make every effort to expedite naturalization proceedings”.²⁰ Facilitating naturalization involves adjusting requirements and procedures for naturalization to make it easier for stateless persons to acquire nationality. This may be achieved, for example, by creating expedited procedures, reducing or waiving residence, income and language requirements for applicants and by exempting them from fees or the obligation to provide documentary evidence.²¹ Measures aimed at prolonging the naturalization process for

¹⁸ UNHCR, Mapping Statelessness in Finland, November 2014, <https://www.refworld.org/reference/countryrep/unhcr/2014/en/102282>.

¹⁹ UNHCR, Handbook on Protection of Stateless Persons, 30 June 2014, <https://www.refworld.org/docid/53b676aa4.html>, paras. 23-24.

²⁰ UN General Assembly, Convention relating to the Status of Stateless Persons, United Nations, Treaty Series, vol. 360, p. 117, 28 September 1954, <https://www.refworld.org/legal/agreements/unga/1954/en/32744> According to Article 32 of the 1954 Convention, “The Contracting States shall as far as possible facilitate the assimilation and naturalization of stateless persons. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.”

²¹ UNHCR, *Good Practices Paper – Action 6: Establishing Statelessness Determination Procedures to Protect Stateless Persons*, July 2020, <https://www.refworld.org/policy/opguidance/unhcr/2020/en/123292>.

stateless persons as set forth in the Proposal would be inconsistent with this provision.

IV. Concluding remarks

23. In the light of the above, UNHCR invites Finland to consider the following recommendations:

- a. Retain the more favorable shorter residence requirements for refugees and stateless people to acquire citizenship;
- b. Continue to count the qualifying residency period from the date of submitting the application for international protection;
- c. Assess the impact of the proposed restrictions on acquiring citizenship on refugee integration and on stateless people for whom naturalization is the only durable solution.
- d. Consider adding the term “under the operation of its law” to the definition of a stateless person.

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