

# Annual Report on Migration and Asylum Policy **FINLAND 2014**



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# Annual Report on Migration and Asylum Policy

## Finland 2014

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## Executive Summary

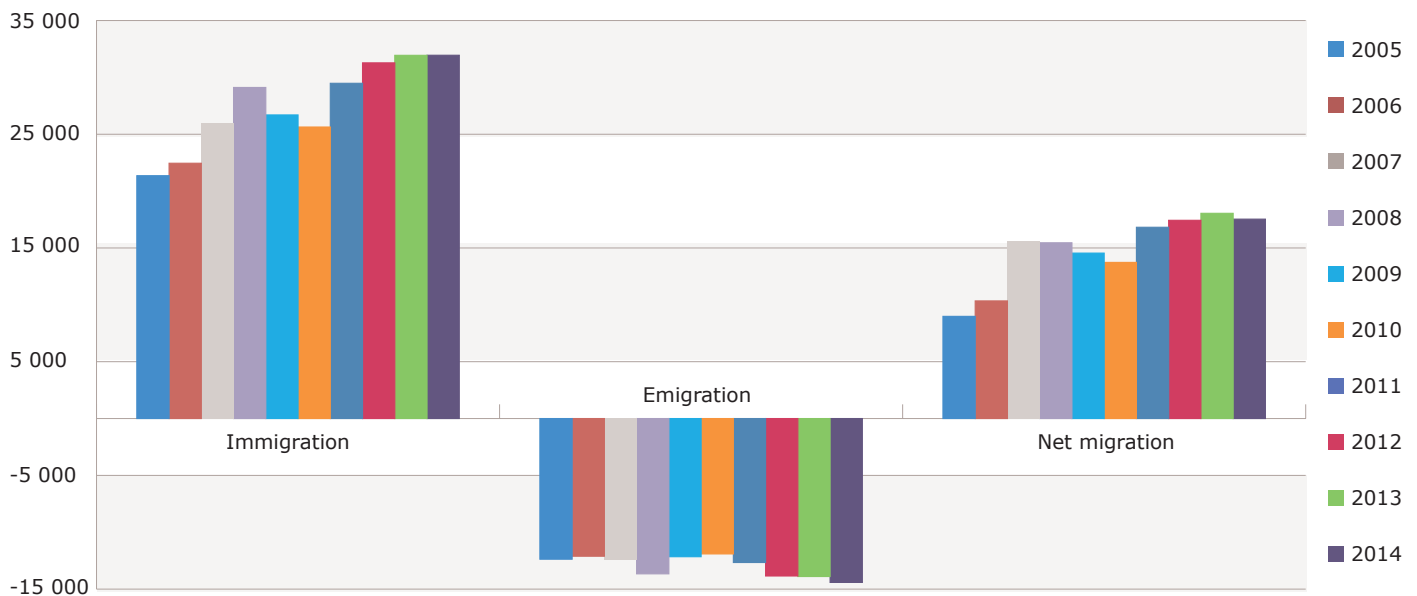
A total of 31,950 people migrated to Finland in 2014 according to Statistics Finland. The number was at the same level as in the previous year (2013: 31,940 people). Of the people who migrated to Finland, 43% were citizens of EU Member States. Emigration from Finland was higher than in the previous year by 520 people: in 2014, a total of 14,410 people emigrated from Finland (2013: 13,890 people). Net immigration for 2014 was 17,540, down 510 from the previous year.

At the end of 2014, the population of Finland stood at 5,474,289. Population growth during the year was 23,020. **Net immigration accounted for 76% of the population growth for the**

**year.** Natural population increase is slowing down, with the number of births in Finland declining for the fourth consecutive year, while the number of deaths increased from the previous year.<sup>1</sup>

In 2014, the Finnish Immigration Service issued a first residence permit to 20,371 applicants. In addition, the Police issued 1,835 first residence permits.<sup>2</sup> The total number of first residence permits issued to third-country nationals was 22,206.<sup>3</sup>

The number of registrations of the right of residence for EU citizens and their family members amounted to 11,145.



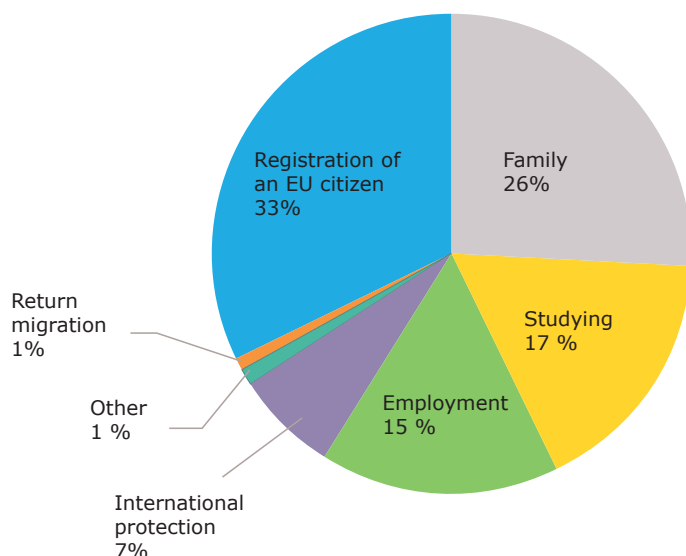
Source: Statistics Finland, Official Statistics of Finland (OSF): Population

<sup>1</sup> Statistics Finland, Official Statistics of Finland: Preliminary population statistics 2014

<sup>2</sup> First residence permits issued by the Police are residence permits issued to family members of Finnish citizens. Of the first residence permit applications submitted by family members of Finnish citizens, the Police decides on applications that are filed in Finland.

<sup>3</sup> The figure includes first residence permits issued by the Finnish Immigration Service and the Police.

## Registrations of EU citizens and first residence permits issued to third-country nationals by grounds for application in 2014



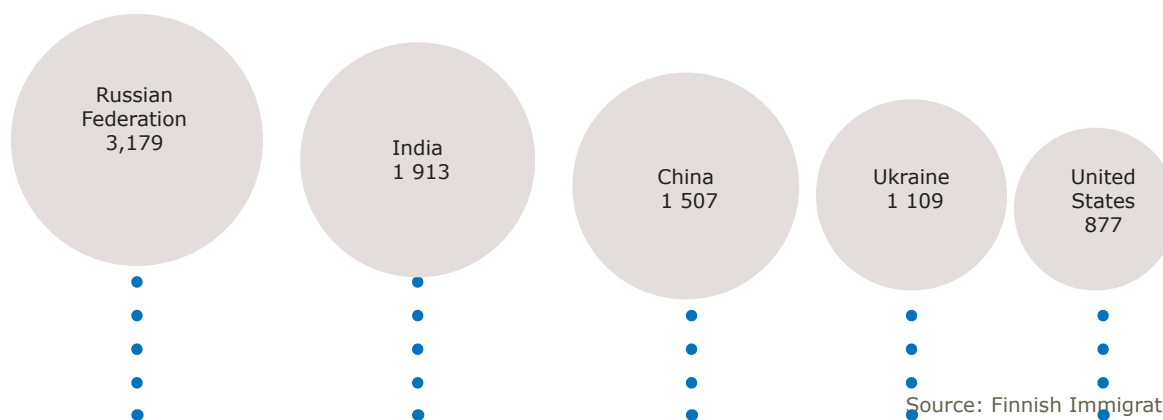
Source: Finnish Immigration Service and Police

The above chart shows that **EU citizens were the largest group among those that migrated to Finland** in 2014. The most common grounds for immigration by third-country nationals were family ties. A first residence permit on the grounds of family ties was issued to 8,609 persons.<sup>4</sup> A further 5,611 persons were issued a first residence permit on the grounds of studying, and 5,062 persons on the grounds of employment. A total of 1,346 positive residence permit decisions were made concerning persons who entered Finland as asylum seekers. Of this total, 993 people were issued a residence permit on the grounds of international protection, and 353 on other grounds.<sup>5</sup> In addition, a

Finnish residence permit was issued to 276 persons on the grounds of return migration. Residence permits were issued on grounds other than those specified above to 272 people. The numbers of residence permits issued on different grounds did not change much from the previous year. The only exception to this was returnees, with return migration to Finland showing a clear decline. Russian nationals were issued the highest number of first residence permits (3,179), followed by Indians (1,913), Chinese (1,507), Ukrainians (1,109) and Americans (877).<sup>6</sup>

When an applicant already resides in Finland and applies for an extension to the right of residence, the

## First residence permits issued, five largest groups by nationality



Source: Finnish Immigration Service

<sup>4</sup> The figure includes first residence permits issued on the grounds of family ties by the Finnish Immigration Service and the Police.

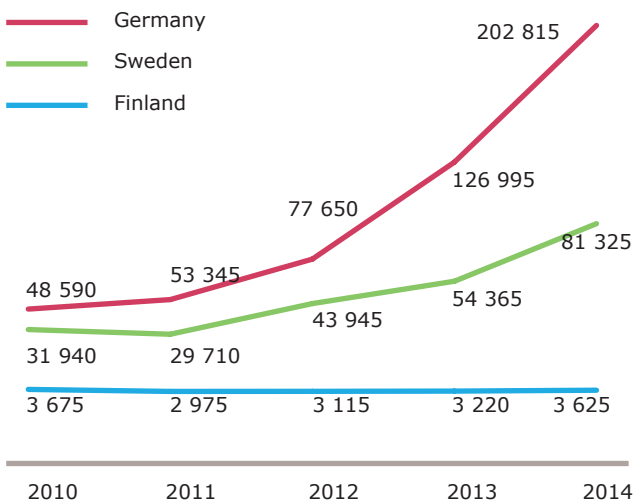
<sup>5</sup> Other positive decisions resolved through the asylum procedure include, for instance, residence permits issued on compassionate grounds and in cases in which the alien cannot be removed from the country. The figure also includes individual residence permits issued on the grounds of family ties and employment and on other grounds.

<sup>6</sup> The figures broken down by nationality only include first residence permits issued by the Finnish Immigration Service, which were applied for through the residence permit procedure. The reported figures do not include first residence permits issued through the Finnish Immigration Service's asylum procedure or first residence permits issued by the Police.

decision on the application is made by the Police. In 2014, the Police issued 25,957 extensions to residence permits.

A total of 3,651 people applied for asylum in Finland. **The number of asylum seekers increased slightly from the previous year**, when the number of asylum applications amounted to 3,238. However, the increase in the number of asylum seekers is very moderate in Finland compared to the situation in many other EU Member States: in the EU as a whole, the number of asylum seekers increased by approximately 40% in 2014 compared to the previous year. The EU Member States with the highest numbers of asylum seekers were Germany and Sweden. The chart below shows the trend in the number of asylum applications in Germany, Sweden and Finland in 2010–2014.

### Asylum applications 2010–2014 Germany, Sweden and Finland



Source: Eurostat (due to different calculation methods, there is a slight discrepancy between the Eurostat figures and those provided by the national immigration authorities)

One significant legislative development that concerns immigration is the **new Non-Discrimination Act** that entered into force at the beginning of 2015.<sup>7</sup> The legislation pertaining to the registration of a foreign national was also amended. As a result of a legislative amendment that entered into force on 1 March 2014, **an immigrant can now obtain a personal identity code in con-**

**junction with the issuance of a residence permit.** Having a personal identity code makes it easier to use the available services in Finnish society.<sup>8</sup>

Among the legislative changes prepared in 2014, the most significant ones included **proposed amendments to legal provisions governing the monitoring of aliens.** The legislative proposal is aimed at clarifying the principles concerning the monitoring of aliens and the jurisdiction of the authorities that carry out the monitoring.<sup>9</sup> In 2014, a legislative proposal was also made to consolidate the existing **system for voluntary return into a national practice.** Finland has had voluntary return programmes in place since 2010. The aim of the voluntary return programmes is to give people whose asylum applications have been refused in Finland, or who have cancelled their asylum applications, the opportunity to return to their home countries or countries of permanent residence voluntarily. The same Government Bill also includes proposed **restrictions to the conditions for issuing a temporary residence permit granted on the basis that the alien cannot be removed from the country.** This permit would no longer be granted if voluntary return would, in fact, be possible.<sup>10</sup> In addition, **amendments were proposed concerning legislative provisions on the detention of an alien.** The legislative proposal provides further specification of the criteria for detention and restricts the detention of minors.<sup>11</sup>

No fundamental changes took place in the organisation of tasks in the immigration administration in 2014. **However, preparations began regarding the transfer to the Finnish Immigration Service of certain tasks currently assigned to the Police.** At the request of the Ministry of the Interior, the National Police Board and the Finnish Immigration Service assessed the feasibility and impacts of the transfer. The report was completed in August 2014. In February 2015, the Ministry of the Interior set up a project to prepare a proposal on the transfer of tasks. The tasks that would be transferred to the Finnish Immigration Service would likely include issuing residence permit extensions and permanent residence permits, as well as the registration of EU citizens. These tasks are currently the responsibility of the Police. Also transferred would be some of the tasks in the early stages of the asylum process, which are currently the responsibility of the Police and the Finnish Border Guard.<sup>12</sup>

<sup>7</sup> This topic is discussed in Section 5.2 of this report.

<sup>8</sup> This topic is discussed in Section 3.5 of this report.

<sup>9</sup> This topic is discussed in Section 8 of this report.

<sup>10</sup> This topic is discussed in Section 9 of this report.

<sup>11</sup> This topic is discussed in Section 5.1 of this report.

One organisational change that has been implemented is the **Ombudsman for Minorities becoming the Ombudsman for Equal Treatment and the office of the Ombudsman for Equal Treatment** being transferred from the Ministry of the Interior's branch of administration to the Ministry of Justice's branch of administration as of 1 January 2015. The Advisory Board for Ethnic Relations (ETNO) was also transferred from the Ministry of the Interior to the Ministry of Justice on 1 January 2015.<sup>13</sup>

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<sup>12</sup> This topic is discussed in sections 3.8 and 4.4 of this report.

<sup>13</sup> This topic is discussed in Section 5.2 of this report.

# 1. Introduction

This is the Annual Policy Report 2014 of the Finnish National Contact Point for the European Migration Network (EMN). The report gives insight into the most significant political and legislative developments, as well as public debates in the area of migration and asylum. The reference period of this report is from 1 January 2014 to 31 December 2014.

The National Contact Points for the European Migration Network produce annual reports on migration and asylum policy that describe the development of migration and asylum policy and present annual statistics.<sup>14</sup> The reporting process has two stages. In the first stage of reporting, the National Contact Points collect monitoring information on immigration and asylum policy for the European Commission. The Commission uses the data in compiling an annual immigration and asylum policy report for the EU as a whole. The Finnish National Contact Point collected the monitoring information by allocating the responsibility for reporting to the relevant authorities responsible for each area. The participants in the reporting included the Finnish Immigration Service, the Ministry of the Interior, the National Police Board, the Headquarters of the Finnish Border Guard, the Ministry of Employment and the Economy, the Ministry of Education and Culture, and the Ministry for Foreign Affairs. The Finnish National Contact Point was responsible for collecting statistical information.

This Annual Policy Report is the second part of the reporting. It is primarily aimed at the national audience. It is the only document that reports compiled information on development trends in migration-related matters in Finland. The key findings of the first part of the reporting process are included in this report. In addition, the report describes public debates on immigration in 2014 and presents key trends in immigration and asylum statistics. The Finnish National Contact Point of the European Migration Network produced this report in accordance with the network's general research guidelines. The European Migration Network also publishes a separate statistical review, *Key figures on immigration 2014*.

The sources used in the study include various Internet-based reports by authorities in the field of migration, studies, statements and press releases. Pending legislative projects have been monitored using

the Government Project Register and Parliamentary documents. In 2014, the National Contact Point also participated in various seminars related to migration in Finland and in other EU Member States in order to network with various producers of immigration research and to gather information on current projects.

The terminology used in the study is based on the EMN Glossary published and maintained by the European Migration Network.<sup>15</sup> The structure and headings of the study are based on a model jointly agreed on by the European Migration Network. The structuring of this report by topic follows the structure used by the European Commission, which has also been adopted by the European Migration Network.

## 1.1. Structure of asylum and migration policy

**The Finnish Government** directs immigration policy and its administration following the targets set in the Government Programme and approved Government Resolutions. The Ministry of the Interior, through the Migration Department, is in charge of immigration issues. Its tasks are preparing policy and legislation, supervising the activities of the Finnish Immigration Service and taking part in international, EU and national cooperation in the field of immigration and asylum. The Office of the Council of State is in charge of the co-ordination of EU issues in general. In accordance with the Government Programme, the Ministry of the Interior pursues an active, comprehensive and consistent immigration policy that takes full account of labour needs, immigrants' many different reasons for seeking entry, and Finland's international responsibilities. Minister of the Interior Päivi Räsänen affirms the main focuses, lines of operation and targeted results of operations as elements in the overall operational and financial plan for the administration of internal affairs. Appropriations for the immigration administration are included in the Ministry of the Interior's budget proposal.

**The Ministry of the Interior** is responsible for the formulation of immigration policy and for drafting legislation on immigration. The Ministry of the Interior represents Finland in migration-related issues in the European Union and in international cooperation.

<sup>14</sup> The reporting duty is stipulated by Council Regulation 2008/381/EC, which was also the basis for establishing the European Migration Network.

<sup>15</sup> EMN Glossary, version 3.0, accessed at (20 February 2015) [http://www.emn.fi/raportit/emn\\_glossary](http://www.emn.fi/raportit/emn_glossary)



**The Finnish Immigration Service** grants first residence permits, processes applications for asylum, guides the operations of reception centres, decides on refusals of entry and deportation, and is in charge of naturalisation applications and the granting of alien's passports. The Finnish Immigration Service operates under the Ministry of the Interior.

**The Police** monitor compliance with the Aliens Act, accepts foreign nationals' permit applications, establishes an asylum seeker's identity and travel route, grants extensions to residence permits and accepts the registration of EU citizens. The Police also enforce decisions on deportation and refusal of entry.

**The Finnish Border Guard** monitors entry into and departure from the country and carries out passport control. Together with the Police, the Border Guard establishes an asylum seeker's identity and travel route. The Border Guard makes visa decisions at the border, if necessary.

**The Ministry for Foreign Affairs** is responsible for visa policy. Finnish missions abroad grant visas and accept citizenship declarations and residence permit applications.

**The Ministry of Employment and the Economy** is responsible for directing integration matters. Together with the Ministry of the Interior, it monitors the volume and structure of labour migration and develops monitoring tools.

**The immigration units of the Centres for Economic Development, Transport and the Environment** handle tasks related to immigration, integration and good ethnic relations on a regional basis.

**The Ministry of Education and Culture** is tasked with the development of education provided to immigrants at different levels. The Ministry of Education and Culture's field of operation also includes matters related to immigrants' culture, sports activities, youth work and religion.

**The Finnish National Board of Education** is responsible for immigrants' education issues and recognition of foreign degrees.

**The Ministry of Social Affairs and Health** is tasked with the promotion of immigrants' health and well-being. Issues related to immigrants' means of support fall within the responsibilities of the Ministry of Social Affairs and Health. It supports the integration of immigrants into Finnish society e.g. by developing social and health services so that the needs of immigrants are taken into account in them.

**Municipalities** provide basic municipal services to immigrants living permanently in the municipality, in the same manner as to other residents of the municipality. In addition, municipalities decide independently on the reception of quota refugees and asylum seekers who have been granted a residence permit. Many municipalities have defined immigrant integration principles in their integration programmes.

**The Ombudsman for Equal Treatment**<sup>16</sup> promotes equal treatment and takes action to intervene in cases of discrimination. The Ombudsman for Equal Treatment is also responsible for promoting the rights and position of foreign nationals. In addition, the Ombudsman for Equal Treatment has a special task of monitoring the enforcement of removal decisions concerning foreign nationals and acting as the national rapporteur on trafficking in human beings.

**Non-governmental organisations** produce various services, offer help and counselling to asylum seekers and contribute to integration activities. The immigration expertise of non-governmental organisations is needed in the development of legislative drafting and immigration policy.

The entry into Finland, immigration and removal of foreign nationals is governed by the Finnish Aliens Act. Detention is governed by separate legislation, as is the Register of Aliens and its use. The reception of persons seeking asylum is governed by the Finnish Act on the Reception of Asylum Seekers. Integration services and integration support is governed by the Finnish Act on the Promotion of Immigrant Integration. The conditions for granting Finnish nationality are set out in the Finnish Nationality Act.

<sup>16</sup> The Ombudsman for Minorities until 1 January 2015

**The following are key acts and decrees concerning immigration:**

- Aliens Act (301/2004)
  - Nationality Act (359/2003)
  - Government Decree on Nationality (799/2004)
  - Act on the Register of Aliens (1270/1997)
  - Act on the Promotion of Immigrant Integration (1386/2010)
  - Act on the Finnish Immigration Service (156/1995)
  - Government Decree on the Finnish Immigration Service (193/2002)
  - Non-Discrimination Act (1325/2014)
  - Act on the Ombudsman for Equal Treatment (1326/2014)
  - Act on the Ombudsman for Minorities and the National Discrimination Tribunal (1327/2014)
  - Ministry of the Interior decree on fees for services provided by the Finnish Immigration Service (1022/2014)
-

## 2. Overview of Asylum and Migration Policy Developments

Finland's immigration policy is based on the current Government Programme and migration strategy. Published in June 2013, the **Future of Migration 2020 Strategy sets out long-term principles for immigration policy**.<sup>17</sup> The action plan prepared to complement the strategy includes concrete measures that can be monitored and are aimed at achieving the objectives laid out in the strategy. The action plan was published in March 2014.<sup>18</sup>

The main principles of the Future of Migration 2020 Strategy are as follows: 1. Finland is an open and safe country; 2. Everyone can find a role to play; and 3. Diversity is part of everyday life.

The first principle, "Finland is an open and safe country", reflects the view that international mobility presents an opportunity for Finland. Concrete measures implemented in 2014 included enhancing communications on Finland's strengths to people aiming to work in Finland. Measures were also taken to improve the opportunities of finding employment in Finland for migrants who have completed academic qualifications in Finland. The first principle also includes Finland's responsibility as a member of the international community. In accordance with this principle, Finland's refugee quota (750 people) was increased by 300 for 2014. A corresponding additional quota has also been proposed for 2015.

The second principle, "Everyone can find a role to play", has a particular focus on the integration, education, training, employment and social participation of migrants. In accordance with this principle, a Centre of Expertise in Integration was established under the Ministry of Employment and the Economy in 2014 to support integration at the local level. Development efforts were also focused on areas such as the recognition of qualifications obtained outside Finland. Discrimination in working life was also focused on.

The third principle, "Diversity is part of everyday life", is based on providing equal rights for all. The new Non-Discrimination Act, which entered into force at the beginning of 2015, serves to implement this principle.

In June 2012, the Finnish Government approved an **Integration Programme that includes focus ar-**

**reas for integration for 2012–2015.** The general objective of the Programme is to support the inclusion of immigrants in all sectors of society. Special focus areas include the promotion of employment among immigrants and support for immigrant children and young people as well as for families and women.

The Finnish Parliament requires the Government to provide a report for each electoral period on aliens policy, migration policy and integration policy, as well as their effectiveness. Pursuant to this assignment, the Ministry of the Interior and the Ministry of Employment and the Economy published a **report on migration and integration policy** in February 2015: *Maahanmuuton ja kotouttamisen suunta 2011–2014*.<sup>20</sup> Due to its high workload in the late stages of the 2011–2015 electoral period, the Parliament did not have time to discuss the report. The published report includes the data collected for the purpose of drafting the report.

The European Parliament election was held in May 2014. **Migration was not a particularly prominent theme in Finland's European elections** compared to, for example, the 2011 parliamentary elections. Nevertheless, the theme of migration was also discussed during the 2014 European election campaign. Contrasts between candidates representing different parties were still apparent, but they were not as intense as previously. Topics that stimulated debate among citizens and candidates in the European elections included border control, the EU's common asylum policy and division of responsibilities, free mobility within the EU, and social benefits available to migrants.<sup>21</sup>

No national parliamentary or presidential elections were held in Finland in 2014. However, the parliamentary elections to be held in spring 2015 began to be reflected in public political dialogue late in the year. **It appears unlikely that migration will be a particularly prominent theme in the parliamentary elections in spring 2015.** The Finns Party, which profiled itself as a migration-critical and EU-critical party in the 2011 parliamentary elections, has not highlighted the theme of migration to the same extent it did in the run-up to the 2011 elections, with the exception of certain party members who are known for being critical of migration. The willingness of other political parties to profile themselves in any way on migration issues appears even less likely.

<sup>17</sup> Ministry of the Interior: Future of Migration 2020 Strategy

<sup>18</sup> Ministry of the Interior: Action Plan for the Future of Migration 2020 Strategy

<sup>19</sup> Ministry of Employment and the Economy: Government Integration Programme, Focus areas of the Government for 2012–2015

<sup>20</sup> Ministry of the Interior and the Ministry of Employment and the Economy: *Maahanmuuton ja kotouttamisen suunta 2011–2014*, Ministry of the Interior publication 2/2015

<sup>21</sup> Matti Välimäki, 5 December 2014, PowerPoint presentation at an event jointly arranged by the European Parliament Information Office in Finland and EMN: "Faktat puhuvat? Eurooppalainen maahanmuuttopolitiikka mediassa"

## 3. Legal Migration and Mobility

### 3.1. Labour migration

The majority of foreign labour enter Finland from the EU and EEA under the principle of free mobility, or with a visa or on a visa-exempt basis for the purpose of seasonal work, for example. As such, the majority of those who enter Finland for the purpose of work do not need to obtain a residence permit.

**In 2014, a total of 6,050 applications were submitted for first residence permits on the grounds of employment.** The corresponding figure in 2013 was 5,800, which means a year-on-year increase of approximately four per cent.

An employment-based residence permit for Finland can be obtained through two different procedures: an applicant can either apply for a residence permit for an employed person or other residence permit for gainful employment. The majority of the applicants for employment-based residence permits apply for a residence permit for an employed person. The applicants for a residence permit for an employed person are primarily manual labourers, such as cleaners and construction workers. An application for a *residence*

*permit for an employed person* is decided in a two-step process: The Employment and Economic Development Office first makes a preliminary decision on the application. The preliminary decision by the Employment and Economic Development Office is an overall consideration that takes into account labour availability<sup>22</sup> and an assessment of the conditions of employment as well as the employer's and employee's conditions. After the preliminary decision by the Employment and Economic Development Office, the final decision on the residence permit application is made by the Finnish Immigration Service, which determines whether the general requirements for issuing a residence permit are met.<sup>23</sup>

*Other residence permits for gainful employment* can be issued to applicants who will enter Finland to work in certain occupations specified in the Aliens Act. Such occupations can include working as a specialist or researcher.<sup>24</sup> Applications for other residence permits for gainful employment are decided in a one-step process that does not include a preliminary decision by an Employment and Economic Development Office.

In 2014, the Finnish Immigration Service issued a total of 5,829 decisions on first residence permit applications on the grounds of employment, of which 5,062 (87%) were positive and 767 (13%) negative.

#### Employment-based first residence permit applications in 2014



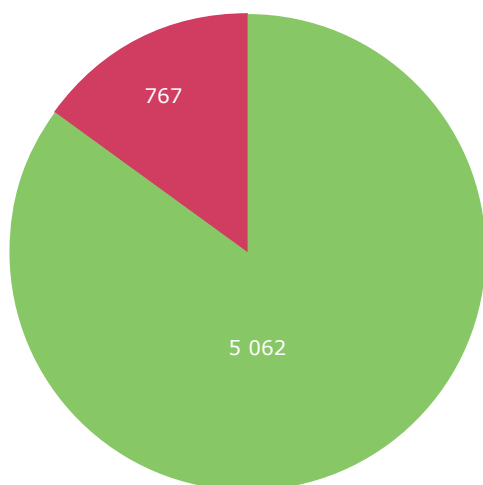
Source: Finnish Immigration Service

<sup>22</sup> Determining the availability of labour refers to an assessment by the Employment and Economic Development Office of whether labour is available to fill a job opening in the home market (EU/EEA), which is given priority in recruitment. Centres for Economic Development, Transport and the Environment regularly determine which sectors have labour shortages.

<sup>23</sup> First residence permit applications are decided by the Finnish Immigration Service. When the applicant is already in Finland and applies for a new fixed-term residence permit or a permanent residence permit, the decision on the application is made by the Police.

<sup>24</sup> Full list of the occupations can be found from the Finnish Immigration Service website (accessed on 15.2.2015) [www.migri.fi](http://www.migri.fi)

### Decisions on first residence permit applications on the grounds of employment



■ Positive  
■ Negative

Source: Finnish Immigration Service

### DEVELOPMENT MEASURES

The **EU Single Permit Directive**<sup>25</sup> has been implemented in Finland. The legislative changes entered into force on 1 January 2014. The aim of the Directive is to simplify the application of an employment-based residence permit and the associated right to work by granting both in a single application procedure. In Finland, the process was pursuant to the Directive in this regard even before its implementation. In the administrative sector of the Ministry of the Interior, however, a key change concerned the processing time of applications for employment-based residence permits: **the authorities must now make a decision on applications submitted by third-country nationals within four months of application.** Other legislative changes were also made in conjunction with the implementation of the Directive: the Aliens Act provisions pertaining to employment were simplified, and the Act was amended to include definitions of the different employment-based residence permits and the right to work. However, the requirements for issuing residence permits did not change in any way. The Directive also led to changes in legislation in social welfare and health care, as holders of a single permit

must be treated equally with the Member State citizens in certain branches of social security. The Primary Health Care Act, the Act on Specialised Medical Care, the Child Allowances Act and the Child Home Care and Private Care Allowance Act were amended. In addition, legislative changes were implemented in the Ministry of the Environment's branch of administration concerning legislation on equal treatment in access to housing.<sup>26</sup>

**The implementation of the ICT Directive**<sup>27</sup> and **the Seasonal Workers Directive**<sup>28</sup> is now starting in the Ministry of the Interior. The Intra-corporate Transferees Directive, referred to as the ICT Directive, applies to the transfer of persons employed by multinational corporations from outside the EU to the EU, and from one Member State to another, while remaining in the service of the same employer. The right of movement pursuant to the Directive applies to corporations domiciled outside the EU that assign managers and experts employed by them to their units operating in the EU. In practice, the implementation of the Directive means the right to use a permit issued by one Member State to also work in another Member State, or several Member States. The aim of the Directive is to particularly improve the opportunities for high-technology corporations to expand their operations within the EU. The Seasonal Work Directive harmonises the conditions for entry for seasonal workers and improves their rights throughout the EU. Seasonal workers refer to workers who permanently reside outside the EU and enter the EU on a temporary and short-term basis to work in sectors in which labour demand fluctuates seasonally. Such sectors include agriculture and tourism. The Directive only applies to workers who are in an employment relationship. This means that forest berry pickers, for instance, are not considered seasonal workers. Each year, Finland receives approximately 10,000–12,000 seasonal workers as referred to in the Directive. The Directive is not expected to have an impact on the number of entrants.<sup>29</sup>

Labour migration is considered important for the effectiveness of the Finnish labour market as well as economic growth. The age structure of the migrant population is younger than that of the original population. As the large age groups are retiring from the Finnish labour market, migrants will have a significant impact on the dependency ratio in the coming decades. The Future of Migration 2020 Strategy

<sup>25</sup> Directive 2011/98/EC of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State

<sup>26</sup> Ministry of the Interior, Press release 30 December 2013: Ulkomaalaisten työntekoa koskevaa sääätelyä selvennetään <sup>27</sup> Council Directive 2014/66/EC of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer

<sup>27</sup> Council Directive 2014/66 of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer

<sup>28</sup> Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers

<sup>29</sup> Ministry of the Interior, press release 2 February 2015: Kausityöntekijöiden maahanpääsyn ehtoja yhdenmukaistetaan



states that, to succeed in a changing world, Finland needs to attract work-related migration of a kind that is active, systematic and targeted. According to the action plan that complements the strategy, **communications on Finland's openness, strengths and pull factors must be enhanced.** In line with this objective, the Ministry of Employment and the Economy is about to appoint a coordination group to increase the efficiency and coordination of the provision of information targeted at immigrants.

An ESF-funded labour migration development programme, known as the MATTO support structure, was active until the end of 2014. The **WorkinFinland website**, which is primarily targeted at job-seekers, was introduced as part of the Matto support structure.<sup>30</sup> The website is intended to be the primary channel for communications on Finland as a country to work in. The Ministry of Employment and the Economy also produced **Work in Finland, a guide for employees and entrepreneurs** interested in Finland.<sup>31</sup>

The action plan for the Future of Migration 2020 strategy emphasises the significance of **forecasting future labour demand.** According to the action plan, foresight data must be produced on labour demand and supply as well as the need for foreign labour in all strategic sectors. Foresight data must be produced regularly and made publicly available on the Internet. Employment and Economic Development Offices publish an occupational barometer three times per year to assess labour demand and supply as well as the balance between the two in different occupations and in the different regions of Finland.

The aim is to **target international recruitment on sectors that have a shortage of labour.** The social welfare and health care sector is the largest employer in Finland. In recent years, social and health-care services have also suffered the most significant labour shortages, while many other sectors have had an oversupply of labour. According to the last occupational barometer published in 2014, however, labour shortages in the social and healthcare sector appear to be easing up. While in June 2014, there was a shortage of nurses throughout the country, the October barometer indicates that some regions even have an oversupply of nurses. Shortages are mainly seen in high-population regions such as Uusimaa and Southwest Finland. In spite of supply and de-

mand having become more balanced, the most recent barometer's list of occupations in which there is a shortage of labour still consists largely of occupations in the healthcare sector.<sup>32</sup> Accordingly, efforts have been made to target international recruitment activities at occupations in the social and healthcare sector. In autumn 2014, the Ministry of Social Affairs and Health set a working group to prepare recommendations on the ethical principles of international recruitment. The Ministry of Employment and the Economy's HYVÄ programme, aimed at developing the nursing and care service sector, continued in 2014. Developing an international operating model pertaining to social and healthcare services is one of the measures under the HYVÄ programme. The programme is currently preparing an information package for the workinFinland website on international recruitment in the social and healthcare sector. In addition, social and health care assistant training targeted at immigrants residing in Finland started in spring 2014 in the operating regions of more than ten Centres for Economic Development, Transport and the Environment. The feedback received from the Centres' operating regions has been positive.<sup>33</sup>

In 2014, the Ministry of Employment and the Economy surveyed discrimination and unequal treatment in working life. Published in December 2014, the study *Monitoring Labour Discrimination in Finland* created a monitoring model for labour discrimination. The study is a follow-up to the 2012 study *Discrimination in the Finnish Labour Market – An Overview and a Field Experiment on Recruitment*, which recommended the systematic and consistent collection of data to facilitate longitudinal monitoring of labour discrimination.<sup>34</sup> The grounds for discrimination assessed are based on the grounds for discrimination prohibited by Finnish law. They include the following: gender, age, ethnic or national origin, nationality, language, religion, belief, opinion, political activity, trade union activity, family ties, health, disability, sexual orientation and other personal grounds. The summary of the study states that ethnic or national origin was found to be one of the most common grounds for discrimination. According to the study, the data on discrimination in working life highlights the need for continued efforts to promote non-discrimination.<sup>35</sup>

Each year, more than 4,000 forest berry pickers enter Finland, the majority of whom come from Thailand. The position of foreign berry pickers has been

<sup>30</sup> [www.workinfinland.fi](http://www.workinfinland.fi)

<sup>31</sup> Ministry of Employment and the Economy, TE services: Work in Finland: Guide for employees and entrepreneurs interested in Finland, Ministry of Employment and the Economy 11/2014

<sup>32</sup> Ministry of Employment and the Economy, Occupational barometer 17 October 2014

<sup>33</sup> Ministry of Employment and the Economy, press release 3 December 2014: Hoiva-avustajan koulutus maahanmuuttajille lähtenyt hyvin käyntiin

<sup>34</sup> Liisa Larja, Johanna Warius, Liselott Sundbäck, Karmela Liebkind, Irja Kandolin, Inga Jasinskaja-Lahti, *Discrimination in the Finnish Labour Market – An Overview and a Field Experiment on Recruitment*, Publications of the Ministry of Employment, and the Economy, Employment and Entrepreneurship 16/2012

<sup>35</sup> Marjut Pietiläinen and Miina Keski-Petäjä: "Monitoring Labour Discrimination in Finland", Ministry of Employment and the Economy publications, Employment and Entrepreneurship, 53/2014

the subject of much debate in Finland. The work of forest berry pickers in Finland is currently not based on an employment relationship. Pickers who travel to Finland from overseas pay the berry purchasing company that organises the trip, or the coordinator representing the company, a fee that typically amounts to approximately EUR 1,600. This sum includes travel costs, the visa, fees paid to the authorities, and the coordinator's fees. Picking can fail from the foreign picker's perspective for various reasons, in which case the trip can result in a personal financial loss. In 2013, dozens of pickers suffered economic losses and, on the whole, the income earned by foreign berry pickers was relatively low. This led to problems that made the news in Finland. On 7 October 2013, the Ministry of Employment and the Economy commissioned a **report on the working conditions of foreign forest berry pickers**. Rapporteur Markku Wallin's report, *Ehdotuksia ulkomaalaisten metsämarjanpoimijoiden olosuhteisiin liittyvien epäkohtien korjaamiseksi*, was completed in February 2014. In the report, Markku Wallin proposes that contracts of employment be established between pickers and the companies that buy berries, and that the work be subject to an employment relationship.<sup>36</sup> The Finnish Government did not make any initiatives during 2014 to make the work of berry pickers subject to an employment relationship. However, in December 2014, the Ministry of Employment and the Economy and the Ministry for Foreign Affairs signed a Memorandum of Understanding regarding forest berry picking with several companies in the berry industry. The Memorandum of Understanding is aimed at improving and harmonising operating methods in the industry.<sup>37</sup>

## STUDIES ON LABOUR MIGRATION PUBLISHED IN 2014

In 2014, the think tank Magma published a report entitled *Yrittäjänä Suomessa: Maahanmuuttajataustaisten yrittäjien kokemuksia*. In the report, Katja Bloigu, MA, states that **migrant entrepreneurs are a forgotten resource in Finland**. According to the report, both migrants and the national economy would benefit if becoming an entrepreneur was made easier. The majority of Finland's migrant entrepreneurs come from the neighbouring countries, Russia, Sweden and Estonia. These are also the three largest countries of origin for immigrants to Finland. The fourth-largest migrant group in Finland is people

from Somalia, but there are not many entrepreneurs among this group. The propensity for entrepreneurial activity among people of African backgrounds is low throughout the Northern Hemisphere, which is partly due to their unequal position in the job market. Without effective networks, it is difficult to start a business and achieve success as an entrepreneur. The extent of entrepreneurial activity is also influenced by the society and learned values of the country of origin. Propensity for entrepreneurial activity is high particularly among people from the Middle East. The report proposes that migrants should be provided information on the Finnish job market and entrepreneurship starting at an early stage. At present, an immigrant's path to working life can take 8–10 years from entry into the country. The longer they are in the margins of society, the more difficult it is for them to become entrepreneurs. Entrepreneurs feel that there is no encouragement in Finland for people to engage in entrepreneurial activity. The benefits offered by the welfare society astound entrepreneurs from foreign backgrounds. According to the report, it appears that there is a conflict between the welfare society and entrepreneurship. From this perspective, the high value migrants place on work presents a tremendous unused resource for the national economy. Migrants becoming entrepreneurs is often made more difficult by their lack of knowledge about the practices and business culture of their new home country. For this reason, migrants need targeted support in the early stages of entrepreneurship. Measures should also be aimed at supporting sustainable entrepreneurial activity, not merely starting businesses.

In 2014, the European Migration Network produced **a study on admitting third-country nationals for business purposes**.<sup>39</sup> According to the study, the Finnish migration system takes a practical approach to migration for business purposes. There are two options for entering the country: a visa for short-term residence or a residence permit for longer-term residence. The visa system is considered to be flexible and effective, and it is clearly a more common option for entering the country than a residence permit. The residence permit system, on the other hand, is considered complicated and inflexible, which likely explains its lower popularity among people migrating to Finland for business purposes. Finland has several programmes that advertise the country as a good target for foreign investment.

<sup>36</sup> Markku Wallin, 28 February 2014, "Ehdotuksia ulkomaalaisten metsämarjanpoimijoiden olosuhteisiin liittyvien epäkohtien korjaamiseksi"

<sup>37</sup> Ministry of Employment and the Economy, press release 18 February 2014: Metsämarjanpoiminnan aiesopimus parantaa alan toimintatapoja

<sup>38</sup> Katja Bloigu: *Yrittäjänä Suomessa: Maahanmuuttajataustaisten yrittäjien kokemuksia*, Helsinki, Magma, 2014

<sup>39</sup> European Migration Network (EMN), EMN focussed study 4/2014, Finnish national contribution, Admitting third-country nationals for business purposes

<sup>40</sup> Determining the availability of labour refers to an assessment by the Employment and Economic Development Office of whether labour is available to fill a job opening in the home market (EU/EEA), see footnote 22.

However, these measures are not particularly aimed at marketing Finland to foreign entrepreneurs as a country to migrate to for business purposes.

## PUBLIC DIALOGUE ON LABOUR MIGRATION

In 2014, Finland applied the practice of determining the availability of home market labour.<sup>40</sup> Applying the practice of determining the availability of home market labour is stipulated by the Government Programme. The practice has been considered important in circumstances of high unemployment, and it is seen as improving the employment opportunities of migrants who already reside in the country. However, many **researchers and the business sector are critical of the practice of determining the availability of home market labour**. For example, Juhana Vartiainen, Director General of the Government Institute for Economic Research VATT, stated in November 2014 that the practice should be discontinued. Those who support the discontinuation of the practice of determining the availability of home market labour suggest that the amount of work is not fixed. According to their view, discontinuing the practice would increase the availability of labour, which would create new jobs. In addition, it would make it easier for international corporations to enter Finland. The supporters of the practice of determining home market labour availability include trade unions.<sup>41</sup> Those in favour of the practice of determining home market labour availability are of the opinion that Finnish citizens and other people who already reside in Finland should be employed before turning to foreign labour. According to Juhana Vartiainen and other opponents of the practice of determining home market labour availability, however, unemployment is not the result of Finland having a surplus of labour force, but rather the result of an inefficient labour market.<sup>42</sup> The issue was the topic of public debate in 2014, but the Government did not institute any new initiatives to discontinue the practice of determining home market labour availability.

## SUPREME ADMINISTRATIVE COURT YEARBOOK DECISIONS ON LABOUR MIGRATION

KHO:2014:62 AND KHO:2014:63 (17 APRIL 2014)  
The Supreme Administrative Court issued **two decisions on the same day concerning the refusal of a Turkish self-employed person's residence**

**permit application due to circumvention of the provisions on entry.** Both of the Supreme Administrative Court's decisions also concerned **whether circumvention of the provisions on entry into or residence in the country, as referred to in Section 36(2) of the Aliens Act, can be applied to Turkish nationals, taking into consideration the Association Agreement between the Republic of Turkey and the European Economic Community, and the standstill clause in Article 41(1) of the Additional Protocol.** The Finnish Immigration Service had refused the applications of two Turkish nationals for a residence permit for a self-employed person due to finding that they had circumvented the provisions on entry into or residence in the country as referred to in Section 36(2) of the Aliens Act. The Administrative Court had dismissed both of the appeals. The appeals to the Supreme Administrative Court were based on the grounds that the Association Agreement between the Republic of Turkey and the European Economic Community, and the standstill clause in Article 41(1) of the Additional Protocol, precluded the application of Section 36(2) of the Aliens Act. Pursuant to the case law of the Court of Justice of the European Union, the standstill clause prevents Member States from introducing new restrictions on the freedom of establishment of a Turkish national in a Member State, or residence therein. The Association Agreement and its Additional Protocol became binding on Finland on 1 January 1994. Section 21 of the Aliens Act in effect at the time contained provisions on cancelling a residence permit on the grounds of providing false information or withholding information. In the practice of applying the law, these grounds were also applied when considering the conditions for issuing a residence permit. **In both of its decisions, the Supreme Administrative Court found that the Association Agreement signed with Turkey, and the Additional Protocol, did not preclude the application of Section 36(2) of the Aliens Act**, as a corresponding provision specifying grounds for refusing a residence permit was already in force before the Association Agreement and the Additional Protocol became binding on Finland, and the restriction could therefore not be considered to have been newly introduced. The outcomes of the two separate decisions were different: for one of the appellants, the Supreme Administrative Court found that the case did involve circumvention of the provisions on entry and residence, while the other appellant's case did not. However, the relevant judgment

<sup>41</sup> SAK, Työvoiman maahanmuutto, online at [www.sak.fi](http://www.sak.fi) (accessed 6 February 2015)

<sup>42</sup> Kauppalehti, 25 November 2014: Työmarkkinat tarvitsevat maahanmuuttajia; Taloussanomien, 29 January 2015, Eva: Maahanmuuttajia tarvitaan tuplasti enemmän

<sup>43</sup> Detailed justifications of the decisions in both cases are available on the Supreme Administrative Court website (accessed 15 February 2015): <http://www.kho.fi/fi/index/paatoksia/vuosikirjapaatokset.html>



in both decisions was that circumvention of the provisions on entry and residence stipulated by Section 36(2) of the Aliens Act could have been applied in both decisions without being precluded by the Association Agreement and the Additional Protocol.

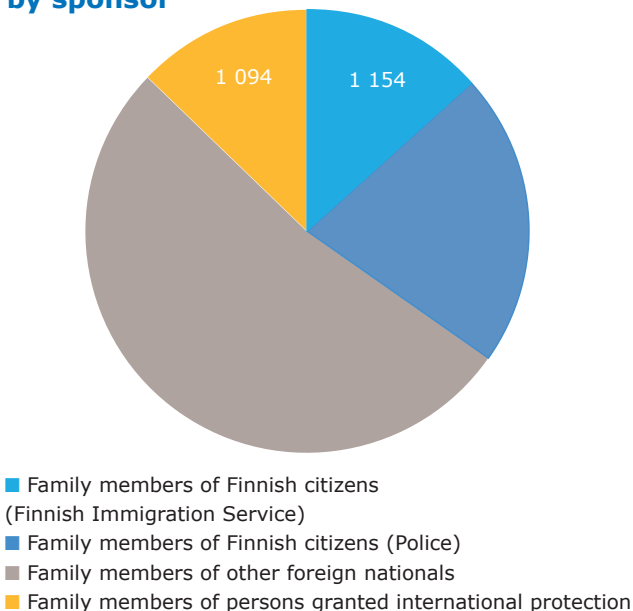


## 3.2. Family Reunification

In 2014, a total of 9,197 applications were submitted for first residence permits on the grounds of family ties.<sup>44</sup> This amount represents a small increase on the previous year, when the number of applications was 8,950.

In 2014, a total of 8,873 decisions were made by the Finnish Immigration Service on first residence permit applications submitted on the grounds of family ties. Of these decisions, 6,774 were positive and 2,099 were negative. In addition, the Police made 1,914 decisions on first residence permit applications submitted by family members of Finnish citizens.<sup>45</sup> Of these decisions, 1,835 were positive and 79 were negative. The total number of positive decisions on residence permit applications on the grounds of family ties in Finland in 2014 was 8,609 (80%) and the total number of negative decisions was 2,178 (20%). The table below shows first residence permits issued on the grounds of family ties, broken down by sponsor.

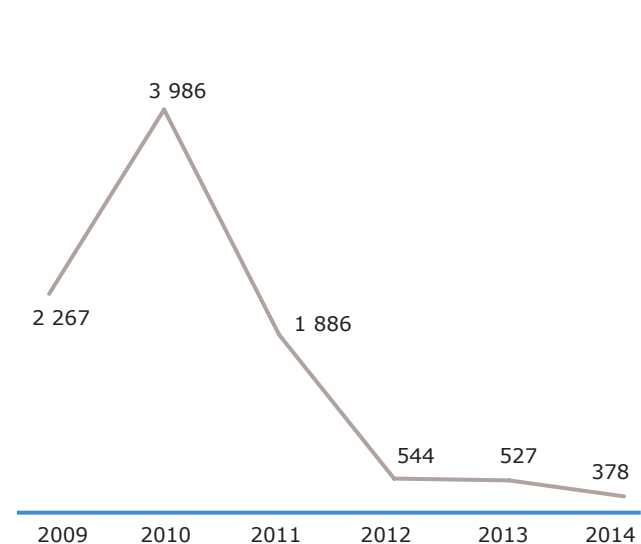
### First residence permits issued on the grounds of family ties, broken down by sponsor



Source: Finnish Immigration Service and Police<sup>46</sup>

The decisions on first residence permit applications filed on the grounds of family ties made by the Finnish Immigration Service in 2014 included many filed by Somali nationals, after a backlog of family reunification applications accumulated in 2009–2011. **The backlog of residence permit applications based on family ties filed by Somali nationals was resolved in 2014.** The Finnish Immigration Service published a press release on the matter on 17 December 2014.<sup>47</sup> The public dialogue in Finland regarding residence permits issued on the grounds of family ties often turns to family reunification for people who have been granted international protection. The reason for this phenomenon is the aforementioned substantial increase in family reunification applications filed by Somali nationals in 2009–2011. However, the number of residence permit applications on the grounds of family ties filed by Somali nationals has declined significantly from the peak years. One reason for the decline in the number of applications is stricter family reunification practices implemented via legislative amendments in 2010–2012.<sup>48</sup> In 2014, the year under review, the number of new family reunification applications filed by Somali nationals was 378.

### First residence permit applications based on family ties filed by Somali nationals



Source: Finnish Immigration Service<sup>49</sup>

<sup>44</sup> The figure includes all residence permit applications on the grounds of family ties filed during the year, regardless of whether the decision on the application is the responsibility of the Finnish Immigration Service or the Police.

<sup>45</sup> Of the first residence permit applications submitted by family members of Finnish citizens, the Police decides on applications that are filed in Finland.

<sup>46</sup> Residence permits issued to family members of Finnish citizens are broken down by the authority that issued the permit: The Finnish Immigration Service (MIGRI) or the Police.

<sup>47</sup> The Finnish Immigration Service, press release, 17 December 2014: Somalialaisten perhesidehakemusten ruuhka purettu

<sup>48</sup> In 2010, the Aliens Act was amended to include a provision concerning foster children, aimed at ensuring that only de facto foster child relationships could be used as grounds for issuing a residence permit. In addition, after the legislative amendment entered into force on 1 August 2010, an applicant or sponsor who is a minor is required to be a minor on the date when the permit application is decided (previously: on the date when the application is filed). Amendments were also made to other provisions, such as that concerning the requirement for means of support. Pursuant to amendments that entered into force in 2012, family reunification applications must be filed in person at the nearest Finnish diplomatic mission and travel arrangements must be made and paid for by the applicant.

<sup>49</sup> The figures for 2009–2013 have been adjusted with respect to the figures previously reported by the Finnish Immigration Service.

This figure can be compared to the largest group of applicants in this category, Russian nationals, with 1,563 applications. For the first time during the monitoring period (2009–2014), Somalia was not among the top five countries of applicants for residence permits on the grounds of family ties, which were Russia (1,563), India (737), Thailand (521), China (409) and Iraq (403).

## PUBLIC DIALOGUE ON FAMILY REUNIFICATION

Finnish family reunification policy was criticised in 2014. In particular, **criticism revolved around family reunification for refugee children who have entered Finland without a guardian**. The criticism began in 2010–2012 after the conditions for family reunification became stricter.<sup>50</sup> In 2014, however, criticism revolved particularly around the low relative proportion of positive family reunification decisions, based on which the critics perceived that the policy has become even stricter, also in terms of decision-making practices. The criticisms primarily highlighted decisions concerning the guardians of minors who have been granted international protection. Based on the previous years' figures, the criticisms stated that as much as 99% of the family reunification applications related to unaccompanied refugee children are refused.<sup>51</sup> This suggested relative proportion was indeed true for 2013: parents or guardians of minors who have been granted international protection received one positive decision and 156 negative decisions. However, the proportions of these decisions changed in 2014: guardians of minors who have been granted international protection received 10 positive family reunification decisions (23%) and 33 negative decisions (77%).

The Finnish Immigration Service states that there is no single explanation for the variation in the number of negative and positive decisions from year to year. Variations in the proportions of positive and negative decisions on applications filed on the grounds of family ties do not indicate changes in the Finnish Immigration Service's decision practices, but rather indicate that the profiles of the applicants were different. Examining the proportion of positive and negative decisions on applications filed on the grounds of family ties through the years reveals that the proportion of negative decisions was higher start-

ing from 2010–2011 and then decreased again towards 2015. During this timeframe, decisions were made on a large number of family reunification applications filed by Somali nationals due to a backlog that had accumulated after a substantial increase in the number of applications. In these applications, the applicant profile was often such that the applications did not meet the requirements stipulated by the Aliens Act, as the persons for whom residence permits were applied were not family members, or verifying family ties was impossible.

## STUDIES ON FAMILY REUNIFICATION PUBLISHED IN 2014

A dissertation by Jaana Anglé entitled *Maahanmuuttajan puolisona Suomessa* was published in a University of Lapland publication series. The dissertation is a narrative **research on long-lasting multicultural marriages**. Based on the summary of the research, it is important that a migrant finds meaningful things to do in his or her new home country. Social relations and language skills also facilitate the adjustment process.<sup>52</sup>

## SUPREME ADMINISTRATIVE COURT YEARBOOK DECISIONS ON FAMILY REUNIFICATION

KHO:2014:22 (6 February 2014)

The case involved the question **of whether a family reunification application can be refused solely on the grounds that the applicant does not possess, and cannot acquire, a travel document accepted by Finland**. The sponsor was a Finnish citizen. The Finnish Immigration Service had refused a Somali national's residence permit application on the grounds of family ties due to the applicant not having presented a travel document accepted by the Finnish state. According to the decision of the Finnish Immigration Service, no acceptable grounds had been presented in the case for deviating from the requirements concerning travel documents. The Administrative Court had rejected the appeal filed concerning the Finnish Immigration Service's decision. **The Supreme Administrative Court found that refusing a residence permit from the person in question solely on the grounds that the person does not possess, and cannot acquire from the**

<sup>50</sup> See footnote 48.

<sup>51</sup> Yle News, 22 July 2014: Enää harva turvapaikan saanut lapsi saa perheensä Suomeen; Uusi Suomi, 29 October 2014: Shokkiluku Ylellä: 99 % näistä Suomeen pyrkijöistä hylätään – "Suuri häpeä"; Pelastakaa Lapset ry blog, 16 December 2014, Lapset rajalla

<sup>52</sup> Jaana Anglé: *Maahanmuuttajan puolisona Suomessa: Narratiivinen tutkimus kestävästä monikulttuurisista avioliitoista*, Acta Universitatis Lapponiensis 272, Rovaniemi 2014

**Somali state, a travel document that Finland would accept, restricted the Finnish citizen's and the Finnish citizen's family member's right to family reunification to a greater extent than what was necessary.** The Supreme Administrative Court approved the appeal and overturned the decisions of the Finnish Immigration Service and the Administrative Court. The Supreme Administrative Court stated that the residence permit application filed by a family member of a Finnish citizen should not have been rejected solely on the grounds of the applicant not having a travel document.

KHO:2014:50 and KHO:2014:51 (19 March 2014)  
The Supreme Administrative Court issued **two decisions on the same day concerning family reunification and deviation from the requirement for means of support.** The Finnish Immigration Service had refused both of the residence permit applications filed on the grounds of family ties. In both cases, the applicant and the sponsor had only got married after the sponsor entered Finland. In such cases, pursuant to Section 114(4) and Section 39(1) of the Aliens Act, the requirement is that the applicant's means of support are secure in the manner stipulated by Section 39(2) of the Aliens Act. The requirement for means of support was not met in the case of either applicant. As a result, in the case of both applicants, the decision involved considering whether there were exceptionally weighty reasons for an exemption from the requirement for means of support, or if such an exemption was in the best interest of a child. The Administrative Court had rejected appeals filed concerning the Finnish Immigration Service's decisions in both cases. **The Supreme Administrative Court reached different conclusions in the two decisions.** In the case of one of the appellants, the Supreme Administrative Court found that the best interest of the child did not require an exemption from the requirement for means of support solely for the reason that refusing the residence permit could lead to the end of cohabitation between the child and the other parent. An exemption from the requirement for means of support based on the best interest of the child would also require the presence of other individual facts or circumstances that have a concrete effect on the best interest of the child, and the case involved no such facts or circumstances. The Supreme Administrative Court dismissed the appeal. In the case of the other appellant, the Supreme Administrative Court

found that the best interest of the child called for an exemption from the requirement for means of support. One of the family's children had been treated in Finland since birth for several illnesses, and was subject to continuous medical supervision in Finland. The Supreme Administrative Court found that, taking the report on the family's circumstances into consideration, there were no guarantees that the parents of the family would be able to obtain the care required by the child anywhere but in Finland. In addition, caring for the child required a great deal of resources from the sponsor. Under these exceptional circumstances, the Supreme Administrative Court found that weighty reasons related to the best interest of the child made it necessary for the applicant to be closely involved in the family's life in Finland. The best interest of the child therefore justified an exemption from the requirement for means of support. With the two different decisions, the Supreme Administrative Court underlined **the significance of considering the family's unique situation in assessing whether an exemption from the requirement for means of support is justified.**

KHO:2014:150 (13 October 2014)  
The case concerned **whether an oral hearing was necessary when an application on the grounds of family ties was refused due to a suspected marriage of convenience.** The Finnish Immigration Service had refused a residence permit filed on the grounds of family ties due to finding that the matter involved a reasonable suspicion of a marriage of convenience entered into for the purpose of circumventing the provisions on entry into and residence in the country. In the appeal stage in the Administrative Court, the sponsor had requested an oral hearing to have the sponsor's mother heard regarding the veracity of the family ties, but an oral hearing had not been arranged. The Administrative Court had overturned the decision by the Finnish Immigration Service and returned the matter to the Finnish Immigration Service for reprocessing. The Administrative Court had found that the application should not have been decided without an oral hearing to determine whether the conditions for a residence permit were met, because the Finnish Immigration Service suspected a marriage of convenience and the matter involved determining the applicant's intention. The Supreme Administrative Court stated that, when applying the Aliens Act, the necessity of an oral hearing must be determined on the basis of the Aliens Act's pro-

visions pertaining to oral hearings (Sections 62 and 64 of the Aliens Act) rather than the Administrative Judicial Procedure Act's principles concerning oral hearings and related case law, as the Administrative Court had done in its decision. When the case was considered on the basis of the provisions of the Aliens Act, the Finnish Immigration Service had not acted inappropriately by not granting an oral hearing to the persons in question. The Finnish Immigration Service was entitled to decide on the applicant's residence permit application on the grounds of family ties based on the written evidence provided, and the Administrative Court should not have overturned the Finnish Immigration Service's decision on the grounds that it applied.

KHO:2014:162 (5 November 2014)

The case involved **a decision on an application filed on the grounds of family ties, in which the veracity and continuity of the family ties were considered, as well as the timing of the application, the applicants' ties to other family members, and their cultural and social ties to their home country.** A Thai national who has resided in Finland since 2002 had applied for a residence permit on the grounds of family ties for her twin daughters in 2011. The twins were born in 1998 and resided in Thailand. The Finnish Immigration Service had refused the application on the grounds that the sponsor's family ties with the twin daughters had been disconnected. Based on the information received in the matter, the sponsor lived in Thailand with her mother in 1998–2002, with the mother taking care of the twins while the sponsor worked in a different city. After moving to Finland, the sponsor had made visits to Thailand at approximately two-year intervals, with the visits lasting about two months at a time. The sponsor remained the single parent to her daughters and had provided continuous financial support to them for their schooling and life in Thailand. When going to school, the twins occasionally lived on their own in a rental apartment, but otherwise, they lived with their grandmother who is in her 80s and, according to the twins, is closer to them than their mother is. One of the twins also stated that the sponsor's sister was closer to her than her mother. According to the additional clarification submitted to the Supreme Administrative Court, the twins currently live with the sponsor's sister and her family, as well as their grandmother, and go to a local school. The Supreme Administrative Court found that the spon-

sor's ties to her twin daughters in Thailand had never become completely disconnected. However, the length of time the sponsor resided in Finland before filing the application, the daughters' long-term and close relationship with their relatives in Thailand, and their incomplete understanding of the circumstances of their mother's life in Finland with her new family did not support the conclusion that the mother and her daughters are to be considered family members as referred to in Section 37(1) of the Aliens Act. Furthermore, taking into account that the twins only spoke Thai and some English, and have received their schooling in the Thai language and therefore have strong family, cultural, social and linguistic ties to their home country, refusing the application could not be considered to be against their best interest. The Supreme Administrative Court dismissed the appeal.

KHO:2014:188 (23 December 2014)

The case concerned **whether a spouse who was the sponsor of a family reunification application had the right to appeal the decision to refuse the sponsor's spouse's application for a residence permit.** The Helsinki Police Department had refused a residence permit filed on the grounds of family ties due to finding that the matter involved a reasonable suspicion of the applicant having entered a marriage of convenience with a Finnish national for the purpose of circumventing the provisions on entry into and residence in the country as referred to in Section 36(2) of the Aliens Act. The persons in question appealed the Police Department's decision to the Administrative Court. The Administrative Court had dismissed the applicant's appeal and decided not to investigate the sponsor's appeal. The Administrative Court had considered that the sponsor did not have the right of appeal in the matter as the sponsor was not the person to whom the decision was addressed pursuant to Section 6 of the Administrative Judicial Procedure Act. The Administrative Court had considered that the sponsor no longer has the right of appeal in matters concerning family reunification after an amendment to Section 62 of the Aliens Act, which entered into force on 1 January 2012, eliminated the sponsor's right of filing in application matters involving family reunification. The Supreme Administrative Court found that refusing the sponsor's spouse's residence permit application concerned the sponsor's right or interest pursuant to Section 6(1) of the Administrative Judicial Procedure Act. The Supreme Ad-

ministrative Court found that restricting the right of appeal of the person in question would have required a separate legislative provision on the matter, and the amendment to Section 62 of the Aliens Act cannot restrict a sponsor's right of appeal. The Supreme Administrative Court found that **the sponsor had the right of appeal regarding the decision to refuse the sponsor's spouse's application for a residence permit on the grounds of family ties**. The Supreme Administrative Court overturned the Administrative Court's decision to not investigate the appeal, investigated the appeal immediately, and dismissed the appeal. The Supreme Administrative Court dismissed the applicant's appeal regarding the Administrative Court's decision.

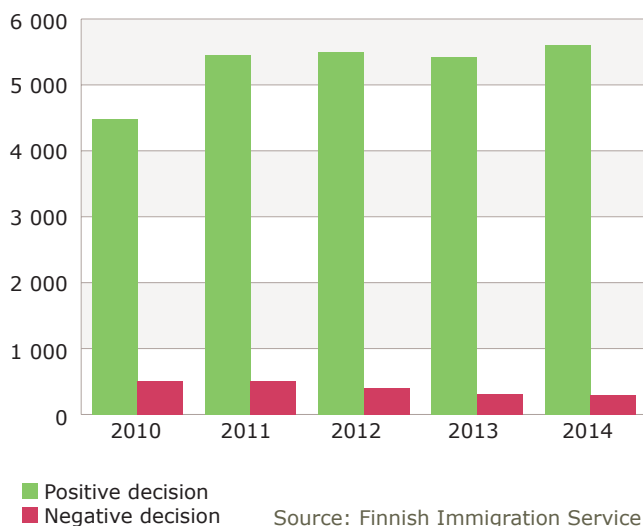
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### 3.3. Students

The number of foreign degree students in Finland has increased in the 2000s. In 2013, there were nearly 20,000 foreign degree students studying at Finnish institutes of higher education, a figure three times as high as in the year 2000.<sup>53</sup> The number of residence permit applications on the grounds of studying filed by foreign nationals has fluctuated between 5,000 and just over 6,000 applications per year in the 2010s. In 2014, 6,046 residence permit applications on the grounds of studying were filed. A total of 5,902 decisions were made on residence permit applications filed on the grounds of studying. Of these, 5,611 (95%) were positive and 291 (5%) were negative.

#### Decisions on students' first residence permits 2010–2014



#### DEVELOPMENT MEASURES

Foreign degree students are perceived as an important resource for the Finnish labour market. However, it has been considered problematic that a significant proportion of foreign students do not remain in Finland to work after graduation. The Government addressed this problem in 2013 in its Structural Policy Programme and in the Future of Migration 2020 Strategy. In 2014, the Ministry of the Interior drafted an amendment to the Aliens Act intended **to extend the right of residence of foreign students**

**in Finland after graduation** and thereby improve their opportunities to remain in Finland for work. In the future, foreign students who complete their degrees can be issued a residence permit for the purpose of seeking employment for one year instead of six months, as at present. The legislative amendment was confirmed on 6 February 2015 and it will enter into force on 1 April 2015.<sup>54</sup>

#### PUBLIC DIALOGUE ON STUDENT MIGRATION

Public dialogue in Finland in 2014 addressed **the potential implementation of tuition fees for foreign students**. At present, degree programmes in higher education institutes and the entrance examinations related to the admission process are primarily free of charge for both Finnish and international students. The Government Institute for Economic Research VATT and the Centre for International Mobility (CIMO) produced a preliminary study of the economic impacts of foreign students at higher education institutes in 2014.<sup>55</sup> According to the preliminary study, the recruitment of foreign students to higher education institutes is a profitable practice from the perspective of public finance. However, an essential factor in this estimated profitability is that students remain in Finland after graduation and find employment that matches their qualifications. The preliminary study did not express an unambiguous opinion on whether tuition fees are necessary and useful. However, the study estimated that tuition fees would have a substantial negative impact on the number of students, as there are many students in Finland who originate from outside the EU/EEA. The Ministry of Education and Culture drafted a Government proposal on the amendment of the Universities Act and the Act on Universities of Applied Sciences. According to a draft completed in October 2014, the Universities Act and the Act on Universities of Applied Sciences would be amended to include provisions on tuition fees collected from students from outside the EU/EEA for foreign-language study programmes leading to a bachelor's or master's degree. The amount of the tuition fees would have been a minimum of EUR 4,000 per semester.<sup>56</sup> The proposal was met with criticism from parties such as student organisations, although many parties that issued a statement on the draft bill were in favour of the proposal.<sup>57</sup> The draft proposal on the introduction of tuition fees did not become a Government Bill. Ins-

<sup>53</sup> CIMO, Fakta Express, No. 4A/2014, Mitä tiedämme ulkomaalaisten korkeakouluopiskelijoiden taloudellisista vaikutuksista?

<sup>54</sup> HE 219/2014 vp

<sup>55</sup> Government Institute for Economic Research VATT: Esiselvitys ulkomaalaisten korkeakouluopiskelijoiden taloudellisista vaikutuksista, VATT Preliminary report 21/2014; Op. cit. CIMO Fakta Express, No. 4A/2014

<sup>56</sup> Hallituksen esitys eduskunnalle yliopistolain ja ammattikorkeakoululain muuttamisesta annetun hallituksen esityksen (HE /2014) täydentämisestä (DRAFT)

<sup>57</sup> Ministry of Education and Culture, 68/010/2014: Yhteenveto korkeakoulujen lukukausimaksuista annetuista lausunnoista; Ilkka, 31 January 2014: "Ei järkeä lukukausimaksussa", Miksi samasta opista pitäisi maksaa, kysyy Samon hallituksen puheenjohtaja Heli Lahti

tead, in December 2014, the Ministry of Education and Culture submitted a proposed legislative amendment to the Parliament for introducing an application processing fee for foreign students. The **proposed application processing fee is EUR 100**. The plan is to start collecting application processing fees for applications from the application period for the autumn semester in 2016.<sup>58</sup>

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<sup>58</sup> Ministry of Education and Culture, press release 4 December 2014: Euroopan ulkopuolella tutkinnon suorittaneille korkeakouluhakijoille otetaan käyttöön hakemuksen käsittelymaksu

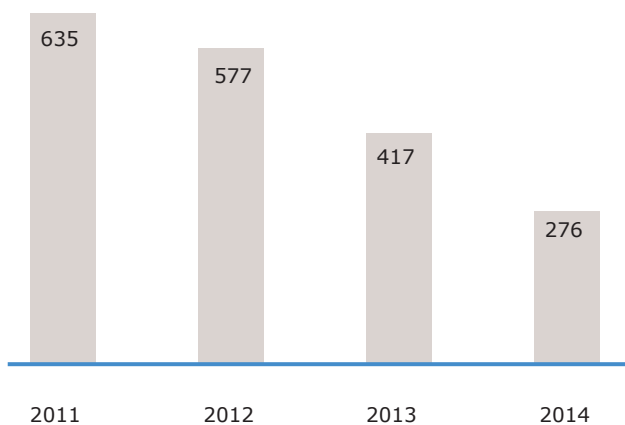


### 3.4. Returnees

A residence permit to Finland was issued to 276 returnees in 2014. Returnees refer to individuals who are immigrating to Finland on the grounds of either return migration or their Finnish origin. Based on these grounds, the number of applications filed was 298 in 2014. Remigration to Finland is clearly declining: the number of residence permits issued on the basis of remigration decreased by 30 per cent compared to the previous year.

The reason for the declining number of returnees is the closing of the return migration queue of Ingrian Finns in 2011 and the approaching five-year time limit related to it. The return migration queue used in Russia was closed on 1 July 2011, after which applicants could no longer register for inclusion in the return migration queue. Those who registered before 1 July 2011 can apply for a Finnish residence permit on the grounds of being a returnee during a five-year application period that ends on 1 July 2016.<sup>59</sup>

#### Residence permits issued to returnees 2011–2014



Source: Finnish Immigration Service

<sup>59</sup> Source: Finnish Immigration Service, [www.migri.fi](http://www.migri.fi)

### 3.5. Integration<sup>60</sup>

The legislation pertaining to the registration of a foreign national was amended on 1 March 2014. The Finnish Immigration Service carried out a project called LuvallaHetu in 2014 to prepare public officials for these changes. The European Integration Fund participated in funding the project. As a result of the legislative amendment, as of 1 December 2014, foreign nationals have been able to request registration in the Population Information System in conjunction with applying for a first residence permit or a residence card. This means that **an immigrant can now obtain a personal identity code in conjunction with the issuance of a residence permit.** Having a personal identity code makes it easier to use the available services in Finnish society. It is also in the interest of the authorities to have a person's identity tied to an unequivocal code right from the start. This eliminates problems that might arise from a change of name or different ways of spelling a name. The legislative amendment applies to all residence permit applicants, including asylum seekers.

**The Centre of Expertise in Integration began operations on 21 March 2014.** The Government Integration Programme for 2012–2015 stipulates that a Centre of Expertise in Integration will be established to enhance information guidance aimed at promoting integration. The Government decided on the matter in its discussion on spending limits in March 2013. The Centre of Expertise operates as part of the Employment and Entrepreneurship Department of the Ministry of Employment and the Economy. It is funded by the state budget. The task of the Centre of Expertise is particularly to develop and monitor information, statistics and research related to the integration of migrants. For example, the Centre of Expertise regularly conducts various studies related to integration. It also collects good practices outlined in various projects, develops them into models, and spreads them at a national level. The personnel of the Centre of Expertise include a Development Manager, a Specialist in Integration of Children, Young People and Families, a Communications Specialist and a Statistics Specialist. Activities in 2014 included recruiting, assessing regional and local expectations with regard to the operations of the Centre, establishing a website ([www.kotouttaminen.fi](http://www.kotouttaminen.fi)), planning the operational logic of the Centre, promoting research and reporting activities, and launching a nationwide training tour.

The operation of the ALPO support structure funded by the European Social Fund (ESF) concluded at the end of 2014. The **ALPO support structure was in place at a national level since 2008 to support projects aimed at developing early-stage guidance services for migrants.** Developments made with the help of the support structure included a customer visit register for migrant advisory service points (ALPO register). The ALPO register is a centralised database for collecting information on customer visits to migrant advisory service points throughout the country. The register produces information for forecasting, monitoring and research.

**The Kotona Suomessa (At Home in Finland) set of projects began at the start of 2015.** Kotona Suomessa comprises two separate and mutually supportive projects: Hyvä alku (Good Start) is aimed at developing services for the early stage of integration and integration training for migrants who are not included in the services. Hyvä polku (Good Path) is aimed at developing the competence of the authorities engaged in integration activities at the regional and local levels. Kotona Suomessa is coordinated by the Uusimaa Centre for Economic Development, Transport and the Environment.

#### STUDIES ON INTEGRATION PUBLISHED IN 2014

In 2014, the Social Insurance Institution of Finland published **a study on the integration of immigrant children and youth in Finland.**<sup>62</sup> The integration of children and young people of immigrant backgrounds in Finnish society can be seen as a human issue and an issue related to equality between individuals. Children and young people from immigrant backgrounds can also be seen as a significant economic opportunity that, as the Finnish population ages, offers a significant potential labour resource, the utilisation of which is one of the key issues of the future. The conclusions of the study **state that children and young people from immigrant backgrounds fared worse than the original population during the monitoring period** based on certain economic and social indicators. However, an immigrant background does not appear to be the explanation for their lower degree of success. Instead, **other background variables explain the majority of the differences.** The differences between the original population and immigrants

<sup>60</sup> Integration refers to measures taken by the authorities to support migrants in adapting to their new home country. The same term is also used to refer to this subject matter from the migrant's perspective.

<sup>61</sup> Source: [Kotouttaminen.fi](http://Kotouttaminen.fi)

<sup>62</sup> Laura Ansala, Ulla Hämäläinen and Matti Sarvimäki: Integration or separation? Immigrant children and youth in Finland, Social Insurance Institution of Finland, Working papers 56/2014, Helsinki, 2014

are eliminated or substantially diminished when comparing the children of families with similar financial circumstances.

In June 2014, the Government Institute for Economic Research VATT published **an analysis of the integration of immigrants in Finland**.<sup>63</sup> The analysis illustrates the economic and fiscal impacts of migration. Migration can improve the economic well-being of both migrants and the original population. This does not, however, happen automatically. It depends on how well migrants fare in the Finnish job market. According to the analysis, **good integration and training policy promotes the success of migrants in working life** and thereby benefits both migrants and the original population. The analysis states that comparing the impacts of specific socio-political measures is generally challenging, as there are rarely two sufficiently similar groups available for analysis. One example mentioned in the analysis is integration plans: typical methods can easily indicate that the plans have a negative impact on the development of a migrant's income level. This incorrect interpretation is easily arrived at because comparing those who were given an integration plan with those who were not results in two groups whose background attributes are not comparable: those who were not prepared an integration plan had been able to find a job on their own. Taking this into account, it is not surprising that their subsequent income levels were also higher than those of the migrants that were given an integration plan. However, the implementation of the Integration Act created a favourable opportunity for analysis by accident: the obligation to receive an integration plan only applies to migrants entered in the population register on 1 May 1997 or after that date. This meant that over 40% of the migrants entered in the population register in May 1997 were prepared an integration plan, when the corresponding figure for migrants who entered the country in the previous month was nine per cent. Comparing income levels in 2000–2009 between the migrants that entered the country in April and those who entered the country in May indicates that integration plans resulted in increased income for those who entered the country in May. The VATT's analysis calls for **consciously creating favourable opportunities for research when implementing pilot projects in the area of integration policy** to better evaluate their effectiveness.

City of Helsinki Urban Facts published a study by Martti Tuominen, Tuula Joroinen and Eija Laihinen on **perceptions of insecurity among young people of immigrant backgrounds** in Helsinki. The name of the study is *"...Sanoi että näytän aivan \*\*\*\*\* ja alkoi solvaamaan"*.<sup>64</sup> The study is part of a series of surveys of perceptions of security published by City of Helsinki Urban Facts. The study focuses particularly on perceptions and experiences of insecurity among young Helsinki residents from immigrant backgrounds, their experiences of being victims of crimes, and their views on equality in the operations of the Police. The research question is whether an immigrant background influences the extent to which a young person perceives his or her daily environment as safe. One of the key findings of the study was that women perceive insecurity more frequently than men, and that among young people from immigrant backgrounds, gender plays an even larger role in perceived insecurity than among young people of the same age in the indigenous population. The study indicated that an immigrant background is clearly significant with regard to perceived insecurity. A sense of insecurity, in turn, can narrow the individual's physical and social circle of life and reduce his or her operating capacity, perceived well-being and psychological health. As such, perceived insecurity is likely to slow down the integration of immigrants.

The Institute of Migration published a study by Krister Björklund on the **integration of asylum seekers who enter Finland as unaccompanied minors** entitled *"Haluun koulutusta, haluan työtä ja elämän Suomessa" – Yksintulleiden alaikäisten pakolaisten kotoutuminen Varsinais-Suomessa*.<sup>65</sup> The study was part of the Halaten project implemented jointly by the Turku University of Applied Sciences and the Institute of Migration. The term of the project was 1 June 2013 – 31 December 2014. The European Refugee Fund participated in funding the project. The project was aimed at supporting the integration of unaccompanied minors to Finnish society and developing the skills of the professionals who work with them in Southwest Finland. A further goal was to study the experiences of young people who have now reached adulthood and the services they received during the integration process, from entry into the country to being issued with a residence permit and moving to live on their own. Björklund's study responded to this goal of the project.

<sup>63</sup> VATT Analysis 1-2014: Maahanmuuttajien integroituminen Suomeen, Government Institute for Economic Research, Helsinki, 2014

<sup>64</sup> Martti Tuominen, Tuula Joroinen and Eija Laihinen: *"...Sanoi että näytän aivan \*\*\*\*\* ja alkoi solvaamaan"* Maahanmuuttajataustaisten nuorten turvattomuuskokemukset Helsingissä, City of Helsinki Urban Facts, Studies 2014:3

<sup>65</sup> Krister Björklund: *"Haluun koulutusta, haluan työtä ja elämän Suomessa"*: Yksintulleiden alaikäisten pakolaisten kotoutuminen Varsinais-Suomessa, Institute of Migration, Studies A48, Turku, 2014

### 3.6. Citizenship

**In 2014, a total of 8,499 persons acquired Finnish citizenship.** The number was slightly lower than in the previous year, when 9,292 persons acquired citizenship. The number of negative citizenship decisions in 2014 was 1,212. The most common reason for a negative citizenship decision was that the applicant did not meet the requirement concerning language proficiency. A total of 15 persons lost their citizenship in 2014. The most common reasons for the loss of citizenship was the disproving of paternity and the provision of false information. The table below shows persons granted Finnish citizenship by the five largest groups according to previous citizenship.

The number of citizenship applications was 11,424, showing a clear increase from the 2013 application volume (8,693). One possible reason for the increase in the number of citizenship applications is the easier filing process: an electronic application form for citizenship applications has been available since April 2013.

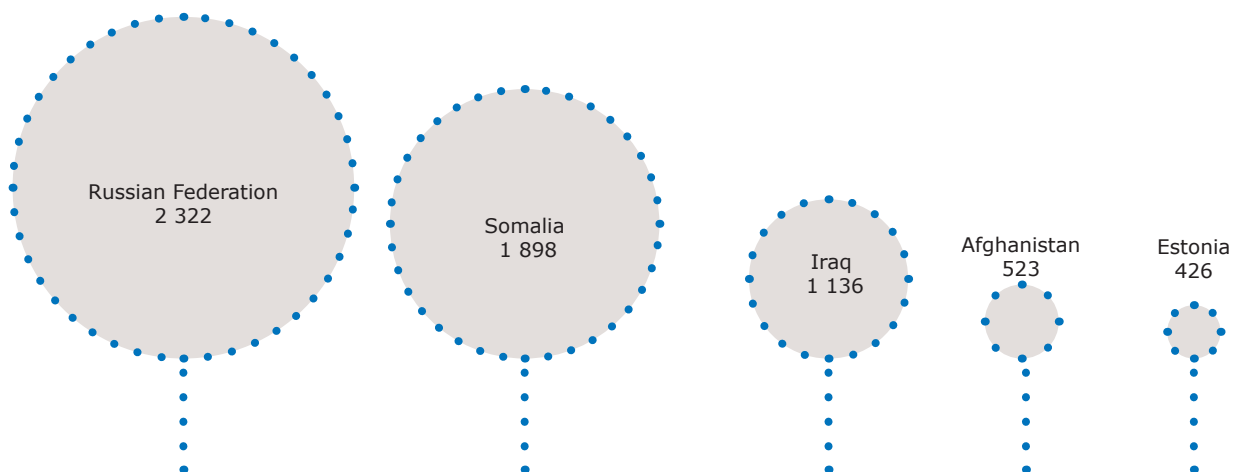
#### PUBLIC DIALOGUE ON CITIZENSHIP ISSUES

No legislative changes pertaining to obtaining or losing Finnish citizenship were implemented in 2014. Nevertheless, citizenship issues did feature to some

extent in public and political dialogue. Dual citizenship has been possible in Finland since 2003. In August, Yle News reported that the Government had requested **a report on the significance of dual citizenship.**<sup>66</sup> Public dialogue on the matter included conjecture that the request was due to the Government planning to impose stricter conditions on dual citizenship after Russia became more active in monitoring its citizens abroad and their interest. However, Prime Minister Alexander Stubb responded to this speculation the next day by stating that the Government had not considered imposing stricter conditions on dual citizenship. According to the Prime Minister, the intention was simply to assess the significance and overall effect of the relatively new practice of dual citizenship.<sup>67</sup> Based on a background note prepared by the Ministry of the Interior on the subject, an estimated 60,000 people currently live in Finland and hold Finnish citizenship as well as the citizenship of another country.<sup>68</sup> The subject was also discussed in the A-Studio news programme on television later in the autumn.<sup>69</sup> The dialogue did not lead to any concrete measures in 2014.

The citizenship of persons who left Finland for conflict areas was also the subject of public dialogue in Finland in autumn 2014. Finland surveyed other European countries through the European Migration Network to determine whether some countries have implemented, or prepared, legislative changes related to the citizenship of radicalised individuals. The question concerned **whether citizenship could**

#### Citizenship applications by nationality, Top 5 groups in 2014



Source: Finnish Immigration Service

<sup>66</sup> Yle News, 21 August 2014: Presidentti Niinistö: Minä pyysin selvityksen kaksoiskansalaisuudesta

<sup>67</sup> Yle News, 22 August 2014: Stubb: Kaksoiskansalaisuuden ehtojen kiristämistä ei ole edes harkittu

<sup>68</sup> Ministry of the Interior, Background note, 3 September 2014

<sup>69</sup> Yle News, A-studio 3 October 2014, Näkökulma: Suomenvenäläinen, kenen joukossa seisot?

**be revoked for a person participating in radical activities.**<sup>70</sup> This is a difficult question from a legal standpoint, as international agreements stipulate that a person cannot be left entirely stateless. However, according to Päivi Räsänen, the Minister of the Interior, dual citizenship could in certain cases make it possible to revoke Finnish citizenship.<sup>71</sup> Teemu Sinkkonen, Senior Research Fellow at the Finnish Institute of International Affairs, responded to the debate in the Helsingin Sanomat newspaper's Vieraskynä column, providing reasons why revoking citizenship is not an effective method of preventing terrorism.<sup>72</sup> The Finnish Government did not implement concrete measures in 2014 to amend legislation on citizenship with regard to radicalised individuals. Section 8, Irregular migration, describes other measures considered in 2014 to prevent radicalism.

on had been received regarding the person's date of birth and background, and other information received regarding the person's history was insufficient. As such, the **person's identity could not be considered to have been reliably established, even based on an overall consideration**, in the manner stipulated by Section 6(1,2) of the Nationality Act.

### **SUPREME ADMINISTRATIVE COURT YEARBOOK DECISIONS ON CITIZENSHIP MATTERS**

KHO:2014:105 (16 June 2014)

The case involved the question of **when identity can be considered to be reliably established**. The applicant for Finnish citizenship had entered Finland as an asylum seeker in 2004. The person in question had been previously registered in Greece and Norway. The applicant had reported inconsistent dates of birth to the Greek, Norwegian and Finnish authorities. The Finnish Immigration Service had not considered the applicant's identity to be reliably established, as the passport issued in 2012 by the Embassy of Afghanistan in Oslo, presented by the applicant, could not be considered reliable documentary evidence, and the applicant had used different personal identification data in Greece and Norway. The Finnish Immigration Service had not granted Finnish citizenship to the applicant because the applicant's identity could not be considered to be reliably established. The Administrative Court had subsequently found the person's documentary evidence reliable and judged that the person had provided evidence of name and date of birth to the extent that can be reasonably expected. The Administrative Court found that the person's identity had been reliably established. The Supreme Administrative Court, however, agreed with the original decision of the Finnish Immigration Service that reliable documentary evidence had not been presented regarding the person's identity. Conflicting informati-

<sup>70</sup> Yle News, 7 October 2014: Raportti: Terroristit saavat pitää kansalaisuutensa useimmissa EU-maissa

<sup>71</sup> Yle News, 2 September 2014: Räsänen: Pikaradikalisoituminen on kasvussa – ekstremismin suitsimista pohditaan

<sup>72</sup> Helsingin Sanomat, 12 September 2014, Vieraskynä, Teemu Sinkkonen: Kansalaisuuden peruminen ei tepsii terrorismiin

## 3.7. Managing Migration and Mobility

### VISA POLICY

In 2014, Finland's diplomatic missions abroad and the visa service centre in Kouvola processed a total of **1,204,948 visa applications**. This represents a decrease of 23% from the previous year. A press release by the Ministry for Foreign Affairs states that the decrease in the number of visa applications was affected by unfavourable economic development in Russia, particularly the decline in the number of tourists following the depreciation of the rouble. Over 90% of all visa applications were still received in Russia. Altogether 99% of all visa decisions were positive.

The number of visa applications grew steadily until 2013. The milestone of one million applications per year was passed in 2010 and the current all-time high of over 1.56 million applications was recorded in 2013.<sup>73</sup>

The European Commission submitted a **proposal for the new Visa Code** in April 2014.<sup>74</sup> The new Visa Code is intended to shorten and simplify the visa application process for persons seeking legal entry into

the Schengen area, without compromising on border management. The proposal is currently being processed at the Council's Visa Working Party.

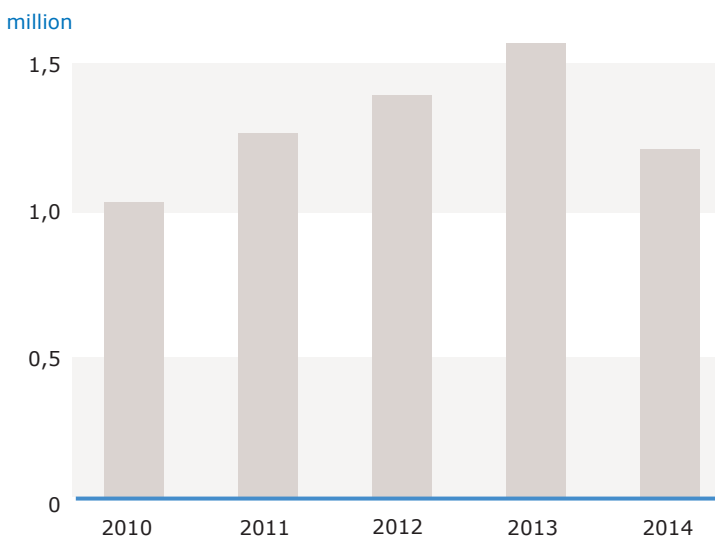
The **new national visa guidelines** of the Finnish Ministry for Foreign Affairs entered into force on 1 March 2014 and replaced previous visa processing guidelines. Particularly, the instructions on granting visas for family members of Finnish citizens were defined more clearly in the new guidelines. There were no amendments to visa legislation in 2014.

The VIS Visa Information System was implemented in 2011. Biometric data—fingerprints and a digital facial photograph—on visa applicants is entered in the VIS system. The system has made the identification of visa holders and the prevention of identity theft easier. It also allows the Schengen countries to quickly and efficiently exchange information on short-term visas. The system was first introduced at diplomatic missions in North Africa. It has since been expanded to the Middle East, the Persian Gulf area, South America, Central Asia and Southeast Asia. In May 2014, the **use of the VIS was expanded to diplomatic missions in North America** (Mexico City, Los Angeles, New York City, Washington and Ottawa) and in September, to **Southeast Europe** (Pristina, Belgrade and Ankara).

In 2014, seven **visa service centres** were set up in Russia in the following locations: Ufa, Irkutsk, Vyborg, Veliky Novgorod, Vologda, Pskov and Kaliningrad. Finland has altogether 22 visa service centres in Russia.

In November 2014, **visa services were outsourced** in Bangkok. At the end of 2014, visa outsourcing was used in three countries (Russia, Ukraine, Thailand).

### Visa applications processed, 2010–2014



### THE SCHENGEN AREA

The Aliens Act and certain related laws were amended **to better correspond with the Schengen Borders Code**. The legislative changes entered into force on 1 January 2014.<sup>75</sup> The key amendments were clarifications to the Aliens Act provisions concerning the conditions on entry and removal to more clearly indicate when to apply the Schengen Borders Code and when to apply the Aliens Act. The Aliens Act was also amended to include the concept of refusal of entry, which is a procedure defined in the

<sup>73</sup> Ministry for Foreign Affairs, press release 9/2015, 14 January 2015, The number of visas processed in 2014 decreased by 23 per cent compared to the previous year

<sup>74</sup> Proposal for a Regulation of the European Parliament and of the Council on the Union Code on Visas (Visa Code) (recast), Brussels, 1 April 2014, COM (2014) 164 final

<sup>75</sup> Government Bill HE 134/2013 vp

Schengen Borders Code for the prevention of entry at an external border. In conjunction with the legislative amendments, the Ombudsman for Minorities was assigned the task of supervising the enforcement of removal.<sup>76</sup>

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<sup>76</sup> See Section 9, Return



### 3.8. Administrative changes

The Ministry of the Interior prepared a legislative amendment concerning **alternative methods of receiving residence permit applications**. The reform would make it possible to submit a residence permit application abroad to an external service provider or to the diplomatic mission of another Schengen State. The objective of the Bill drafted in the Ministry of the Interior is to provide for alternatives to the existing system and to allow the implementation of cooperative models in both receiving residence permit applications and serving related decisions. Similar cooperative models are already used with regard to visa applications. The proposed amendments are aimed at securing the operating capacity of Finnish diplomatic missions abroad and maintaining an effective level of service for residence permit applicants. The Government Bill was submitted to the Parliament on 4 December 2014. The Parliament approved the Government Bill on 12 March 2015. The legislative amendments are pending the President's approval (as of 19 March 2015).<sup>77</sup>

Finland is **considering the transfer of certain duties related to residence permits and citizenship matters from the Police to the Finnish Immigration Service**. The current principle in residence permit matters is that first residence permits are issued by the Finnish Immigration Service, and new fixed-term residence permits (permit extensions) and permanent residence permits are issued by the Police. In addition, the Police would issue a residence permit to a Finnish citizen's family member who is in Finland and their child, as well as a family member and child of an EU citizen living in Finland who has registered his or her residence. The Police also carry out the registration of EU citizens. The role of the Police is already very small in citizenship matters: the Police only receive and check applications, verify the applicant's identity, and collect the service fee. The Finnish Immigration Service carries out all of the necessary register checks and the process of deciding on applications. In June 2013, the Ministry of the Interior's Police Department and Migration Department gave an assignment to the National Police Board and the Finnish Immigration Service to study the transfer of duties related to residence permits and citizenship matters from the Police to the Finnish Immigration Service.<sup>78</sup> The working group set to assess the matter submitted its estimate memorandum in August

2014. According to the conclusions, the transfer of authority would lead to savings in resources. Savings could be achieved through the development and automation of processes, procedures and information systems, which is not dependent on the division of jurisdiction between the Police and the Finnish Immigration Service as such, but the implementation of which is easier if the process as a whole is owned by a single party, which also sets the objectives for the process and makes decisions pertaining to it. In February 2015, the Ministry of the Interior set a project to prepare a proposal on the transfer of tasks. The tasks that would be transferred to the Finnish Immigration Service would likely include issuing residence permit extensions and permanent residence permits, the registration of EU citizens, the receiving of citizenship applications, and the issuing of alien's passports and refugee travel documents.<sup>79</sup> A similar assessment is being carried out regarding the division of authority in asylum matters (see Section 4. International Protection including Asylum).

<sup>77</sup> Government Bill HE 295/2014 vp

<sup>78</sup> National Police Board, National Police Board Publication series 5/2014, Arviomuistio ulkomaalaisasioiden siirrosta, Kuopio, 2014

<sup>79</sup> Ministry of the Interior, Press release 6 February 2015: Ulkomaalaisten oleskeluun liittyvät lupa-asiat siirtymässä poliisilta Maahanmuuttovirastolle



## 4. International Protection including Asylum

### 4.1. Asylum Seekers and Decisions

A total of 3,651 people applied for asylum in Finland in 2014. The number of applicants increased slightly from the previous year. However, the number of asylum seekers in Finland is low compared to other EU Member States. In 2014, the total number

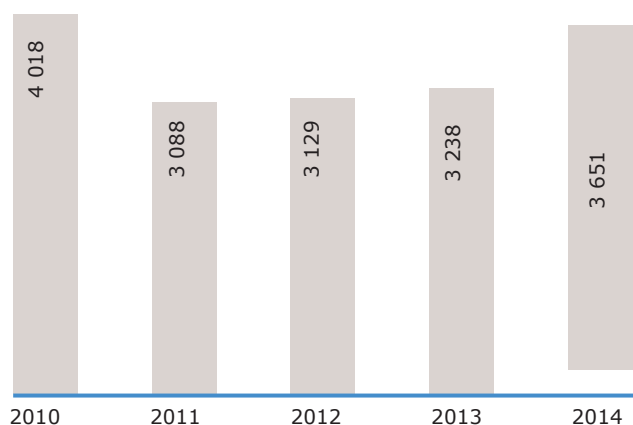
of asylum seekers in the EU, Norway and Switzerland was 650,000.<sup>80</sup> This represents a 40% increase from the previous year. As such, the approximately 13% increase in asylum seekers in Finland is very moderate compared to the situation in many EU Member States.

The top countries of origin among asylum seekers in 2014 were largely the same as in previous years. Iraq, Somalia, Afghanistan and the Russian Federation, which have been in the top 5 of countries of origin since 2007, were still in the top five. **A new entrant in the top countries of origin was Ukraine**, with 302 asylum seekers entering Finland.

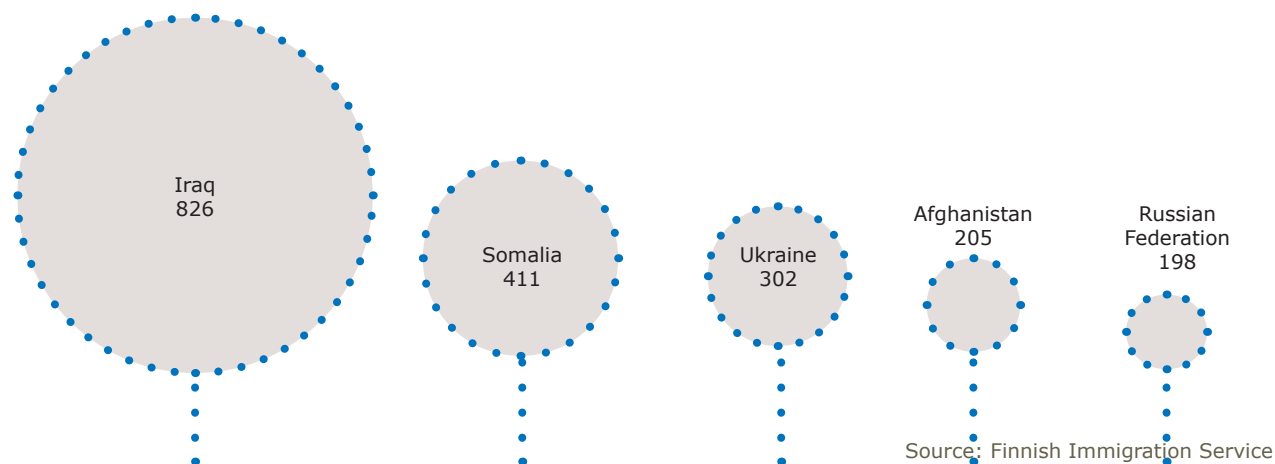
The clearly **largest age group was young adults**: more than half of the asylum seekers who entered Finland were aged 18–34 years. Approximately a quarter of all asylum seekers were minors. The majority of the minors who entered Finland were accompanied by their families.<sup>81</sup> Some 70% of asylum seekers were male and approximately 30% were female.

**A total of 3,706 decisions on asylum applications were made.** International protection was granted to 993 persons, of whom 501 were granted asylum and the rest were granted other protection (humanitarian protection or subsidiary protection). In addition, 553 asylum seekers were issued a residence permit on grounds other than international protection.<sup>82</sup> **A total of 1,346 positive residence permit decisions were made concerning asylum**

#### Asylum seekers 2010–2014



#### Asylum applications by nationality, Top 5 groups in 2014



<sup>80</sup> European Asylum Support Office, EASO, Newsletter – January 2015

<sup>81</sup> For more information on unaccompanied minors, see Section 5

<sup>82</sup> For example due to removal not being possible, on compassionate grounds, or due to employment or family ties

**seekers, which represents 36% of all decisions made.** The number of negative decisions was 2,050 (55%) and a total of 310 applications expired (8%). The figure for negative decisions includes decisions in which the application was not decided on in substance, with the applicant instead refused entry and returned, for example, to another EU Member State that applies the EC Regulation on determining the Member State responsible for examining an asylum application (Dublin decisions). Dublin decisions accounted for 42% of all negative decisions.

The share of positive decisions of the total number of decisions was slightly lower than in the previous years: for example, in 2013, positive residence permit decisions accounted for 45% of all decisions made. The difference in the relative proportions of positive and negative decisions is attributable to a new group of applicants, Ukrainians, who entered Finland in significantly greater numbers than in previous years, and the decisions concerning whom were primarily negative. The Finnish Immigration Service determined that people from the crisis areas of Ukraine are entitled to humanitarian protection. However, in spite of the increasingly tense situation in the country, there are still safe areas in Ukraine, and as such, it was determined that seeking protection within the country (internal protection) is generally possible. However, the possibility of internal protection must be considered on a case-by-case basis on individual grounds. Accordingly, the de facto possibility of return was assessed separately for each applicant according to his or her individual situation.<sup>83</sup>

## DEVELOPMENT MEASURES

**The recast Qualification Directive<sup>84</sup> was implemented** in Finland by an amendment to the Aliens Act that entered into force on 1 July 2014. The majority of the changes to the Directive did not require amendments to the Finnish legislation. However, it was necessary to clarify the provisions in the Aliens Act concerning the reasons for persecution, offering protection, the possibility of internal protection and the withdrawal of refugee status and subsidiary protection status. In addition, the legislative amendment strengthened efforts to reconnect unaccompanied minors with their parents or guardians residing outside Finland.

In 2014, the Ministry of the Interior also prepared legislative amendments for the **implementation of**

**the recast Asylum Procedures Directive<sup>85</sup> and Reception Conditions Directive<sup>86</sup>.** The legislative amendments concerned the Aliens Act and the Act on the Reception of Persons Applying for International Protection. The basic characteristics of the Finnish asylum and reception system were already in line with the requirements stipulated by the directives to begin with. Nevertheless, amendments were made to the Aliens Act to improve the clarity and transparency of the asylum system and promote the equal treatment of applicants for international protection.

The processing of subsequent applications and the procedures pertaining to non-refoulement, in particular, were clarified by the amendments. The amendments to the Act on the Reception of Persons Applying for International Protection specified the assessment of the special needs of vulnerable persons, the accommodation of persons seeking international protection, and the provisions concerning the representative of an unaccompanied minor. The amendments to the Aliens Act were confirmed on 6 March 2015 and the amendments to the Act on the Reception of Persons Applying for International Protection were confirmed on 6 February 2015. Both of the legislative amendments will enter into force on 1 July 2015.

**The new Dublin III Regulation<sup>87</sup>** became applicable on 1 January 2014. The new Regulation required changes, for instance, to information exchange related to the identification of family members, siblings and relatives of unaccompanied minors as well as to the assessment of the child's best interests. Related to this, the Finnish Immigration Service launched the ERF-funded **Dublin Information Exchange Centre** project. In the project, a National Contact Point (Dublin Information Exchange Centre) was established in the Dublin Section of the Finnish Immigration Service. The obligations of information exchange related to the Dublin III Regulation were organised into a centralised process for which the National Contact Point is responsible. Preliminary standardised operating models were created for the identification of family ties, information exchange and the assessment of the child's best interests or dependence relationship as well as for national acquisition of related information. The processes will be fine-tuned on the basis of practical experiences and exchange of best practices. In addition, in 2015, the Commission is likely to pass a delegated act related to the information exchange procedures. The act will be

<sup>83</sup> Helsingin Sanomat, 29 December 2014: Sadat ukrainalaiset hakeneet turvapaikkaa Suomesta

<sup>84</sup> 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). Implemented in Finland by a legislative amendment, Government Bill HE 9/2014 vp.

<sup>85</sup> 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). Implemented in Finland by a legislative amendment, Government Bill HE 218/2014 vp.

<sup>86</sup> Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast). Implemented in Finland by a legislative amendment, Government Bill HE 171/2014 vp.

<sup>87</sup> EC Regulation on determining the Member State responsible (for examining an asylum application) 604/2013, referred to as the Dublin III Regulation

taken into account once it is passed. Since 2014, the above-mentioned National Contact Point has also been responsible for the standardised information exchange with other Member States related to the transfer procedures, whereas previously the entire transfer procedure with related notifications was conducted by the Police.

The new Regulation also requires the Member States to decree at the national level on the possibility of **suspending the enforcement of a transfer decision**. According to the Regulation, the person in question shall be able to request, within a reasonable period of time, the court to suspend the enforcement until the result of the appeal or re-hearing is known. Since 1 January 2014, a seven-day time limit for requesting the suspension has been applied in practice. After the seven-day time limit, the transfer decision can be enforced, provided that no injunction against the enforcement has been petitioned for and there are no other impediments to the enforcement. A corresponding requirement to allow an applicant to remain in a Member State to wait for a decision on an application for an injunction against or postponement of the enforcement of a transfer decision is also included in the recast Asylum Procedures Directive. Accordingly, the legislative amendment to implement the recast Asylum Procedures Directive stipulates a seven-day time limit for applying for an injunction against or postponement of enforcement in situations in which the removal decision is enforceable before the court has ruled on the appeal on the matter.<sup>88</sup> The legislative provision applies to both transfers to other Member States applying the Regulation (Dublin returns) and other decisions on the refusal of entry related to the dismissal of applications and the application of an accelerated procedure. The amendments further stipulate that decisions on the refusal of entry are not enforced before the application on the prevention or postponement of enforcement has been decided on. The decision must be made within seven days. The legislative amendment will enter into force on 1 July 2015.

The new Regulation also requires a **personal interview** to be conducted in order to determine the Member State responsible. In Finland, a personal interview has in practice been conducted at the same time as the Police or the border control authority has established the applicant's identity, itinerary and entry into the country. This practice was confirmed by the aforementioned legislative amendment.

**The new Eurodac Regulation 603/2013 will be applied as of 20 July 2015.** In the summer of 2014, the Finnish Immigration Service started the preparations for the application of the Regulation.

The term of the **project aimed at improving the effectiveness of the administration of immigration affairs** ended at the turn of the year. The term of the project set by the Ministry of the Interior was 1 December 2011 – 31 December 2014. The project was based on the Government Programme, as expediting the processing of asylum applications is one of the key objectives stated by the Government Programme in the area of migration. The project investigated opportunities for improving the effectiveness of decision-making on asylum applications. The quality of asylum decisions was also a point of focus in the project. With the conclusion of the project, the 2014 annual report is also the project's final report. The development measures have enabled a reduction in the average overall processing time of asylum applications in 2011–2014 of 93 days: from 263 days to 170 days. The report summarises the results by stating that the Finnish Immigration Service has expedited its asylum procedure, the asylum investigation process by the Police operates in an established manner, multi-party cooperation between the authorities has improved, appeal processes have been speeded up, the reception system has been adapted, and the transfer of the persons concerned to municipalities has been expedited.<sup>89</sup>

Particular attention was paid to not only expediting the process, but also the quality of asylum decisions. As part of the measures to improve effectiveness, the Finnish Immigration Service developed the decision analysis process in asylum decisions and restructured decisions. A consistent decision analysis process and decision structure make the work of individual decision-makers faster and easier, while also ensuring that the quality of decisions is consistent. Those involved in making asylum decisions were also provided training on various topics, particularly based on the training modules developed by the European Asylum Support Office (EASO). As asylum interviews are an integral part of the investigation of asylum applications, the employees concerned were also provided training on interviewing.

The project aimed at improving the effectiveness of the administration of immigration affairs particularly focused on improving cooperation between the authorities. The Finnish Immigration Service set a

<sup>88</sup> Government Bill HE 218/2014 vp

<sup>89</sup> Ministry of the Interior, Maahanmuuttohallinnon tuloksellisuuden parantaminen vuonna 2014, Ministry of the Interior publication 9/2015

**permanent cooperation group for operative cooperation**, which began its operations at the beginning of 2014. The cooperation group includes representation from the Finnish Immigration Service, the Police, the National Police Board, the Finnish Border Guard and reception centres. The purpose of the cooperation group is to plan, coordinate and implement practical cooperation related to asylum procedures. The aim is to speed up the asylum process and thereby achieve savings in reception costs.<sup>90</sup>

On 17 September 2014, the Ministry of the Interior made a decision to launch preliminary preparation with regard to **general legal counselling provided to applicants of international protection**. Pursuant to Section 95a of the Aliens Act, persons applying for international protection are informed of asylum procedures and of their rights and responsibilities throughout the process. The police or border control authorities shall provide such information to the applicant upon receipt of the application. This information may also be provided by the Finnish Immigration Service or the reception centre as soon as possible after the application has been submitted. The preliminary preparation looks into whether there is a need for more specific legal provisions to govern general legal counselling provided to applicants of international protection. Alternative methods for arranging legal counselling are investigated as well.

### **SUPREME ADMINISTRATIVE COURT YEARBOOK DECISIONS ON ASYLUM MATTERS**

KHO:2014:23 (7 February 2014)

The case involved the question of **whether other grounds for a residence permit (a residence permit for an employed person) should be decided on, in the absence of a separate application**, in conjunction with an asylum application. Pursuant to Section 94(3) of the Aliens Act, granting the right of residence is also investigated and decided on other emerging grounds in conjunction with the asylum procedure. According to the preamble of the Act (Government Bill HE 28/2003 vp) these emerging grounds particularly refer to grounds for a residence permit related to international protection. Medical reasons and other factors that have a material impact on the assessment of removal should also be investigated. The Finnish Immigration Service had decided not to investigate an asylum seeker's

grounds for a residence permit for an employed person in conjunction with the asylum procedure and urged the applicant to file a separate application for a residence permit for an employed person. The Administrative Court had overturned the Finnish Immigration Service's decision, finding that the Finnish Immigration Service should have investigated the employment-related grounds for a residence permit in conjunction with the asylum application pursuant to Section 94(3) of the Aliens Act. Unlike the Administrative Court, the Supreme Administrative Court found that the grounds for an employed person's residence permit was not intended to be decided in conjunction with the asylum procedure. The case did not involve grounds for a residence permit related to a decision in an asylum case as referred to in Section 95(3) of the Aliens Act. The court deemed it appropriate that the Finnish Immigration Service had required the submission of a separate residence permit application on **the grounds of employment and dismissed the residence permit case in question as part of the asylum procedure**. Decisions involving the rejection of an application for international protection must also include a decision on the removal of the asylum seeker. The employment relationship that was formed while the asylum application was pending was not a factor that would have a material impact on the overall consideration of refusal of entry. The Supreme Administrative Court overturned the Administrative Court's decision, stating that the Finnish Immigration Service's original decision should not be overturned.

KHO:2014:24 (7 February 2014)

The case involved a similar consideration as the previous decision KHO:2014:23 of **whether other grounds for a residence permit should be decided in conjunction with an asylum application**. Unlike the previous decision, which concerned a residence permit for an employed person, this decision concerned a residence permit issued on the grounds of family ties. The Finnish Immigration Service had decided not to investigate an asylum seeker's grounds for a residence permit on the basis of family ties in conjunction with the asylum procedure and urged the applicant to file a separate application for a residence permit on the basis of family ties. The Administrative Court had overturned the Finnish Immigration Service's decision, finding that the Finnish Immigration Service should have investigated the grounds for a residence permit on the basis of

<sup>90</sup> Op. cit. Ministry of the Interior: Maahanmuuttohallinnon tuloksellisuuden parantaminen vuonna 2014

family ties in conjunction with the asylum application. Unlike the Administrative Court, the Supreme Administrative Court found that **the grounds for a residence permit on the basis of family ties were not intended to be decided on in conjunction with the asylum procedure.** Instead, the Aliens Act stipulates that a residence permit on the basis of family ties should be applied for by a separate residence permit application, with which the applicant can provide the evidence necessary to decide on the application. To better assess the family ties, the Finnish Immigration Service could instruct the asylum seeker to file a separate residence permit application on the basis of family ties. Decisions involving the **rejection of an application for international protection must nevertheless also include a decision on the removal of the asylum seeker.** Factors such as the best interest of a child, the protection of family life and the alien's ties to Finland are factors that are involved in the overall consideration of removal, which should be taken into account in the decision on removal. The person in question had subsequently filed a separate residence permit application on the grounds of family ties. As such, and because the Finnish Immigration Service had not assessed the significance of the family ties in the overall consideration of refusal of entry, there were no grounds in the case to overturn the outcome of the Administrative Court's decision. The matter was returned to the Finnish Immigration Service for a new decision.

KHO:2014:35 (18 February 2014)

The matter concerned **the application of an exclusion clause in the case of a foreign national suspected of committing an aggravated crime. In particular, the case concerned the question of how strong a suspicion must be for the exclusion clause to apply.** Pursuant to Section 88a(2)(2) of the Aliens Act, an alien is not issued with a residence permit on the basis of subsidiary protection if there are reasonable grounds to suspect that he or she has committed an aggravated crime. The Finnish Immigration Service had considered that the person in question, originally from southern Somalia, was in need of subsidiary protection due to the general security situation in the person's home country. However, the Finnish Immigration Service had applied the exclusion clause pursuant to Section 88(2)(2) of the Aliens Act and decided not to grant subsidiary protection status because the person in

question was suspected of having committed an aggravated crime in Finland. The premise on which the exclusion clause had been applied was the expression used in the Aliens Act provision in question, "reasonable grounds to suspect". This was considered to refer to evidence that does not require a criminal sentence, but exceeds the level of a mere assumption. The provision contained in the Aliens Act also requires a stronger suspicion than the Criminal Investigations Act, according to which a criminal investigation must be initiated when there is "reason to suspect" that a crime has been committed. In considering whether the requirement of "reasonable grounds to suspect" is met in a particular case in the preliminary investigation stage, or whether the requirement would be for the case to at least be transferred from the Police to the consideration of charges, the factors to take into account include the individual circumstances of the case, such as the nature of the suspected crime and the danger it causes to public order and security. The person in question appealed the Finnish Immigration Service's decision to the Administrative Court, which dismissed the appeal. The person in question then appealed to the Supreme Administrative Court. The Supreme Administrative Court dismissed the appeal. The expression used in the exclusion clause is "reasonable grounds to suspect". The Supreme Administrative Court stated that the threshold for applying the clause is not that the person in question must have been sentenced for an aggravated crime, or guilty of an aggravated crime, or even prosecuted for one. As such, the threshold for applying the clause has intentionally been set lower than these situations. The Supreme Administrative Court found that **while the authorities initiating a preliminary investigation does not, as such, mean that the threshold for applying the exclusion clause is exceeded, the Finnish Immigration Service had reasonable grounds to suspect, under the specific circumstances of the case, that the person in question had committed an aggravated crime in Finland.** As such, applying the exclusion clause in the case of the person in question was deemed appropriate in line with the Finnish Immigration Service's original decision.

KHO:2014:114 (26 June 2014)

The case concerned **the significance of language analysis in a situation in which a person is considered to be from a place other than that indicated by the person, and the person's status of**



**protection in Finland being withdrawn on these grounds.** The Finnish Immigration Service had withdrawn the subsidiary protection status and residence permit granted to a Somali national and ordered that the person be deported to Somalia (Somaliland). The reason for withdrawing the protection status and deporting the person was the result of a language analysis, according to which the person in question was actually from Somaliland, and not from southern Somalia as the person had indicated. As such, the person in question did not require subsidiary protection. The Administrative Court had dismissed the appeal filed concerning the Finnish Immigration Service's decision. The person in question then appealed to the Supreme Administrative Court. The Supreme Administrative Court found that, in this case, there were reasonable grounds to believe that the person in question was from Somaliland rather than southern Somalia. According to the Supreme Administrative Court's decision, the factors in the matter included the result of a language analysis, the person's lack of familiarity with the person's supposed home region, and conflicting statements regarding where the person in question had lived. As such, the person in question was considered to have knowingly provided false information that had influenced the outcome of the decision. As there were no grounds in the case to grant the person international protection in relation to Somaliland, the subsidiary protection status granted to the person could be withdrawn and the person could be ordered to be deported to the person's home country.

KHO:2014:117 (30 June 2014)

The case concerned the **return of the person in question to a country whose citizenship the person could obtain should the person want to pursue it, but the person does not identify him/herself as a citizen of that state.** The Finnish Immigration Service had refused the application for international protection and a residence permit filed by an applicant of unknown nationality and decided to return the person to Morocco. The applicant was born in the West Sahara region, but had lived in a refugee camp in Algeria for almost all of the applicant's life. The Administrative Court had dismissed the appeal filed concerning the Finnish Immigration Service's decision. The Supreme Administrative Court dismissed the application for leave to appeal with regard to international protection, but granted leave to appeal with respect to the case concerning the issuing of a residen-

ce permit on compassionate grounds. The person in question was not a citizen of any country. According to the person's statements, the person had never set foot in Morocco, which occupies West Sahara, and had never had any dealings with the Moroccan authorities. The Supreme Administrative Court found that forcing the person in question to go to Morocco, a country the person has no ties to, and no desire to form any ties, would not be in line with the principles concerning the protection of human rights. The fact that the person in question could be granted Moroccan citizenship did not necessarily mean that the person could be required to accept it. Forcing a person to take the citizenship of a given country against his or her will could be construed as an infringement against a person's right to privacy, and it would be contrary to Section 22 of the Constitution of Finland, which states that the public authorities shall guarantee the observance of basic rights and liberties and human rights. The Supreme Administrative Court overturned the decisions of the Finnish Immigration Service and the Administrative Court and the matter was returned to the Finnish Immigration Service for re-processing.

KHO:2014:131 (25 August 2014)

The case concerned **the application of the exclusion clause in a situation in which participation in crimes against humanity occurred while acting in official duties or undercover work.** The Finnish Immigration Service had found that the person in question, an Afghan national, was in need of asylum. Pursuant to Section 87(2)(1,3) of the Aliens Act, however, an alien is not granted asylum if he or she has committed, or there are reasonable grounds to suspect that he or she has committed, a crime against peace, war crime or crime against humanity. The Finnish Immigration Service had applied this exclusion clause in the case of the person in question and found that he could not be granted asylum due to having been guilty of an aggravated non-political crime in his home country. The Administrative Court had dismissed the appeal filed concerning the Finnish Immigration Service's decision. The Supreme Administrative Court found that, in assessing the responsibility of the person in question, it was necessary to consider that he worked as a spy for the Afghan security service and that such activities should be assessed in light of the exclusion clause concerning crimes against humanity. In performing his duties, the person in question had infiltrated terrorist forces, received training on weapons and terrorism, and served

as the commander of a terrorist unit. The Supreme Administrative Court found that **in assessing the conditions for applying the exclusion clause it was not significant that participation in crimes against humanity was involuntary due to the person acting in official or undercover duties.** In the case, there were reasonable grounds for suspecting that the person in question had committed a crime against humanity. The decisions by the Finnish Immigration Service and the Administrative Court were not overturned.

KHO:2014:152 (20 October 2014)

The case concerned **the necessity of hearing the person in question in a situation in which an administrative court applies new country information in its decision.** The Finnish Immigration Service had refused Russian citizens' applications for international protection and residence permits and ordered them to be returned to their country of origin. The Administrative Court had dismissed the appeal filed by the persons in question concerning the Finnish Immigration Service's decision. The Administrative Court had not given the appellant the requested opportunity to make a statement regarding the country information that the Administrative Court applied in the justification for its decision. The Supreme Administrative Court found that, pursuant to Section 34(1) of the Administrative Judicial Procedure Act, the person in question should in general be reserved an opportunity to comment on evidence that may affect the resolution of the matter. However, in assessing the necessity of hearing the person in question on the country information used by the Administrative Court, it was relevant whether the country information obtained by the Administrative Court concerned this individual appellant directly. Secondly, it was necessary to consider **to what extent the grounds for the appeal were related to the reliability of the country information used, and whether the country information was similar in content to the report presented by the Finnish Immigration Service regarding the matter. The similarity of the content of the information obtained was the relevant aspect in the appellants' situation.** As such, it was not considered an error of procedure that the Administrative Court had not reserved the appellants the opportunity to comment on the country information used in the justification of its decision. The Supreme Administrative Court dismissed the appeal.

## OTHER CASE LAW PERTAINING TO ASYLUM MATTERS

HeHaO 06315/13/3106 (4 July 2014)

The Administrative Court of Helsinki gave a ruling in a case related to **returning an unaccompanied minor asylum seeker to the State responsible for examining the application** (Dublin procedure). In its decision, the Finnish Immigration Service had considered that **the best interests of the child did not require that the applicant could re-access the asylum procedure in another State in a situation where a minor's application had already been examined in one State and refused with regard to factual content, as referred to in the Dublin Regulation.** The Administrative Court dismissed the appeal filed concerning the Finnish Immigration Service's decision. After this, the Finnish Immigration Service has adhered to the same practice in other similar cases (two cases by the end of 2014). A proposed amendment reflecting the Judgment of the Court of Justice of the European Union C-648/11, related to Article 8, Paragraph 4 of the Regulation, is currently being discussed in the Council's asylum working group.

## 4.2. Quota refugees

Under the refugee quota, Finland accepts persons whom the United Nations High Commissioner for Refugees (UNHCR) has designated as refugees or other foreign nationals who are in need of international protection. The UNHCR designates for resettlement persons who have left their home country or country of permanent residence for another country, in which they are unable to settle and reside on a permanent basis. The Finnish policy on quota refugees particularly emphasises the resettlement of vulnerable groups. One tenth of the annual quota is reserved for the reception of refugees categorised as emergencies, in which case reception decisions are made based on documentation in an expedited procedure.

In Finland, the Parliament decides annually, in conjunction with approving the state budget, the number of quota refugees Finland commits to receiving. Since 2001, the number of quota refugees accepted in Finland has been 750 persons per year. In 2014, an additional quota of 300 people was agreed on due to the crisis in Syria. The total quota in 2014 was therefore 1,050 people. The quota was filled almost completely: in 2014, **1,030 quota refugees were selected in Finland**. In reality, however, the 2014 quota would see the entry into Finland of a larger number of refugees than the 1,030 selected, as some of the selected refugees have children born into their families before entering Finland. This meant that the quota of 1,050 persons was almost fully met.

The placement of quota refugees in municipalities has been a problematic aspect of their reception in recent years. Municipalities decide on the reception of refugees, and places in municipalities may not be easily found for all of the selected quota refugees. The outcome may be that a quota refugee who has already been selected for admission to Finland has to wait in the country they reside in at the time for a period of several months, or even a few years. **However, all of the Syrian refugees selected in the 2014 quota were quickly found places in municipalities.** The war in Syria has received substantial media coverage. The public awareness of the distress among this group is likely to have made municipalities more eager to receive Syrian quota refugees in particular.<sup>91</sup> Places in municipalities were, however, also arranged for other groups, some of which had

waited for a place for as long as a couple of years. One factor in finding places for refugees in municipalities in 2014 was the Ministry of Employment and the Economy's *Sylvia* project aimed to promote the placement in municipalities of quota refugees and other recipients of international protection.

The Ministry of Employment and the Economy's **Sylvia project supported municipalities in 2014 in the placement of quota refugees and other recipients of international protection in municipalities.** The term of the project is 1 December 2013 – 31 May 2015 and it is fully financed by the European Refugee Fund. In the project, municipalities have been paid financial incentives, training has been organised for municipal employees who work in the field of reception and integration, awareness of refugee-related matters has been improved by communications, and the reception of quota refugees categorised as emergencies has been developed. These efforts have resulted in an increase in places for refugees in municipalities compared to the previous years. In 2014, approximately 20 new municipalities either signed an agreement on the reception of refugees or municipalities that had previously received refugees raised their quota by 20 persons or more. An agreement on a place in a municipality was reached for 1,167 quota refugees in 2014. There are now approximately 80 municipalities receiving quota refugees in Finland.

In December 2014, it was decided that the refugee quota for 2015 would again be 750 persons. After the Parliament decided on the size of the quota, the Ministry of the Interior made a quota allocation decision based on a proposal by the UNHCR. On 15 December 2014, the Ministry of the Interior announced that Finland will continue to receive Syrian refugees.<sup>92</sup> The refugee quota for 2015 consists of 350 Syrian refugees, 150 Congolese refugees from southern Africa and 150 Afghan refugees from Iran. In addition, Finland will prepare to receive 100 refugees categorised as emergencies. In February 2015, the Government submitted a supplementary budget proposal to the Parliament. According to the proposal, **the quota would be increased by 300 persons in 2015.** This means the total quota for 2015 would be 1,050, the same as in 2014.<sup>93</sup>

**An Internet website was established for quota refugees in 2014** ([www.movingtofinland.fi](http://www.movingtofinland.fi)). Quota

<sup>91</sup> Turun Sanomat, 28 October 2014: Syyrialaispakolaisille kuntapaikka muita nopeammin

<sup>92</sup> Ministry of the Interior, press release 15 December 2014: Suomi jatkaa syyrialaispakolaisten vastaanottamista ensi vuoden pakolaiskiintiössä

<sup>93</sup> The Finnish Government, 9 February 2015: Vuoden 2015 lisätalousarvioesitys tukee kasvua, työllisyyttä ja investointeja



refugees selected for admission to Finland can obtain information on Finland from the website. The aim is to familiarise quota refugees selected for admission to Finland with the country before their arrival. The website also includes useful information for other migrants planning to move to Finland. The European Refugee Fund provided funding for the development of the website. The development of the website was a continuation of a quota refugee integration project launched in 2013.

## PUBLIC DIALOGUE ON QUOTA REFUGEES

The reception of quota refugees was a topic that was featured in the news quite prominently in 2014. Many **local newspapers published articles on quota refugees placed in their municipalities and their settling into a new town.**<sup>94</sup> The media coverage paid special attention to Syrian quota refugees. Newspapers also published articles on information events organised in municipalities to encourage them to receive quota refugees.<sup>95</sup>

The Finnish Refugee Council criticised the decision to scale back the refugee quota to the previous year's level before the proposal on the additional quota for 2015 was made.<sup>96</sup> As an alternative to increasing the quota, the Finnish Refugee Council proposed **other safe routes, such as the systematic issuing of visas on humanitarian grounds.**<sup>97</sup> Other organisations, such as the Finnish Red Cross, have made similar proposals earlier. The Ministry for Foreign Affairs estimates that Finland has issued a few visas on humanitarian grounds per year. The state authorities in Finland have decided that refugee policy is primarily implemented through quotas. Päivi Blinnikka, head of the Unit for Passports and Visas at the Ministry for Foreign Affairs, told Yle News that a visa on humanitarian grounds is not as simple a solution as the non-governmental organisations have suggested: merely granting a visa on humanitarian grounds is not a guarantee of anything. After a person enters Finland on a visa on humanitarian grounds and applies for asylum, the person's asylum application is considered and decided in the same manner as for all asylum seekers. Only then is it determined whether the person is granted asylum or issued a Finnish residence permit.<sup>98</sup>

<sup>94</sup> E.g. Hufvudstadsbladet, 21 December 2014: Från kriget till lugnet i Ruukki; Savon Sanomat, 18 December 2014: Lisää syyrialaispakolaisia Kuopioon

<sup>95</sup> Keski-Pohjanmaa, 23 October 2014: Vetelissä tiedotettiin pakolaisista, ELY-keskus yrittää löytää uusia kuntapaikkoja kiintiöpakolaisille

<sup>96</sup> Hufvudstadsbladet, 21 December 2014: "Omriligt att sänka kvoten nu"

<sup>97</sup> Kansan uutiset, 16 December 2014: Pakolaisten määrä kasvaa, Suomi auttaa vähemmän

<sup>98</sup> Yle News, 20 June 2014: Järjestö: Humanitaarisesta viisumista apua pakolaisille

### 4.3. Reception

The Finnish Immigration Service steers the operations of reception centres. **In 2014, there were approximately 3,041 people included in reception activities.** The reception system has been adjusted according to the number of applicants. In 2014, the number of reception places was decreased by 650 by reducing the accommodation capacity of reception centres and closing down entire units due to the downward trend in the utilisation rate of reception centres. However, in the second half of 2014, the number of new asylum seekers began to grow gradually, and the utilisation rates of reception centres approached 90%. The amount of vacant places in transit reception centres,<sup>99</sup> in particular, became too low. As a result, previously reduced accommodation capacity needed to be returned to reception use. The capacity of reception centres was increased by 270, of which 130 were transit places. The average utilisation rate of the reception centres in 2014 was 83%.<sup>100</sup>

Asylum seekers who enter Finland as unaccompanied minors are accommodated in separate units for minors. The number of unaccompanied minors has remained low in recent years, and **the reception system for minors has also been adjusted according to the number of applicants.** The number of reception places for minors was reduced by 63 in 2014. Reception activities for minors at the Punkalaidun reception centre were discontinued on 1 February 2014, and the Siuntio special unit for minors was closed down on 1 May 2014. In addition, group homes in Oulu and Espoo were scaled down by closing one seven-bed accommodation unit in each. The number of asylum seekers who are minors began to slowly grow towards the end of the year, and the utilisation rates of special units for minors began to approach 100%. Some group homes operated at overcapacity at times. As a result, an agreement was concluded with the Mänttä-Vilppula family group home on purchasing individual places for minors if the unit has vacant places. At the end of 2014, there were a total of 77 available places for minors, and two separately purchased places at the Mänttä-Vilppula family group home.<sup>101</sup>

### DEVELOPMENT MEASURES

The aim of the Ministry of Employment and the Economy's VIPRO II project, completed in summer 2014, was to develop cooperation between the authorities with regard to the reception of refugees. The European Refugee Fund provided funding for the project. Two reports were completed at the conclusion of the project. **The VERTTI working group's report concerned the relocation of recipients of international protection from reception centres to municipalities.** The Finnish Immigration Service is responsible for the steering of reception centres for asylum seekers. The placement in municipalities of persons who have been granted international protection, however, is the responsibility of the Ministry of Employment and the Economy and the Centres for Economic Development, Transport and the Environment. There are currently two operating models used for relocation to municipalities: under the model that has been prioritised thus far, the Centre for Economic Development, Transport and the Environment assigns a place in a municipality for a person who has been granted international protection. A person who has been granted international protection can also move independently from a reception centre to a municipality. In recent years, the number of places in municipalities allocated by Centres for Economic Development, Transport and the Environment has been insufficient.<sup>102</sup> Accordingly, the number of persons with international protection status who relocate to municipalities independently is currently higher than the number of persons placed in municipalities by Centres for Economic Development, Transport and the Environment: in 2014, a total of 1,267 persons relocated from reception centres to municipalities independently, and 317 were placed by Centres for Economic Development, Transport and the Environment.<sup>103</sup> In its report, the VERTTI working group proposed that independent relocation should be established as a parallel practice alongside relocation handled by Centres for Economic Development, Transport and the Environment. The working group also emphasised the importance of clarifying cooperation and contract practices between the authorities.

The Vipro II project's **ALTTI working group's report was focused on the reception process for asylum seekers entering the country as unaccompanied minors and how to develop it.**<sup>104</sup> The administration of the reception of minors is also di-

<sup>99</sup> Asylum seekers are initially accommodated in transit reception centres. After an asylum interview conducted by the Finnish Immigration Service, asylum seekers can be transferred from transit centres to other reception centres to wait for a decision on their asylum application.

<sup>100</sup> Op. cit. Ministry of the Interior: Maahanmuuttotahallinnon tuloksellisuuden parantaminen vuonna 2014

<sup>101</sup> Op. cit. Ministry of the Interior: Maahanmuuttotahallinnon tuloksellisuuden parantaminen vuonna 2014

<sup>102</sup> Ministry of Employment and the Economy: Kansainvälistä suojelua saavien muutto vastaanottokeskuksista kuntiin, Ministry of Employment and the Economy publications, Konserni 26/2014

<sup>103</sup> Op. cit. Ministry of the Interior: Maahanmuuttotahallinnon tuloksellisuuden parantaminen vuonna 2014

<sup>104</sup> Ministry of Employment and the Economy: Ilman huoltajaa tulleiden alaikäisten turvapaikanhakijoiden vastaanotto ja järjestelmän kehittämistarpeet, Ministry of Employment and the Economy publications, Konserni 29/2014

vided between two branches: the Finnish Immigration Service is responsible for reception during the asylum process, while the Ministry of Employment and the Economy is responsible for reception after a residence permit has been issued. The aim of the working group's recommendations is to harmonise operating methods between two administrative branches and to clarify and increase cooperation between the authorities to develop the reception system for unaccompanied minors.<sup>105</sup>

The employment and education activities of reception centres have been developed in cooperation with reception centres and non-governmental organisations in a project launched in autumn 2014. **The Finnish Immigration Service's Mielivok project has developed high-quality group information packages for use by reception centres** on themes that particularly support the health and well-being of asylum seekers and increase their awareness of Finnish society and law. The use of the group information packages will begin in 2015.

One strategic aim of reception activities has been to **change the operational concept of reception centres where applicants are accommodated for the duration of processing<sup>106</sup> from institutionalised activities to decentralised flat-based activities**. In the future, the only institution-style centres would be the early stage transit centres in Helsinki, Turku, Oulu and Lappeenranta. This change has been implemented in recent years by eliminating institution-style reception centres where applicants are accommodated for the duration of processing.<sup>107</sup>

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<sup>105</sup> More information on this topic is provided in Section 4.4. Reception

<sup>106</sup> Reception centres where applicants are accommodated for the duration of processing refer to centres in which asylum seekers wait for a decision on their asylum application after the asylum interview has been conducted.

<sup>107</sup> Op. cit. Ministry of the Interior: Maahanmuuttohallinnon tuloksellisuuden parantaminen vuonna 2014

## 4.4. Administrative changes

Finland **is considering increasingly centralising the asylum procedure to the Finnish Immigration Service.** At present, the early stages of the asylum process, meaning the receiving of the application and establishing the applicant's identity and travel route, is the responsibility of the Police or the Finnish Border Guard. In 2014, the Police received more than 90% of all asylum applications, while the Finnish Border Guard received approximately 10% of all applications.<sup>108</sup> The authority that receives the application is responsible for establishing the applicant's identity and travel route. After this early stage, the processing of the asylum application is transferred from the Police or the Finnish Border Guard to the Finnish Immigration Service, which is responsible for considering the conditions for granting asylum and deciding on the asylum application. The responsibility then shifts back to the Police, who notify the customer of the decision and, if necessary, enforce removal. The Ministry of the Interior's Police Department and Migration Department gave a joint assignment to the National Police Board and the Finnish Immigration Service in June 2013 to study whether the first phase of the asylum process as well as the serving of decisions on asylum could be transferred to the Finnish Immigration Service. The working group set to assess the matter submitted its estimate memorandum in August 2014.<sup>109</sup> According to the conclusions, the transfer of authority would lead to savings in resources. Currently, asylum and foreign-national permit matters do not have a clear process owner with overall responsibility. According to the conclusions, centralising asylum processes with a single party that also makes the decisions would shorten processing times and thereby reduce the amount of reception days, which are costly to society. According to the working group, transferring the early stage duties of asylum investigations from the Police and Finnish Border Guard to the Finnish Immigration Service is feasible. With regard to the serving of asylum decisions, however, the working group proposed that the authority would remain with the Police, as at present, because the serving of decisions is closely tied to removal decisions. In February 2015, the Ministry of the Interior set up a project to prepare a proposal on the transfer of tasks. The current plans would involve transferring some of the early stage duties in the asylum procedure from the Police and the Finn-

ish Border Guard to the Finnish Immigration Service. A similar assessment is being carried out regarding the division of authority in permit matters (see Section 3, Regular Migration).

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<sup>108</sup> Op. cit. Ministry of the Interior: Maahanmuuttohallinnon tuloksellisuuden parantaminen vuonna 2014

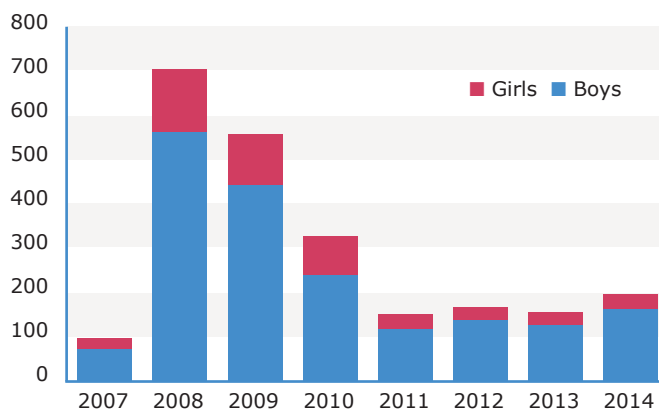
<sup>109</sup> Op. cit. National Police Board: Arviomuistio ulkomaalaisasioiden siirrosta

## 5. Unaccompanied Minors and Other Vulnerable Groups

### 5.1. Unaccompanied Minors

The number of asylum seekers who enter Finland as unaccompanied minors has declined to approximately its previous level after a sudden increase in 2008, when the number of minors surprisingly grew to 706, compared to 96 applicants in the previous year. Since 2011, the number of unaccompanied minors entering Finland has been slightly over 150 per year. In 2014, however, there was a slight increase in this number: **196 unaccompanied minors applied for asylum in Finland in 2014**. Of this number, 84% were boys and 16% were girls. The largest countries of origin were Somalia (48 minors) and Afghanistan (47 minors).

#### Unaccompanied minor asylum seekers 2007–2014



Source: Finnish Immigration Service

#### DEVELOPMENT MEASURES

The development measures implemented in 2014 with regard to asylum seekers who enter Finland as unaccompanied minors were largely the consequence of the **new Dublin Regulation**.<sup>110</sup>

In addition, an amendment to the Aliens Act that entered into force in July 2014 and concerns the implementation of the recast Qualification Directive led to

certain changes related to unaccompanied minors.<sup>111</sup> Pursuant to the Aliens Act, to realise the best interest of the child, the Finnish Immigration Service is required to trace an unaccompanied minor's parents or some other person responsible for the actual guardianship of the minor. The July 2014 legislative amendment further emphasised the aim of reconnecting unaccompanied minors with their parents or guardians residing outside Finland. The Aliens Act was amended with regard to the tracing of parents or de facto guardians. Whereas tracing was previously restricted to the asylum application stage, after the amendment, **tracing shall be continued even after the decision on international protection is made, if necessary**. The legislative amendment is not, however, expected to result in significant changes in practices. Even before the amendment, the tracing of parents or guardians was initiated for all unaccompanied minors in the asylum application stage in Finland, provided that this is considered to be in the best interest of the child and practically feasible. Furthermore, even after the amendment, tracing should not be continued for an unreasonably long time. Instead, the continuation of tracing should be considered based on whether reaching the unaccompanied minor's guardians is assessed to be possible in the first place. In general, **tracing in 2014 was complicated by the lack of a tracing partner** after the partner that Finland used previously gave up tracing activities in December 2013.

Completed in summer 2014, the **ALTTI report issued proposals for developing the reception process for asylum seekers who enter the country as unaccompanied minors** (the topic is discussed in Section 4.3. Reception). During the asylum process, minors are generally accommodated in reception centres for minors, i.e. group homes, which are managed by the Finnish Immigration Service. After being issued a residence permit, they are transferred to family group homes, the operations of which are the responsibility of the Ministry of Employment and the Economy. This division in administration presents challenges to the national coordination of special units for minors. When a child is issued a residence permit, he or she may have to relocate to a different municipality, as group homes and family group homes are located in different parts of Finland. The report's conclusions state that ensuring continuity in accommodation in the best inter-

<sup>110</sup> More information on this topic is provided in Section 4.1. Asylum Seekers and Decisions

<sup>111</sup> The legislative amendment is discussed in general in Section 4.1. Asylum Seekers and Decisions

est of the child requires that group homes, family group homes and reception centres are located close to each other.

Since 2011, the Ministry of the Interior has been preparing amendments to the legal provisions concerning the detention of foreign nationals.<sup>112</sup> Reviewing the legal provisions on detention are related to the Government Programme's stated objective of prohibiting the detention of unaccompanied minor asylum seekers and developing alternatives for detention. In 2014, the Ministry of the Interior drafted a Government Bill to the Parliament on the amendment of the Aliens Act and the Detention Act. According to the Government Bill submitted in September 2014, **the detention of an unaccompanied minor under the age of 15 years will be prohibited**, even in circumstances where there is an enforceable removal decision concerning the minor. The detention of older unaccompanied minors for the purpose of ensuring removal will be restricted, and the detention of minors on police premises will be prohibited.<sup>113</sup> The proposal to restrict the detention of minors was met with conflicting views in Parliament. The Greens, for example, indicated that the legislative proposal did not prohibit the detention of minors comprehensively enough because it allows the detention of minors over 15 years of age.<sup>114</sup> Nevertheless, the Government Bill was approved by Parliament in a vote held on 14 March 2015. A total of 162 Members of Parliament voted for the amendment and 23 voted against, with 14 abstaining from the vote.

When discussing the bill, the Government stated that **the goal is to subsequently remove the 15-year age limit set by the amendment, which would extend the prohibition of detention to all unaccompanied minors subject to removal**. In relation to this, the Ministry of the Interior produced a report on alternatives to detention based on an international comparison. The international comparison was largely based on the European Migration Network's focussed study completed in autumn 2014 entitled *The Use of Detention and Alternatives to Detention in the Context of Immigration Policies*.<sup>115</sup> The Ministry of the Interior's report presents four potential measures for developing interim measures: 1) improving the effectiveness of the use of existing interim measures and collecting better statistics on them, 2) cooperation with the child protection authorities, 3) obligations concerning reporting and place of residence, and 4) electronic sur-

veillance. The latter two would be new measures in Finland and require sufficient preparation. According to a media release published by Ministry of the Interior on 18 December 2014, the preparation of the matter will continue in line with the goals set by the Government.<sup>116</sup>

The NGO sector **was vocal in its criticism of the fact that the detention of minors was not prohibited completely by the legislative amendment**. The Finnish section of Amnesty International, for example, argued that the legislative proposal was inadequate. Frank Johansson, the Director of the Finnish section of Amnesty International, stated that the legislative proposal does not improve the legal protection of detainees and fails to fulfil the original promise of discontinuing the detention of minors.<sup>117</sup> The Government's statement of the goal of extending the prohibition of detention to cover all unaccompanied minors failed to dampen Amnesty's criticism: Johansson stated that the Government could have kept its promise and prohibited the detention of minors already in this legislative proposal.

<sup>112</sup> Ministry of the Interior, Migration Department, Appointment decision, 16 November 2011: Ulkomaalaisten säilöönottoa koskevien säännösten tarkistaminen

<sup>113</sup> HE 172/2014 vp

<sup>114</sup> Keskipohjanmaa (STT), 2 October 2014: Kiistaa alaikäisten turvapaikanhakijoiden säilöönotosta

<sup>115</sup> European Migration Network (EMN): The use of detention and alternatives to detention in the context of immigration policies, Synthesis Report for the EMN Focussed Study 2014

<sup>116</sup> Ministry of the Interior, media release, 18 December 2014: Selvitys kartoittaa säilöönoton vaihtoehtoja

<sup>117</sup> Amnesty International, 26 September 2014: Hallituksen lupaus yhä lunastamatta – lasten säilöönotto Suomessa jatkuu



## 5.2. Other Vulnerable Groups

A new **detention unit with capacity for 30 persons specialising in accommodating vulnerable groups** was established in connection with the Joutseno reception centre.<sup>118</sup> The new detention unit has a separate section for families and vulnerable groups. The detention of unaccompanied minors in particular has been criticised in Finland, but the detention of minors who apply for asylum with their families has also received criticism. Before the new detention unit was established in 2014, there was only one detention unit in Finland, namely the Metsälä detention unit in Helsinki. The Metsälä detention unit has been criticised for being unsuitable for families with children and other vulnerable groups.

**New non-discrimination legislation** was prepared in Finland. The Government submitted its proposal to the Parliament on 3 April 2014<sup>119</sup> and the new non-discrimination legislation entered into force at the beginning of 2015. The new legislation provides more extensive protection from discrimination. The Act applies to public activities as well as private activities. In addition to authorities, the duty to promote equality and non-discrimination will apply to training and education organisers, educational institutions and employers. The legal protection of persons who are discriminated against was also improved in practical ways. Previously, the opportunities of a victim of discrimination to obtain advice and legal aid varied depending on what was considered to be the reason for discrimination. There were also differences with regard to the monitoring activities of the authorities. Under the new legislation, protection from discrimination is equal regardless of whether discrimination is based on ethnic origin, age, nationality, language, religion, belief, opinion, health, disability, sexual orientation or other personal grounds. **The former Ombudsman for Minorities became the Ombudsman for Equal Treatment**, whose field of operation covers all grounds for discrimination with the exception of gender and sexual identity. The prohibition of gender discrimination and gender equality are still regulated by the Act on Equality.<sup>120</sup>

The position of the Ombudsman for Equal Treatment was transferred to the Ministry of Justice's branch of

administration.<sup>121</sup> The Advisory Board for Ethnic Relations (ETNO) was also transferred from the Ministry of the Interior to the Ministry of Justice on 1 January 2015.

<sup>118</sup> Ministry of the Interior, press release 26 September 2014: Ministeri Räsänen: Uusi säilönottoyksikkö vähentää tarvetta sijoittaa säilöön otettuja poliisin tiloihin

<sup>119</sup> Government Bill HE 19/2014 vp

<sup>120</sup> Ministry of Justice, press release 30 December 2014: Uusi yhdenvertaisuuslaki voimaan ensi vuoden alusta

<sup>121</sup> Ministry of the Interior, press release 29 December 2014: Vuodenvaihteen muutoksia sisäministeriön hallinnonalalla



## 6. Actions Addressing Trafficking in Human Beings

### INDICATIONS OF TRAFFICKING IN HUMAN BEINGS DETECTED IN ASYLUM AND RESIDENCE PERMIT PROCEDURES

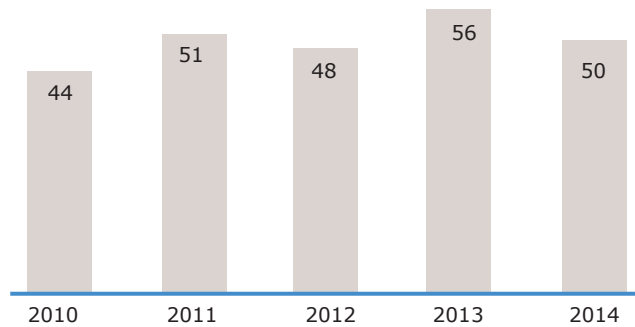
Indications of trafficking in human beings detected by the Finnish Immigration Service are typically detected when a person applies for asylum or a residence permit. In 2014, the Finnish Immigration Service detected signs of trafficking in human beings in the case of a total of 59 asylum seekers or residence permit applicants.<sup>122</sup> A victim of trafficking in human beings that is currently in Finland can, under certain conditions, be issued with a temporary residence permit on the grounds of being a victim of trafficking in human beings. In 2014, residence permits for a victim of trafficking in human beings were issued to 23 persons. In addition, 9 persons whose circumstances involved indications of trafficking in human beings were issued a residence permit on other grounds.

### NATIONAL ASSISTANCE SYSTEM FOR VICTIMS OF TRAFFICKING IN HUMAN BEINGS

The National Assistance System for Victims of Trafficking in Human Beings operates as part of the Joutseno reception centre. The Assistance System maintains statistics on persons who have sought inclusion in the system and who have been admitted to the system.<sup>123</sup> **On the last day of 2014, the National Assistance System for Victims of Trafficking in Human Beings included 85 people.** The number of new customers admitted to the Assistance System was 50 in 2014. The customers of the Assistance System represented a total of 29 different nationalities. The country with the highest representation in the system was Nigeria. The majority of the customers, at approximately three quarters, were women, and one quarter were men. The majority of the customers of the Assistance System were assessed to have been victims of sexual abuse (53% of the customers). Among the new customers that were included in the system in 2014, victimisation due to sexual abuse accounted for an even higher propor-

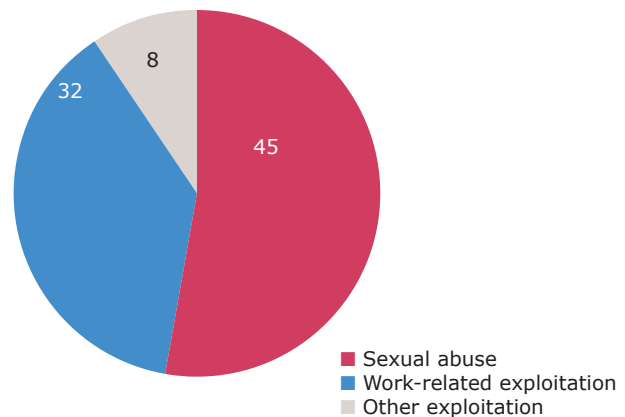
tion (64% of the new customers included in the system in 2014). In the cases of sexual abuse, victimisation has typically occurred outside Finland. The second most common category was victim of trafficking in human beings involving work-related exploitation (38% of all customers). The majority of these people were victimised in Finland, typically in the cleaning or restaurant industry.<sup>124</sup>

### New clients in the Assistance System



Source: Joutseno reception centre, Assistance System

### Assistance System clients based on victimisation type in 2014



Source: Joutseno reception centre, Assistance System

### DEVELOPMENT MEASURES

The Joutseno and Oulu reception centres' **anti-trafficking cooperation project, HAPKE 2, won a na-**

<sup>122</sup> These statistics are based on cases that the Finnish Immigration Service's expert in trafficking in human beings is aware of, and may not be complete. Indications of trafficking in human beings do not mean that the person in question has been confirmed to be a victim of trafficking in human beings. Indications of trafficking in human beings include an officer's suspicion that a case may involve trafficking in human beings.

<sup>123</sup> The statistics collected by the Assistance System only cover the persons and cases that the system has become aware of. The extent of the phenomenon of trafficking in human beings in Finland is somewhat higher than statistics would indicate.

<sup>124</sup> Joutseno reception centre, 31 December 2014: Ihmiskaupan uhrien auttamisjärjestelmän tilannekatsaus 1.1.–31.12.2014

**tional crime prevention award in 2014.**<sup>125</sup> The project was particularly aimed at preventing trafficking in human beings involving work-related exploitation. The project's activities were focused on asylum seekers included in the reception system. The project was aimed at improving the service system's capacity to prevent trafficking in human beings as well as identify and help victims of trafficking in human beings. The project encompassed several aspects: for instance, a handbook of operations was compiled for the National Assistance System for Victims of Trafficking in Human Beings administered by the Joutseno reception centre, the humantrafficking.fi website was developed further and anti-trafficking workshops were organised in nearly all Finnish reception centres.

**The position of anti-trafficking coordinator was established in the Ministry of the Interior's Police Department.** The coordinator began work on 1 June 2014. The duties of the anti-trafficking coordinator include the coordination of intersectoral tasks and issues related to the prevention of trafficking in human beings, as well as participation in international cooperation. The coordinator also develops cooperation between the authorities and third sector operators.<sup>126</sup>

Since 2012, the Ministry of the Interior has had a **project to draft legislation on trafficking in human beings, which reached the Government Bill stage in 2014.** On 27 November 2014, the Government submitted a proposal to the Parliament on the amendment of the Reception Act and Aliens Act.<sup>127</sup> The purpose of the proposal is to further develop the National Assistance System for Victims of Trafficking in Human Beings. For the most part, the proposed amendments involve codifying existing practices into law. The amendments will make the assistance system clearer and more transparent. The aim is to ensure the equal treatment of victims and to clarify the division of responsibilities between the authorities. The proposed legislative provisions would more clearly specify what is meant by assistance measures in practice, and under what conditions can the provision of assistance to victims of trafficking in human beings be initiated and later discontinued. The Assistance System would remain accessible with a low threshold, even in cases in which it is not fully certain whether an offence related to trafficking in human beings has actually occurred. The Government

Bill clarifies the existing legislation with regard to the question of whether the Assistance System can be accessed by victims of trafficking in human beings who have a municipality of residence in Finland. The amended legal provisions would clearly state that such persons would also be entitled to assistance. A new provision included in the proposed amendments involves a recovery period of 1–3 months. Victims of trafficking in human beings residing legally in Finland would also have the right to a recovery period, during which the authorities responsible for preliminary investigation, or the prosecutor, would not contact them for the purpose of investigating the offence related to trafficking in human beings. This option is currently only available to irregular migrants in Finland, who may be granted a reflection period similar to the proposed recovery period pursuant to the Aliens Act. Victims would receive immediate assistance even if they are not ready to participate in investigating the crime. The legislative amendments concerning trafficking in human beings are related to the Government Programme's stated aim of developing legislation to prevent trafficking in human beings, protect victims, and improve legal protection. The Government Bill submitted on 27 November is aimed at implementing the legislative amendments that have been identified as being of key importance to the practical operation of the Assistance System and its further development. Any broader development of the Assistance System and relevant legislation will be implemented after evidence has been accumulated regarding the effectiveness of the measures proposed at this time.

<sup>125</sup> Ministry of Justice, press release, 17 September 2014: Council for Crime Prevention: Työperäisen ihmiskaupan torjuntahanke voitti kansallisen rikosentorjuntakilpailun 2014

<sup>126</sup> Ministry of the Interior, Web news, 11 September 2014: Ihmiskaupan vastaista viranomaisyhteistyötä tehostettava

<sup>127</sup> Government Bill HE 266/2014 vp; Ministry of the Interior, press release, 27 November 2014: Ihmiskaupan uhrien auttamisjärjestelmää kehitetään

## 7. Migration and Development Policy

Policy coherence that supports development is aimed at having different branches operate in a coherent manner to pull in the same direction and create conditions for the sustainable development of developing countries and the elimination of poverty. The current Government Programme and the Development Policy Programme (2012) highlight migration as one focus area in policy coherence. The Future of Migration 2020 Strategy also points out the link between migration policy, foreign policy and development policy, and calls for achieving an increased understanding of how these branches of policy affect each other. In May 2014, the Government submitted a report to the Parliament on the effectiveness and coherence of development policy.<sup>128</sup>

Based on the report, the Parliament issued a statement calling for the Government to take measures to further enhance coherence in development policy.<sup>129</sup> As a result, the development of **closer cooperation in migration and development issues among the Ministry for Foreign Affairs, the Ministry of the Interior and other relevant parties started in 2014**. The development of cooperation will continue in 2015. Migrants' remittances and their targeting in order to support development are examples of questions that will be paid attention to within the framework of the cooperation.

Finnish migrant NGOs, especially the Finland-based Somali diaspora organisations, play an active role in development cooperation. Out of the development cooperation funds intended for NGOs, the Ministry for Foreign Affairs provided funding to a total of 27 NGOs and 27 of their projects in Somalia in 2014. The total support amount was approximately EUR 3.8 million. More than half of the support was channelled through immigrant organisations. One of the most significant projects underway in 2014 was **the training project for health care professionals, aiming at strengthening the health sector in northern Somalia** by developing the sector's human resources. Health care services in Somalia have collapsed due to the nearly 20 years of war and lack of administration. There is a shortage of skilled labour, and there have been no funds for necessary infrastructure and equipment. For instance, there are

very few midwives. The project is carried out by the health care professionals of Finland-based Somali diaspora who travel to the region to train local health care employees. The Finland-based Somali diaspora contains many health care professionals who have gained their vocational qualifications in Finland. The objective of the project is to train local professionals to become trainers who can share their knowledge and skills to the entire region even after the project is finished, too. In this way, the developmental impact of operations will be based on a solid foundation. The aim is to select female health care professionals to participate in the project so that they can help to improve women's health, and at the same time set an example for local women, showing how women can operate effectively in society. This bilateral project is carried out by the International Organization for Migration (IOM). The project is the third and the final phase of the health care professional training project in Somaliland and Puntland. It is carried out in 2014–2016. The third phase of the project focuses more strongly on supporting and monitoring the fact that the received training has been fully internalised and can be carried out even after the external trainers have left.

<sup>128</sup> The Finnish Government, 8 May 2014: Report on the efficiency and coherence of development politics: Kohti reilumpaa maailmaa ilman köyhyyttä

<sup>129</sup> Parliament letter 26/2014

## 8. Irregular Migration<sup>130</sup>

### PERSONS FOUND TO RESIDE IN THE COUNTRY IRREGULARLY

According to the Police, **a total of 2,933 persons residing in the country illegally were found in 2014**. This figure is lower than in the previous year (2013: 3,368). The compilation of statistics is based on cases which the Police has recorded under the investigation category 'asylum investigation' or 'violation of the Aliens Act'. In the investigation category 'asylum investigation' the cases recorded are those in which a person has been found within the country without having a travel document that entitles the person to reside in the country, and the person is not an EU citizen. Of violations against the Aliens Act, the cases in which the person is not an EU citizen have been taken into account.

### THE DEVELOPMENT OF THE MONITORING OF ALIENS

The Ministry of the Interior drafted a legislative amendment to **clarify the principles governing the monitoring of aliens and the jurisdiction of the authorities that carry out the monitoring of aliens**. The legislative project was based on the Action Plan against Illegal Immigration 2012–2015. The title of the Aliens Act chapter concerning interim measures was proposed to be changed to Interim measures and the monitoring of aliens (previously: Interim measures). Two new provisions were also proposed for inclusion in the chapter in question. One of the proposed new provisions defines what the monitoring of aliens is, and what principles shall be observed in its implementation (the principle of proportionality and the principle of least harm). The same proposed provision also states that monitoring measures shall not be based on a person's actual or assumed ethnic origin. Instead, they must be based on the monitoring authority's general information and experience.

The Act was also proposed to be amended to authorise the Police and the Finnish Border Guard to carry out the monitoring of aliens also on premises subject to public peace, such as restaurants, business premises and construction sites. The amendment is aimed at improving the authorities' capacity to prevent the grey economy. When conducting the

monitoring of aliens, it is also possible to make observations related to indications of trafficking in human beings and other similar offences.

The legislative amendment was confirmed on 6 March 2015 and it will enter into force on 1 May 2015.<sup>131</sup>

### HEALTH CARE SERVICES FOR UNDOCUMENTED MIGRANTS

**The right of undocumented migrants to access health care services** was a topic of public discussion in Finland in 2014. Undocumented migrants refer to third-country nationals residing in the country without a residence permit. Undocumented migrants have a restricted right to access health care services in Finland, which puts them in a vulnerable position. Persons residing in the country legally who are not insured against illness or the costs of medical care are in a similar position as undocumented persons residing in the country irregularly. Persons residing in the country legally but without insurance may be third-country nationals whose insurance coverage, which is a condition for the issuing of a residence permit, has expired, or does not provide adequate coverage, as well as EU citizens temporarily residing in the country who are not covered by insurance. Under existing Finnish law, public health care providers are required to always provide urgent medical care to anyone that needs it, regardless of the nature of and grounds for the person's residence.<sup>132</sup> The more extensive right to access public health care services depends on the grounds for the person's right of residence and the nature of residence. Undocumented migrants are currently only entitled to urgent medical care. However, municipalities may decide to provide more extensive health care services to undocumented migrants. At present, the City of Helsinki is the only municipality in Finland that has stated to provide public health care services to undocumented migrants. The status of undocumented migrants in Finland has been highlighted by a variety of parties, including many non-governmental organisations, the Finnish Medical Association and the National Advisory Board on Social Welfare and Health Care Ethics ETENE.

The National Institute for Health and Welfare produced **a report on health care services for undocumented migrants in Finland** at the request of the Ministry of Social Affairs and Health.<sup>133</sup> The

<sup>130</sup> The English term currently in use is 'irregular migration'. The Finnish translation 'säätöjen vastainen maahanmuutto' is based on the latest version of the EMN Glossary (version 3.0). Previous Finnish-language EMN reports and version 2.0 of the EMN Glossary used the term 'laiton maahanmuutto' (literally 'illegal migration'), which is also used in Finnish legislation. The new translation 'säätöjen vastainen maahanmuutto' is a broader term and thereby better in line with its English counterpart.

<sup>131</sup> Government Bill 169/2014 vp

<sup>132</sup> Act on Specialised Medical Care 1062/1989, Section 3(2) and the Health Care Act 1326/2010, Section 50(1)

<sup>133</sup> Ilmo Keskimäki, Eeva Nykänen, Hannamaria Kuusio: Paperittomien terveyspalvelut Suomessa, National Institute for Health and Welfare, Helsinki 2014

report proposes that the right of undocumented migrants to access health care services should be more broadly ensured. The report presents three alternative models for ensuring health care services for undocumented migrants. The proposed models suggest that undocumented migrants should be provided 1) the opportunity to access health care services to the same extent as persons who have a municipality of residence in Finland, 2) the same extent of services as asylum seekers, or 3) urgent medical care pursuant to existing legislation as well as medical care for children under the age of 18, pregnant women, and women who have recently given birth.

On 18 December 2014, the Government submitted a proposal to the Parliament on **arranging health care services for undocumented migrants**. The Government Bill was aimed at ensuring adequate health care services even to third-country nationals who do not have, or who cannot be issued with, a long-term residence permit. According to the proposal, municipalities would be required to arrange for essential health care services for persons residing in Finland irregularly. Their right to health care services would be almost the same in scope as that of asylum seekers. According to the proposal, undocumented migrants should not only be assured of urgent medical care, but also medical care related to childbirth, as well as medical care for certain long-term illnesses. The question of whether care is considered essential would be determined by a health care professional. Minors would be able to access all required health care services under the same conditions as minors who have a municipality of residence in Finland. The municipality could collect a client fee for the services, the amount of which would be no higher than the cost arising from producing the service. The inability to pay could not, however, prevent a person from receiving the service. The state would pay municipalities compensation for the costs if their collection from the recipient of the service is not possible.<sup>134</sup>

Non-governmental organisations considered the legislative proposal to be a step in the right direction, but not sufficient. Meri Korniloff, coordinator of the Paperittomat project at the Refugee Advice Centre, stated that it is problematic that the legislative proposal did not apply to all vulnerable groups. EU citizens who do not have broad insurance coverage would be excluded by the new legislative proposal. Korniloff also criticised the fact that, according to the

legislative proposal, the aim would generally be to collect client fees from the persons that use municipal health care services.<sup>135</sup> The Finns Party criticised the idea of extending health care services to undocumented migrants and suggested that the proposal by the Ministry of Social Affairs and Health opened up the health care system too much to people who reside in the country irregularly.<sup>136</sup>

The discussion of the legislative proposal ended at a plenary session of Parliament on 9 March 2015 after Member of Parliament Kari Rajamäki moved to postpone the discussion of the proposal. As the Parliament concluded its parliamentary session in the same week, on 14 March 2015, there was no time to discuss the legislative proposal and the proposal became void. This was an exceptional turn of events, as the legislative proposal was blocked by a member of the Social Democrat Party, the same party as the Minister that drafted the proposal, and the proposal was widely expected to pass.<sup>137</sup>

## PERSONS TRAVELLING TO, AND COMING BACK FROM, CONFLICT AREAS

**Islamic extremists travelling to conflict areas caused concern in Finland** in 2014. The topic came up in various contexts several times during the year. In January, the Finnish Security Intelligence Service suggested that some combatants that return to Finland may pose a security threat in Finland.<sup>138</sup> In November 2014, Antti Pelttari, Director of the Finnish Security Intelligence Service, estimated that over 50 people had left Finland to go to Syria, and approximately 20 had returned from Syria to Finland. Some of those who travelled to conflict areas were aiming to join radical Islamist movements such as ISIS, while some sought to participate in providing support and assistance. The group is very diverse. However, according to the Finnish Security Intelligence Service, the majority of those who travelled to conflict areas were Finnish citizens who have lived in Finland for practically their entire lives. The group also includes individuals whose parents are ethnic Finns.<sup>139</sup> The authorities have limited means to address war tourism.

As one method for preventing terrorism, the authority of the Police to utilise passenger register data to prevent and investigate crimes was expanded. The legislative proposal was submitted to Parliament on 25 September. The amendment was confirmed on 23

<sup>134</sup> Government Bill HE HE 343/2014 vp; Ministry of Social Affairs and Health, Press release 310/2014, 18 December 2014: Kunnille velvollisuus järjestää välttämättömät terveystalvot paperittomille; Lääkärelehti, 19 December 2014: Paperittomien oikeus terveystalvotuihin laajenee

<sup>135</sup> Turun sanomat, 19 December 2014: Kansalaisjärjestössä tyytymättömyyttä paperittomien terveystalvotuihin

<sup>136</sup> Kansan uutiset, 6 November 2014: Perussuomalaiset ei hyväksy terveystalvotuita paperittomille

<sup>137</sup> Helsingin Sanomat, 10 March 2015: Sdp:n ryhmä sanoutuu irti Kari Rajamäen toiminnasta: "Suojaus ja vartiointi petti"

<sup>138</sup> Yle News, 10 January 2014: Syyriassa sotineita taistelijoita alkanut palata Suomeen – Supo seuraa tiiviisti

<sup>139</sup> Yle News, 29 November 2014, Supon Pelttari: Syyriaan on lähtenyt yli 50 taistelijaa Suomesta



January 2015 and entered into force on 27 January 2015. Customs and border control officers already had corresponding rights. According to the Finnish Security Intelligence Service, the amendment improves the capacity to identify persons who travel to conflict areas for the purpose of participating in combat, or return from there. The capacity of the Police to prevent property crimes coordinated from abroad are also improved by the amendment.<sup>140</sup>

A potential additional measure that was considered was the revocation of citizenship from radicalised persons (this topic is discussed in more detail in Section 3.6. Citizenship). The Ministry of the Interior also studied the possibility of expanding an entry ban to apply to persons who have left Finland and reside abroad.<sup>141</sup> These initiatives did not, however, lead to any further measures in 2014.

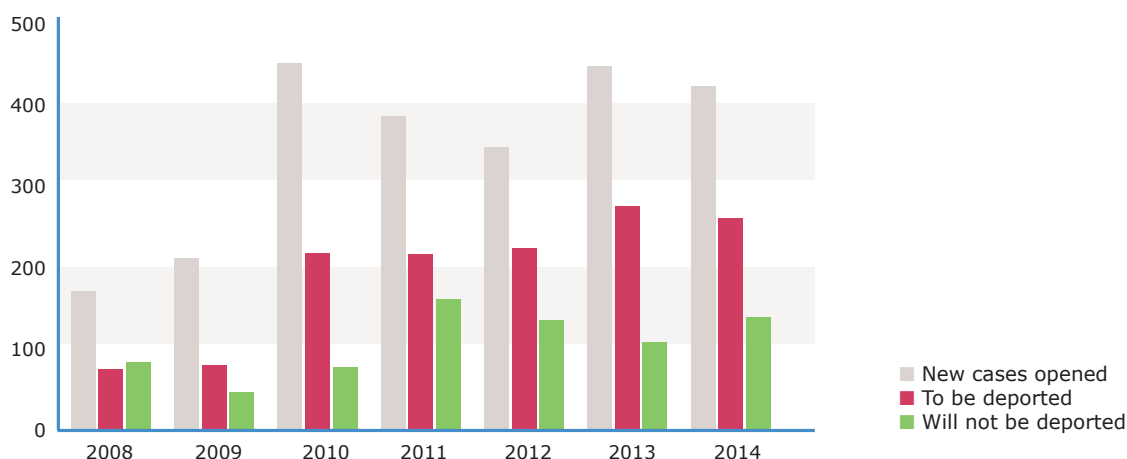
### CRIMINALISATION OF TERRORIST OFFENCES

A legislative project underway at the Ministry of Justice since 2012 to **criminalise terrorist offences** moved forward in 2014. On 3 April 2014, the Government submitted a proposal according to which obtaining training for the purpose of carrying out a terrorist offence is punishable, and the criminalisation of the funding of terrorism is expanded. The President signed the legislation on 12 December 2014.<sup>142</sup>

### DEPORTATION

In 2014, a total of 418 deportation cases were opened in Finland.<sup>143</sup> **The decision to deport was made concerning 258 persons.** The amount of deportation cases opened and deportation decisions made have remained largely unchanged since 2010. The most common grounds for deportation in 2014 were that a new temporary residence permit could not be issued for the person or the previous permit had been revoked. The reason for not issuing a permit or for revoking it was, for example, circumvention of the rules on entry or insufficient subsistence. Criminal grounds were the reason in 31% of the deportation cases.

### New deportation cases opened and decisions made, 2008–2014



Source: Finnish Immigration Service

<sup>140</sup> Government Bill HE 168/2014 vp; Ministry of the Interior, press release, 25 September 2014: Sisäministeri Päivi Räsänen: Matkustajatietojen hyödyntäminen auttaa poliisia tunnistamaan taistelemaan lähteviä ja palaavia

<sup>141</sup> Ministry of the Interior, press release 23 October 2014: Sisäministeriö käynnistää uusia toimenpiteitä terrorismin uhan vähentämiseksi konfliktialueille matkustaneiden osalta

<sup>142</sup> Ministry of Justice, 24 September 2012, updated 22 December 2014: Terrorismirikoksia koskevien rikoslain säännösten tarkastelu

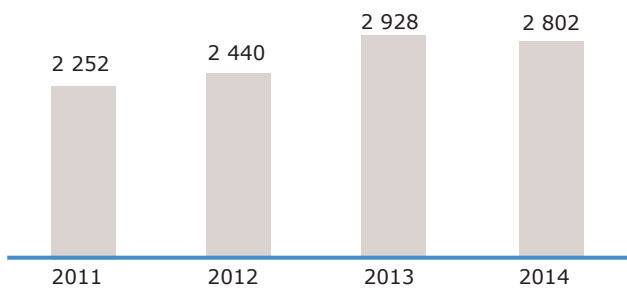
<sup>143</sup> The figure includes both deportation proposals made by the Police and deportation processes initiated by the Finnish Immigration Service.

## 9. Return

### REMOVAL

In practice, the enforcement of a removal decision refers to the removal from the country of persons subject to refusal of entry or deportation. The Police is responsible for the enforcement of removal. The enforcement of removal was effective in 2014, as in previous years. In 2014, **a total of 2,802 removal decisions were enforced**.<sup>144</sup>

### Enforcement of removal



Source: Ministry of the Interior: Maahanmuuttohallinnon tuloksellisuuden parantaminen vuonna 2014 and the National Police Board: Katsaus ulkomaalaisasioihin 2/2015

For a long time, Finland has been one of the most efficient EU Member States when it comes to the enforcement of removal. **However, not all removal decisions can be enforced.** Some persons subject to removal remain unaccounted for in Finland or move to another EU Member State, and consequently the Police are unable to remove them from the country. Other factors delaying or obstructing the removal process include the lack of a travel document, certain diplomatic missions' unwillingness to cooperate, diplomatic missions located outside Finland and problems in cooperation with certain carriers and countries of transit. Furthermore, not all countries agree to readmit their citizens, and for some countries, decisions cannot be enforced due to the internal security situation of the country of destination. In 2014, challenges were faced particularly with regard to citizens of Iraq, Afghanistan and Somalia, whose removal was not possible for practical reasons. Negotiations led by the Ministry of the Interior are underway with countries that are challeng-

ing with regard to return. If successful, the negotiations will expedite the enforcement of removal decisions. The Police has also taken measures aimed at improving the effectiveness of the enforcement of removal decisions. To this end, the Helsinki Police Department implemented a project partially funded by the EU Return Fund (POSID project), the aim of which was to increase the efficiency of identification of persons ordered to be removed from the country and the obtaining of travel documents. The project developed relationships with third countries' diplomatic missions and authorities responsible for entry into the countries, as well as Finland's diplomatic missions abroad, to facilitate returns. The project ended on 31 December 2014 and from the beginning of 2015, the function has been established as part of the structure of the Helsinki Police Department.<sup>145</sup>

The Ombudsman for Equal Treatment<sup>146</sup> has jurisdiction to **supervise the enforcement of the removal of foreign nationals**. This supervisory task was included in the Aliens Act and the Act on the Ombudsman for Minorities and the National Discrimination Tribunal on 30 December 2013, and the legislative amendments entered into force on 1 January 2014.<sup>147</sup> The task is based on the EU Return Directive, which states that Member States must implement regulations for an effective system to monitor returns.<sup>148</sup> At the end of 2014, the Ombudsman for Equal Treatment had one year of experience of supervising removal. In 2014, the Ombudsman for Equal Treatment participated in one commercial return flight and one return flight organised by Frontex, the European border security agency. The Ombudsman for Equal Treatment also supervised several pick-ups from the detention units. Some of the pick-ups were supervised until the person in question boarded the aircraft. In the future, the Ombudsman for Equal Treatment intends to participate in 4–6 return journeys, all the way to their destinations, per year. In addition, the Ombudsman for Equal Treatment is establishing, pursuant to a Government Bill, a broad-based working group on supervision to support the supervision activities. The working group will include representation by at least the key authorities and non-governmental organisations that work on migrant and refugee matters. The working group on supervision will disseminate information between the various parties involved and support the Ombudsman for Equal Treatment in issues such as the evaluation and development of supervision activities.

<sup>144</sup> National Police Board: Katsaus ulkomaalaisasioihin 2/2015

<sup>145</sup> Op. cit. Ministry of the Interior: Maahanmuuttohallinnon tuloksellisuuden parantaminen vuonna 2014

<sup>146</sup> Previously the Ombudsman for Minorities, as of 1 January 2015 the Ombudsman for Equal Treatment

<sup>147</sup> Government Bill HE 134/2013 vp

<sup>148</sup> Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals



## CONSOLIDATING VOLUNTARY RETURN INTO A NATIONAL PRACTICE

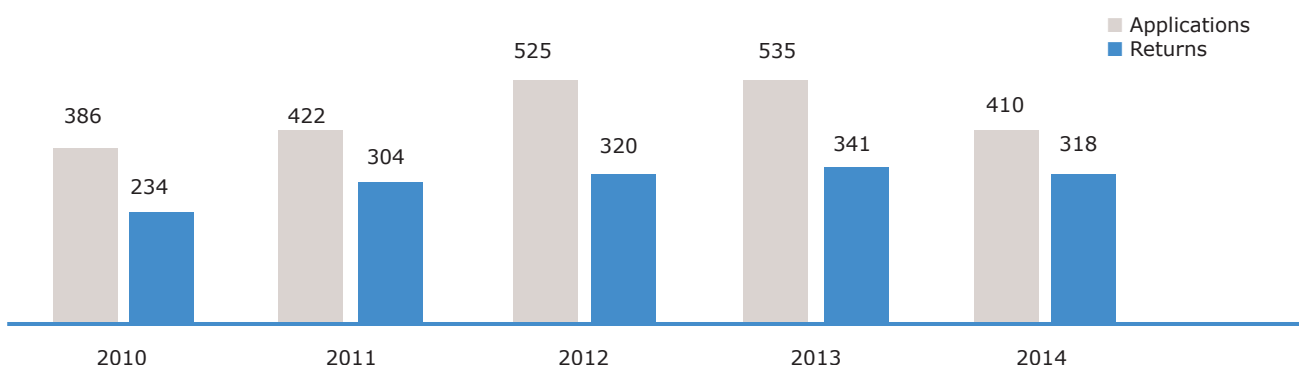
The aim of the voluntary return programmes is to give people whose asylum applications have been refused in Finland, or who have cancelled their asylum applications, the opportunity to return to their home countries or countries of permanent residence voluntarily. The incentives for voluntary return include compensation for travel costs and return aid for reintegration.

Finland has had voluntary return programmes in place since 2010. The programmes have been co-funded by the EU Return Fund. The practical implementation has been carried out by the International Organization for Migration, IOM.<sup>149</sup> The return aid has been paid as in-cash allowances and in-kind assistance. The amount of in-cash allowances has been decreased in recent years, and the sums payable as in-kind assistance have been increased. The amount of return aid granted in the form of in-kind assistance has been increased because in-kind assistance has been seen as providing the voluntary returnee a better starting point for sustainable reintegration. The return aid in the form of in-cash allowances is EUR 200–1,000 for an adult and 100–600 for a child. The in-kind allowance for all countries for which it is available is EUR 1,500 for an adult and EUR 750 for a child. Deviations can be made to the amounts of return aid in special cases.<sup>150</sup>

In 2012, the Ministry of the Interior launched a legislative project aimed at consolidating the existing voluntary return system into a national practice. The background of the project involved the positive experiences of the implemented voluntary return programmes, as well as the EU Return Directive, which highlights voluntary return as a primary form of return. On 25 September 2014, the Government submitted a Government Bill to the Parliament on **consolidating voluntary return into a national practice**.<sup>151</sup> According to the Government Bill, a foreign national subject to a negative asylum decision could receive compensation for reasonable relocation costs as well as additional aid, provided that the person leaves the country voluntarily and permanently. The Government Bill also proposes that **accommodation and other reception services would be discontinued** for a foreign national subject to a negative decision and who could return to his or her home country voluntarily.

According to the same legislative proposal, there would be restrictions to the conditions for issuing a temporary residence permit granted on the basis that an alien cannot be removed from the country. This permit would no longer be granted if voluntary return would, in fact, be possible.<sup>152</sup> The proposal would rectify a problem associated with Section 51 of the Aliens Act. Under current law, a person subject to a negative asylum decision can, in some cases, decide to remain in the country. Such a person is first issued a temporary residence permit, which will lead to permanent residence. This problem has involved countries that will not receive their own citizens unless they themselves want to return.

## Statistics on voluntary return 2010–2014



Source: IOM Helsinki, Vapaaehtoinenpaluu.fi

<sup>149</sup> IOM Helsinki, Vapaaehtoinenpaluu.fi

<sup>150</sup> Op. cit. Ministry of the Interior: Maahanmuuttohallinnon tuloksellisuuden parantaminen vuonna 2014

<sup>151</sup> Government Bill HE 170/2014 vp. The Parliament approved the Government Bill on 6 March 2015. The legislative proposal is pending the President's approval (as of 19 March 2015).

<sup>152</sup> Ministry of the Interior, press release 25 September 2014: Vapaaehtoisen paluun järjestelmää ehdotetaan vakiinnutettavaksi

The practice has led to unequal treatment for people from different countries, as people from certain countries have been able to decide to remain in Finland despite not meeting the requirements for a residence permit. Minister of the Interior Päivi Räsänen has also stated that this problem erodes the credibility of the asylum process.<sup>153</sup>

**Imposing stricter conditions on temporary residence permits has, however, been criticised.** The concern is that the change will lead to a larger number of undocumented migrants. The Green League, for example, opposed the change. Among the NGO sector, the Finnish Refugee Council in particular has expressed strong criticism regarding the proposal.<sup>154</sup> The Government is also prepared for the eventuality that the legislative amendment will lead to certain problems. For this purpose, the Government Bill includes a provision stating that the effects of the Government Bill will be monitored closely and corrective action will be taken if the number of irregular migrants in Finland increases significantly. Particular attention will be paid to the effects of the Government Bill on the risk of irregular migrants in Finland becoming exploited in the grey economy or in trafficking in human beings. However, the parties responsible for drafting the bill are confident that a significant majority of those subject to a negative decision will leave the country voluntarily in exchange for tickets and compensation.<sup>155</sup>

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<sup>153</sup> Ministry of the Interior, press release 25 September 2014: Sisäministeri Päivi Räsänen: Matkustajatietojen hyödyntäminen auttaa poliisia tunnistamaan taistelemaan lähteviä ja palaavia

<sup>154</sup> Maailma.net, 7 October 2014: Pakolaisapu: Sisäministeriö ajamassa siirtolaisia maan alle

<sup>155</sup> Aamulehti, 13 October 2014: Paperittomien määrä kasvaa

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