



Comparative overview of national protection statuses in the EU and Norway

Common Template for EMN Study 2019

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Action: EMN NCPs are invited to submit their completed Common Templates by Monday, 13th May 2019.

If needed, further clarifications can be provided by directly contacting the EMN Service Provider at emn@icf.com

1 STUDY AIMS AND OBJECTIVES

Much comparative information exists on the practices in the Member States and Norway concerning the EU-harmonised protection statuses – or equivalent,¹ and on certain national practices concerning specific vulnerable groups such as unaccompanied minors.² There is however a lack of up-to-date information on the practices and forms of national (or non-harmonised) protection.

This EMN study aims to provide a handbook guide to statuses granted in the Member States and Norway, which address a protection need, other than international protection as harmonised by the Qualification³ and Temporary Protection Directives.⁴ This guide will consist of a synthesis overview of national statuses granted on particular protection grounds, their related procedures, key rights and content of protection.

The 2010 EMN study 'The Different National Practices Concerning Granting of Non-EU Harmonised Protection Statuses'⁵ is a useful and comprehensive overview of practices in 23 Member States⁶ but it is now very out of date. The present study will, to some extent, update the 2010 EMN study and, where relevant, highlight statuses that have emerged since 2010 and identify those that no longer exist.

¹ See for example the following EMN studies on: 'The Changing Influx of Asylum Seekers In 2014-2016' (2018), 'Family Reunification of Third-Country Nationals in the EU and Norway: National Practices' (2016), 'Returning Rejected Asylum Seekers: Challenges and Good Practices' (2016), 'Resettlement and Humanitarian Admission Programmes in Europe – What Works?' (2016); 'Integration of Beneficiaries of International/Humanitarian Protection into the Labour Market: Policies and Good Practices' (2015).

² See for example the 2018 EMN study on 'Approaches to Unaccompanied Minors Following Status Determination in the EU plus Norway'.

³ Directive 2011/95/EU 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.

Ireland did not participate in Directive 2004/83/EC and is not bound by the recast Directive 2011/95/EU. The UK participated in Directive 2004/83/EC and is not bound by the recast Directive 2011/95/EU.

⁴ Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof.

⁵ Available at : https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/non-eu-harmonised-protection-status/0_emn_synthesis_report_noneuharmonised_finalversion_january2011_en.pdf.

⁶ Member States that participated in the 2010 study were Austria, Belgium, Bulgaria, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Netherlands, Malta, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden and United Kingdom.

Owing to the fact that the statuses mapped in this study are governed at national level, it is not possible to compare statuses among Member States. Where possible, this study will rather consider the differences between the procedures and content of protection (a) of the national statuses and (b) those of the EU protection statuses.

An overview of EU-harmonised protection statuses⁷ and the content of protection as set out in EU asylum instruments will be presented in Annex 2 to support this comparative analysis. All Member States implemented the provisions of the recast Qualification Directive, with the exception of Ireland and the UK,⁸ and of the Temporary Protection Directive. Norway, a State not participating to these Directives, has adopted in its national legislation equivalent protection statuses.

This study is timely in light of efforts undertaken since 2016 to strengthen the Common European Asylum System (hereafter CEAS) to complement existing legal pathways for admission to the EU of those in need of protection.⁹ Building on the 2018 EMN study on 'Changing Influx of Asylum Seekers' and the 2017 EMN study on 'Resettlement and Humanitarian Admission Programmes', this study could also inform the proposed Union Resettlement Framework Regulation and the increasing interest given to other legal pathways for persons in need of protection (e.g. private sponsorship programmes). Finally, the study could complement and support on-going EMN work on the concept of sustainable migration.

2 STUDY RATIONALE AND BACKGROUND

In the EU law-making context, harmonisation refers to the approximation of national laws through common (and sometimes minimum) standards set by EU legislation to ensure consistency and convergence of standards and practices across the EU. In the field of asylum, EU legislation requires Member States to harmonise their legislation and practices in line with the CEAS. From the perspective of protection statuses, the aim of the CEAS, with the adoption of the 'first' and 'second phase' CEAS instruments, was to codify the status of persons identified as needing international protection and harmonise the content of protection granted. Consequently, the refugee status was included in the Qualification Directive of 2004 and in its recast of 2011 as a means to embrace, in EU law, the concept of refugee as defined by the 1951 Refugee Convention. In contrast, the statuses of beneficiaries of subsidiary and temporary protection were introduced in EU legislation independent of the 1951 Refugee Convention because there were asylum seekers in need of international protection who did not fall under the scope of the Convention but were considered in need of protection in accordance with Member States' obligations under international human rights instruments and/or national practices.¹⁰

More specifically, subsidiary protection codified and aimed to harmonise a number of existing practices in Member States. However, subsidiary protection, as now defined in the recast Qualification Directive, does not cover all cases where Member States grant protection. Indeed, Member States may grant other forms of protection, either stemming from international obligations not covered by the Qualification Directive or based on discretionary grounds adopted by national legislation. These forms of protection can include for example situations where third-country nationals are excluded from refugee status or subsidiary protection, but face death penalty or execution and torture or inhuman or degrading treatment or punishment based on absolute *non-refoulement* principle, exceptional health situations, etc.

This state of play is, to a certain extent, recognised by the recast Qualification Directive: authorisations to stay in the territory of a Member State for reasons not due to a need of international protection but on a discretionary basis on compassionate or humanitarian grounds fall outside the scope of the recast

⁷ The recast Qualification Directive of 2011 further aligned the content of protection granted to refugees and beneficiaries of subsidiary protection compared to the minimum harmonisation ensured by the 2004 Qualification Directive. The Temporary Protection Directive adopted in 2001 established minimum standards of protection in the event of a mass influx, the implementation of which remains dependent on a collective decision of Member States. The temporary protection foreseen in this Directive has never been invoked.

⁸ Ireland participated in Directive 2004/83/EC but is not bound by the recast Directive 2011/95/EU. The UK participated in Directive 2004/83/EC and is not bound by the recast Directive 2011/95/EU.

⁹ European Commission, Communication 'Towards A Reform of the Common European Asylum System and Enhancing Legal Avenues to Europe', COM(2016) 197, 6 April 2016.

¹⁰ Subsidiary protection is distinct from temporary protection on the basis that it was granted following an individual status determination on specifically defined grounds related to broader application of the non-refoulement principle in international human rights law, while temporary protection concerns protection granted in a mass influx situation.

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Qualification Directive.¹¹ The 2016 proposal for a Qualification Regulation adds that Member States are free to grant a national humanitarian status to those who do not qualify for international protection.¹²

Furthermore, EU legislation allows Member States to adopt statuses on grounds not harmonised by it and adopt, for example, more favourable standards, as long as they do not undermine EU action and are compatible with existing EU legislation. This is reiterated in the recast Qualification Directive (Article 3) and also recalled by the proposal for a Qualification Regulation. In light of this, the concept of 'constitutional asylum', namely the right to asylum embedded in the constitution of a State, could be considered as setting more favourable standards than the refugee status contained in the recast Qualification Directive, yet this would require a closer analysis of the constitutional provisions and implementing national asylum legislation where relevant. In theory, and as confirmed by the Court of Justice of the European Union (hereafter CJEU), the 'right to asylum' is a broader concept than the refugee status and "Member States may grant a right of asylum under their national law to a person who is excluded from refugee status".¹³ The right to asylum is provided in the constitutions of about half of Member States.¹⁴ In some Member States, the constitutional provisions on the right to asylum echo the definition of refugee contained in the 1951 Refugee Convention (e.g. Hungary and Spain), while in others, constitutions provide a more limited definition of refugee (e.g. in Czech Republic, Germany and the Slovak Republic where the right to asylum is limited to the ground of persecution for political opinions).¹⁵ Constitutions in only a few Member States (e.g. France and Italy) contain a right to asylum broader than the grounds for refugee protection in the 1951 Refugee Convention and in the recast Qualification Directive.¹⁶ Notwithstanding the remit of application of the right to asylum compared to refugee protection, in practice, the content of protection granted to beneficiaries of constitutional asylum largely equate to that of beneficiaries of refugee protection. The 'enforcement' of the right to asylum often depends on the adoption of national legislation setting out details on procedure to follow and status to be granted.¹⁷ Thus, States bound by the EU asylum acquis, in particular the recast Qualification Directive, often grant beneficiaries of a right to asylum a refugee status either in line with this Directive or exactly the same status. The present study will therefore research cases of constitutional asylum where the content of protection granted is either more or less favourable than the content of protection of refugee status set in the Qualification Directive.

Likewise, the concept of 'collective protection' exists in certain Member States: in some cases, the level of protection granted is similar to that of the Temporary Protection Directive; in other States, it is a form of national temporary protection, distinct from the EU-harmonised temporary protection, and which this study aims to map.¹⁸

3 SCOPE OF THE STUDY

The aim of this study is to specifically analyse the different practices concerning the granting of national protection statuses in Member States and Norway, meaning: any other protection status granted to a third-country national on the basis of national provisions that do not fall under international protection as established in EU law (i.e. refugee, subsidiary and temporary protections). This sub-section aims to

¹¹ See Recital 15 of recast Directive 2011/95/EU of 13 December 2011.

¹² See Article 3(2) of the proposal (which states that "*This Regulation does not apply to other national humanitarian statuses issued by Member States under their national law to those who do not qualify for refugee status or subsidiary protection status. These statuses, if issued, shall be issued in such a way as not to entail a risk of confusion with international protection.*"), European Commission, Proposal for a Regulation 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 and amending Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, COM(2016) 466 final, 13 July 2016.

¹³ See CJEU, *B & D*, Joined Cases C-57/09 and C-101/09, judgment (Grand Chamber) of 9 November 2010, ECLI:EU:C:2010:661, para. 121

¹⁴ See analysis of constitutional asylum by Stephen Meili, *The Constitutional Right to Asylum: The Wave of the Future in International Refugee Law?* in *Fordham International Law Journal*, Volume 41, Issue 2, Article 3, pp. 383-424, April 2018, available at: <https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=2693&context=ilj>. See in particular analysis from p. 399 onward: the right to asylum is included in the constitutions of Bulgaria, Czech Republic, France, Germany, Hungary, Italy, Poland, Portugal, Romania, Slovak Republic, Slovenia and Spain.

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ Organisation for Economic Cooperation and Development, *Trends in International Migration*, 1999, pp. 184-185; Joanne van Selm, *Kosovo's Refugees in the European Union*, A&C Black, 2000, p. 273.

clarify which specific statuses are included in the remit of the present study and those which fall outside of it.

Humanitarian grounds

National protection granted for humanitarian (or compassionate) reasons is one of the most common discretionary grounds present in national legislation albeit the concept is not commonly defined.¹⁹ It is often a product of national protection policies and encompasses a variety of situations, eventually decided by national judges and national authorities, including Ministers or even Heads of State, with varying levels of discretion.

In the context of EU (migration) law, CJEU was called on to decide on the concept of 'humanitarian grounds'. In the *X and X* and *Jafari* cases, the Opinions of the Advocates General on these cases expressed the view that 'humanitarian grounds' is an autonomous and broad concept of EU law, and cannot be limited, for example, to cases of medical assistance or health care.²⁰ In the frame of EU asylum law, and as clarified in section 2, the Qualification Directive makes a clear distinction between the scope of statuses granted based on international protection grounds embedded in EU law and those granted based on national humanitarian grounds. In this context too, the CJEU was asked to rule on the distinction between subsidiary protection and humanitarian grounds, particularly challenging in cases concerning the state of health of a third-country national. Relevant rulings include, for example:

- ★ The *M'bodj* case²¹ concerned the scope of application of the Qualification Directive to third-country nationals suffering from illness and whose removal would amount to inhuman or degrading treatment. In this case, among others, the CJEU ruled that Member States could not extend subsidiary protection to medical cases on the basis of Article 3 of the Qualification Directive;
- ★ In *Moussa Abdida* case,²² CJEU confirmed that an application under national legislation granting leave to remain due to a serious illness coupled to a lack of medical treatment in the country of origin did not constitute a claim for subsidiary protection within the scope of the Qualification Directive;
- ★ More recently, in the *MP* case of 24 April 2018, the CJEU ruled that cases where the medical situation of a third-country national could be attributed to the intentional failure to act of the authorities of the country of origin to provide appropriate medical care fell under the scope of subsidiary protection as harmonised by the Qualification Directive.²³

Thus, at this stage of development of CJEU jurisprudence, it appears that the decisive criterion for determining whether a medical case falls under subsidiary protection or (national) humanitarian protection is the existence or not of the intentional denial of medical treatment in the country of origin; the substantial aggravation of a third-country national's health alone cannot be regarded as inhuman or degrading treatment in the country of origin.

ECHR and the broader non-refoulement principle

The European Court of Human Rights (hereafter the ECtHR) has reiterated on many occasions that the European Convention for Human Rights (hereafter the ECHR) and its protocols do not contain a right to asylum. This stems from the right of States party to the ECHR, as a matter of well-established

¹⁹ See for example the following EMN Ad-Hoc Queries on the *Number of applications for humanitarian reasons (third country nationals applying for residence permits for medical reasons) limited to NO, SE, FI, BE, DE, AT, NL, LU, FR and UK*, requested by FR EMN NCP on 19th September 2018 and the one on *Humanitarian Protection*, requested by ES EMN NCP on 2nd June 2017.

²⁰ Opinion of the Advocate General in *X and X*, C-638/16 PPU, EU:C:2017:93, paragraph 130, in relation to Article 25 of the Visa Code and Opinion of the Advocate General in *Jafari*, C-646/16, paragraph 202, ECLI:EU:C:2017:443.

²¹ CJEU, C-542/13, Judgment of the Court (Grand Chamber) of 18 December 2014, *Mohamed M'Bodj v État belge*, ECLI:EU:C:2014:2452.

²² CJEU, C-562/13, Judgment of the Court (Grand Chamber), 18 December 2014, *Centre public d'action sociale d'Ottignies-Louvain-La-Neuve v Moussa Abdida*, ECLI:EU:C:2014:2453.

²³ CJEU, C-353/16, Judgment of the Court (Grand Chamber) of 24 April 2018, *MP v Secretary of State for the Home Department*, ECLI:EU:C:2018:276, paragraph 58: "*a third country national who in the past has been tortured by the authorities of his country of origin and no longer faces a risk of being tortured if returned to that country, but whose physical and psychological health could, if so returned, seriously deteriorate, leading to a serious risk of him committing suicide on account of trauma resulting from the torture he was subjected to, is eligible for subsidiary protection if there is a real risk of him being intentionally deprived, in his country of origin, of appropriate care for the physical and mental aftereffects of that torture, that being a matter for the national court to determine.*"

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international law, to control the entry, residence and expulsion of aliens. Nonetheless, the ECtHR has pointed out that this right is not unqualified and is subject to States' treaty obligations, including under the ECHR, which contains various protections concerning the expulsion and other forms of removal of third-country nationals such as protection against *refoulement*.²⁴

In addition to the ECtHR jurisprudence on non-*refoulement* that was, to a certain extent, codified under the subsidiary protection concept in the recast Qualification Directive, a range of other protection grounds were defined by the ECHR and the ECtHR, covering for instance exceptional medical cases, family reasons and best interest of the child,²⁵ or expulsion of persons excluded from international protection who are at risk of the death penalty or torture in their country of origin.²⁶

States parties to ECHR that are also EU Member States are also bound by the provisions of the recast Qualification Directive of 2011²⁷ according to which subsidiary protection status is to be granted, among others, to third-country nationals who do not qualify as refugees but who nevertheless face a real risk of torture or inhuman or degrading treatment or punishment in their country of origin. In the frame of the present study, the distinction between the grounds leading to subsidiary protection, as defined in the Qualification Directive (Article 15), and the prohibition of torture or inhuman or degrading treatment or punishment, as included in the ECHR (Article 3), is most relevant. From the perspective of the CJEU, it ruled in *Elgafaji* that Article 15(b) of the Qualification Directive corresponds in essence to Article 3 ECHR. However, the *M'Bodj* case shows that some situations falling within the scope of Article 3 ECHR are excluded from subsidiary protection, thus falling under the remit of national legislations and the 'humanitarian grounds' category. While the CJEU indicated situations falling outside the scope of subsidiary protection, they still can, according to the ECtHR case law, be considered as grounds of protection and include, for example, protection against expulsion of seriously or terminally ill third-country nationals.²⁸

This study thus aims to map possible grounds of national protection statuses outside the scope of the Qualification Directive yet falling under Article 3 of the ECHR and related ECtHR case law.

Protection grounds and statuses not covered by this study

The recognition of stateless persons is established in accordance with the 1954 Convention on the Reduction of Statelessness. A 2016 EMN Inform on Statelessness in the EU²⁹ provided an overview of the legislation and practices in 23 countries³⁰ concerning the determination of statelessness and the issuance of a residence permit. As this study will deal with 'national protection statuses' as opposed to those deriving from international law, the status of stateless person falls outside the remit of this study.

Likewise, statuses granted to victims of crime (e.g. trafficking in human beings or victims of smuggling or witnesses of criminal proceedings) are not covered by this study due to criminal law governing most aspects of the grounds and the procedure. The same approach was taken with regard to witness protection programmes.

While this study will map national humanitarian protection statuses granted to third-country nationals already present on the territory of Member States and Norway, it will not include 'humanitarian visas', aimed to provide access to the territory of Member States of persons in need of protection.

²⁴ UN High Commissioner for Refugees (UNHCR), UNHCR Manual on the Case Law of the European Regional Courts, June 2015, 1st edition, available at: <https://www.refworld.org/docid/558803c44.html> [accessed 11 January 2019], p. 188. See also the following ECtHR case law: *Soering v. the United Kingdom*, 1989; *Cruz Varas and Others v. Sweden*, 1991; *Vilvarajah and Others v. the United Kingdom*, 1991; *Babar Ahmed and Others v. the United Kingdom*, 2012; *T.I. v. the United Kingdom*, 2000; *K.R.S. v. the United Kingdom*, 2008; *M.S.S. v. Belgium and Greece*, 2011; *Abdolkhani and Karimnia v. Turkey*, 2009; *Hirsi Jamaa and Others v. Italy*, 2012.

²⁵ Examples of ECtHR case law in: *Amrollahi v. Denmark*, 2002; *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, 2007; *Guliev v. Lithuania*, 2008; *Hode and Abdi v. The United Kingdom*, 2012; *Berisha v. Switzerland*, 2013; *Mugenzi v. France*, *Tanda- Muzinga v. France* and *Senigo Longue and Others v. France*, 2014.

²⁶ For example, ECtHR, *Auad v. Bulgaria*, Application No. 46390/10, 1 October 2011.

²⁷ With the exception of Ireland and the UK where the 2004 Qualification Directive applies.

²⁸ ECtHR judgments in cases *N. v United Kingdom*, *D v United Kingdom*, *Poposhvili v Belgium*; The *N* case test requires judges to use a high threshold, which would only allow very exceptional cases where the grounds against removal were compelling, effectively limiting protection against removal to 'deathbed' cases.

²⁹ Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-informs/emn-informs-00_inform_statelessness_final.pdf.

³⁰ States participating to this inform were the following: AT, BE, CZ, EE, FI, FR, DE, HR, HU, IE, IT, LV, LT, LU, MT, NL, PL, SK, SI, ES, SE, UK and NO.

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The variety of residence permits issued to third-country nationals considered as non-removable are excluded from this study, i.e. situations where national authorities are faced with the impossibility of returning a person (s/he would not be readmitted to the country of origin, lack of identification documents or no transportation available, etc.).³¹

Lastly, this study will not map cases based on Article 8 of the ECHR and the interpretation of the ECtHR.

Temporal scope of the study

The study covers statuses that are available in Member States and Norway up to the end of 2018 (in terms of data) and planned or recent legislative changes in 2019. The study also includes statuses available at, or introduced since, the time of the 2010 EMN study 'The Different National Practices Concerning Granting of Non-EU Harmonised Protection Statuses', which were ceased or removed from national legislation during the study period. The temporal scope of the study is therefore 2010-2018.

4 DEFINITIONS

The following key terms are used in the Common Template. The definitions are taken from the EMN Glossary Version 6.0 unless indicated otherwise.

'Protection': A concept that encompasses all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and spirit of human rights, refugee and international humanitarian law. Protection involves creating an environment conducive to respect for human beings, preventing and/or alleviating the immediate effects of a specific pattern of abuse, and restoring dignified conditions of life through reparation, restitution and rehabilitation.³²

'Status': In the context of this study, 'status' refers to a legal status which leads directly to the issuing of a residence permit granting a long-term (i.e. longer than three months³³) right to reside in a Member State.

'International Protection': The EMN Glossary defines 'international protection' with reference to Article 2(a) of the Recast Qualification Directive 2011/95/EU in the following way: In the global context, the actions by the international community on the basis of international law, aimed at protecting the fundamental rights of a specific category of persons outside their countries of origin, who lack the national protection of their own countries. In the EU context, international protection encompasses refugee status and subsidiary protection status.

'National protection status': In the context of this study, *national protection* refers to any protection status granted by a State to a third-country national on the basis of national provisions that are not related to international protection, as defined in and harmonised by the Qualification Directive 2011/95/EU, nor to temporary protection as defined in the Temporary Protection Directive 2001/55/EC. *National protection status* is the recognition by a State of a third-country national as a person eligible for national protection.

National protection statuses granted in Member States may be conceived as consisting of rights leading to the issuance of residence permits that are granted to a wide range of third-country nationals for a variety of reasons. Such national (or non-harmonised) protection statuses usually lie outside of the asylum procedure and related residence permits are granted as part of (legal) migration policies, and on grounds relating to the situation of the person including at the time when (forced) removal from the EU Member State is imminent. Grounds may include:

- ★ Status for relocated or resettled persons (that are not granted an international protection status harmonised by EU law or equivalent),
- ★ Statuses for beneficiaries of private or community sponsorship programmes,
- ★ Statuses for beneficiaries of other programmes designed to assist for example family members (of persons legally residing in a state and) in need of protection to enter and reside in the EU),

³¹ Please see EMN AHQ issued on this topic (e.g. Undesirable but Unreturnable, issued under EMN REG activities).

³² UNHCR Master Glossary of Terms, June 2006, Rev.1, available at: <https://www.refworld.org/docid/42ce7d444.html> and EMN Glossary of terms.

³³ In this context, 'long-term' is to be understood in accordance with the provisions of Regulation (EU) No 265/2010 (Long Stay Visa Regulation).

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- ★ Constitutional asylum (that does lead to granting an international protection status harmonised by EU law or equivalent),
- ★ Collective protection (that does lead to granting an international protection status harmonised by EU law or equivalent),
- ★ Other (including humanitarian) statuses for:
 - Medical reasons,
 - Statuses for climate change reasons and natural disasters,
 - Statuses for local personnel of armed forces (e.g. Interpreters),
 - Special statuses for unaccompanied minors,
 - Special statuses for children (if different from the protection-related status provided to adults for the above-listed reasons).

This is not an exhaustive list.

‘Humanitarian protection’: A decision granting authorisation to stay for humanitarian reasons by administrative or judicial bodies under national law.

Please note that the present study covers humanitarian protection granted to third-country nationals already present on the territory of Member States. This study does not include ‘humanitarian visas’ aimed to provide access to the territory of Member States of persons in need of protection.

‘Resettlement’: *In the global context*, it is the selection and transfer of refugees from a state in which they have sought protection to a third country which has agreed to admit them as refugees with permanent residence status. The status provided ensures protection against refoulement and provides a resettled refugee and his/her family or dependants with access to rights similar to those enjoyed by nationals. For this reason, resettlement is a durable solution as well as a tool for the protection of refugees. *In the EU context*, resettlement refers to the process whereby, on a request from UNHCR based a person’s need for international protection, third-country nationals are transferred from a third country and established in a Member State, where they are permitted to reside with one of the following statuses: (i) refugee status within the meaning of Article 2(d) of Directive 2011/95/EU; (ii) ‘subsidiary protection status’ within the meaning of point (g) of Article 2 of Directive 2011/95/EU; or (iii) any other status which offers similar rights and benefits under national and Union law as those referred to the previous points.

‘Relocation’: *In the general EU-context*, the transfer of persons having a status defined by the Geneva Refugee Convention and Protocol or subsidiary protection within the meaning of Directive 2011/95/EU (Recast Qualification Directive) from the EU Member State which granted them international protection to another EU Member State where they will be granted similar protection, and of persons having applied for international protection from the EU Member State which is responsible for examining their application to another EU Member State where their applications for international protection will be examined. *In the context of the EU emergency relocation programme*, the transfer of persons in clear need of international protection, as defined in Council Decision 2015/1601 and 2016/1754, having applied for international protection from the EU Member State, CH or NO which is responsible for examining their application to another EU Member State, CH or NO where their application for international protection will be examined.

‘Private sponsorship schemes’:³⁴ There is no common and agreed definition of private sponsorship. Generally, they involve a transfer of responsibility from government agencies to private actors for some elements of the identification, pre-departure, reception, or integration process for beneficiaries. Thus, sponsorship is best described as *a way of admitting persons for humanitarian or (international) protection reasons, rather than as a separate ‘protection status’ in itself.*

³⁴ <https://publications.europa.eu/en/publication-detail/-/publication/1dbb0873-d349-11e8-9424-01aa75ed71a1/language-en/format-PDF/source-77978210>.

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Core benefits: In the context of EU law, the concept of core benefits is understood to cover, at least as a minimum, income support, assistance in case of illness, pregnancy, and parental assistance, in so far as these benefits are granted to nationals under national law.³⁵

Constitutional asylum: see section 3 on the scope of the study.

Collective protection: see section 3 on the scope of the study.

5 PRIMARY QUESTIONS TO BE ADDRESSED BY THE STUDY

The main questions the Study will aim to address are:

- ★ In brief, what are the EU-harmonised protection statuses?
- ★ Do Member States and Norway provide protection statuses not covered by EU legislation? (see scope of the study)
- ★ What are the procedures in respect of each non-harmonised protection status available in Member States and Norway (e.g. map the procedures followed to grant protection)? How does this relate to the procedure applicable to international protection statuses (i.e. at what point can the national status be accessed)?
- ★ Who may access the national (or non-harmonised) statuses?
- ★ What are the key rights, standards and content of protection of the national statuses and how do these compare with the EU-harmonised statuses?
- ★ What data are available in your State on persons granted national (or non-harmonised) statuses?

6 RELEVANT SOURCES AND LITERATURE

EMN Studies

- ★ Approaches to Unaccompanied Minors Following Status Determination in the EU plus Norway, 2018;³⁶
- ★ The Changing Influx of Asylum Seekers in 2014-2016, 2018;³⁷
- ★ Family Reunification of Third-Country Nationals in the EU and Norway: National Practices, 2016;³⁸
- ★ Returning Rejected Asylum Seekers: Challenges and Good Practices, 2016;³⁹
- ★ Resettlement and Humanitarian Admission Programmes in Europe – What Works? 2016;⁴⁰
- ★ Integration of Beneficiaries of International/Humanitarian Protection into the Labour Market: Policies and Good Practices, 2015.⁴¹

EMN Ad-hoc Queries

- ★ *Issuing a residence permit to rejected asylum seekers without a valid travel document, requested by FI EMN NCP on 31 October 2018;*

³⁵ See for example Recital 45 of the recast Qualification Directive.

³⁶ https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_synthesis_report_unaccompanied_minors_2017_en.pdf.

³⁷ https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_changing_influx_study_synthesis_final_en.pdf.

³⁸ https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_family_reunification_sr_final.pdf.

³⁹ https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn-studies-00_synthesis_report_rejected_asylum_seekers_2016.pdf.

⁴⁰ https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn-studies-00_resettlement_synthesis_report_final_en.pdf.

⁴¹ https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn-studies-00_integration_of_beneficiaries_of_international_protection_eu_2015_en_final.pdf.

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- ★ *Number of applications for humanitarian reasons (third country nationals applying for residence permits for medical reasons) limited to NO, SE, FI, BE, DE, AT, NL, LU, FR and UK, requested by FR EMN NCP on 19 September 2018;*
- ★ *Humanitarian Protection, requested by ES EMN NCP on 2 June 2017;*
- ★ *TCNs who could not be expelled from the State due to lack of identification/return documents, requested by LT EMN NCP on 3 May 2016;*
- ★ *Applications of Ukraine nationals for other types of protection than international/subsidiary, requested by CZ NCP on 17 June 2014;*
- ★ *Uniform international protection status, requested by AT EMN NCP on 14 October 2014;*
- ★ *Residence permits for medical reasons, requested by BE EMN NCP on 3 March 2010.*

European case law

The following case law from European courts was identified (see also section 3 of this introduction).

- ★ Court of Justice of the EU:
 - C-57/09 and C-101/09, *B & D*, judgement 9 November 2010.
 - C-542/13, *Mohamed M'Bodj v Conseil des ministres*, Grand Chamber judgment of 18 December 2014
 - C-562/13, *Centre public d'action sociale d'Ottignies-Louvain-La-Neuve v Moussa Abdida*, Grand Chamber judgment of 18 December 2014
 - C-353/16, *MP v. Secretary of State for the Home Department*, Grand Chamber judgment of 24 April 2018
- ★ European Court of Human Rights:
 - *D v United Kingdom*, Application No. 30240/96, *Judgment of 2 May 1997*
 - *N. v United Kingdom*, Application No. 26565/05, *Judgment of 27 May 2008*
 - *Sufi and Elmi v United Kingdom*, Application Nos. 8319/07 and 11449/07, *Judgment of 28 November 2011*
 - *Auad v Bulgaria*, Application No. 46390/10, *Judgment of 11 January 2012*
 - *Paposhvili v. Belgium*, Application no. 41738/10, *Judgment of 13 December 2016*

National case law

- ★ French National Court of Asylum, case no. 15033491, *Judgment of 9 February 2018*.⁴²

Other relevant sources

- ★ European Commission, *Study on the feasibility and added value of sponsorship schemes as a possible pathway to safe channels for admission to the EU, including resettlement, 2018*.⁴³
- ★ European Commission *Study of the Temporary Protection Directive, 2016*.⁴⁴
- ★ *Handbook on European law relating to asylum, borders and immigration, European Union Agency for Fundamental Rights, 2014*.⁴⁵

⁴² In this case, the national court ruled that a third-country national benefitting from national protection in a Member State does not preclude another Member State to examine his or her application for international protection.

⁴³ <https://publications.europa.eu/en/publication-detail/-/publication/1dbb0873-d349-11e8-9424-01aa75ed71a1/language-en/format-PDF/source-77978210>.

⁴⁴ Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/policies/asylum/temporary-protection/docs/final_report_evaluation_tpd_en.pdf.

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- ★ Vincent Chetail, Philippe De Bruycker, Francesco Maiani (Eds.), *Reforming the Common European Asylum System: The New European Refugee Law*, Brill Nijhoff, 2016.
- ★ Francesco Cherubini, *Asylum Law in the European Union*, Routledge, 2015.
- ★ Kay Hailbronner, Daniel Thym, *EU Immigration and Asylum Law: A Commentary*, C.H. Beck, 2016.
- ★ Natascha Zaun, *EU Asylum Policies: The Power of Strong Regulating States*, Palgrave Macmillan, 2017.
- ★ Steve Peers, Violeta Moreno-Lax, Madeline Garlick, Elspeth Guild, *EU Immigration and Asylum Law (Text and Commentary): Second Revised Edition: Volume 3: EU Asylum Law*, Hotei Publishing, 2015.
- ★ Cathryn Costello, *The Human Rights of Migrants in European Law*, Oxford University Press, 2016.
- ★ Céline Bauloz, Meltem Ineli-Ciger, Sarah Singer, Vladislava Stoyanova, *Seeking Asylum in the European Union: Selected Protection Issues Raised by the Second Phase of the Common European Asylum System*, Brill Nijhoff, 2015.
- ★ Liv Feijen, *Filling the Gaps? Subsidiary Protection and Non-EU Harmonized Protection Status(es) in the Nordic Countries* in *International Journal of Refugee Law*, Volume 26, Issue 2, pp. 173–197, June 2014.
- ★ Stephen Meili, *The Constitutional Right to Asylum: The Wave of the Future in International Refugee Law?* In *Fordham International Law Journal*, Volume 41, Issue 2, Article 3, pp. 383-424, April 2018.

7 AVAILABLE STATISTICS

Eurostat statistics on :

- ★ First instance decisions on applications by citizenship, age and sex Annual aggregated data (rounded) [*migr_asydcfsta*], as of 2008;
- ★ Decisions withdrawing status granted at first instance decision by type of status withdrawn and by citizenship Annual aggregated data (rounded) [*migr_asywifsta*], as of 2008;
- ★ Final decisions on applications by citizenship, age and sex (annual data) [*migr_asydcfina*], as of 2008.

8 ADVISORY GROUP

Advisory Group members are:

IE NCP – chair	Emma QUINN, Sarah GROARKE
BE NCP	Ina VANDENBERGHE
CZ NCP	Veronika VOTOČKOVÁ
DE NCP	Janne GROTE
EL NCP	Athena BALOPOULOU
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IT NCP	Stefania NASSO
LU NCP	Ralph PETRY; Adolfo SOMMARRIBAS
NO NCP	Stina HOLTH
SE NCP	Jonas HOLS; Madgalena LUND

⁴⁵ Available at: http://fra.europa.eu/sites/default/files/handbook-law-asylum-migration-borders-2nded_en.pdf.

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UK NCP	Zoe PELLAT
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ICF	Sonia GSIR, Tatiana KISTRUGA, Sara BAGNATO

9 TIMETABLE

The following tentative timetable has been proposed for the Study going forward:

Date	Action
12 December 2018	1 st Advisory Group meeting in Brussels
15 January 2019	2 nd Advisory Group in Dublin
11 February 2019	Launch of the study
13 May 2019	Submission of national reports by EMN NCPs
29 May 2019	Circulation of the first draft to COM
5 June 2019	Deadline for comments from COM
10 June 2019	Circulation of the 1 st draft of the synthesis report to all EMN NCPs, European Commission and EASO to provide comments
24 June 2019	Deadline for the NCPs to provide comments on 1st draft of the Synthesis report
10 July 2019	Circulation of the 2 nd draft of the synthesis report to all EMN NCPs, European Commission and EASO to provide comments
24 July 2019	Deadline for EMN NCPs to provide comments on 2nd draft
7 August 2019	Circulation of the final draft the synthesis report to all EMN NCPs, European Commission for final comments
21 August 2019	Deadline for final comments
Beginning of September 2019	Finalization and lay-out of the study package (synthesis report, inform and flash), publication and dissemination

10 TEMPLATE FOR NATIONAL CONTRIBUTIONS

Common Template of EMN Study 2019

Comparative overview of national protection statuses in the EU

National Contribution from FINLAND

Disclaimer: The following information has been provided primarily for the purpose of contributing to a synthesis report for this EMN study. The EMN NCP has provided information that is, to the best of its knowledge, up-to-date, objective and reliable within the context and confines of this study. The information may thus not provide a complete description and may not represent the entirety of the official policy of the EMN NCPs' Member State.

Top-line factsheet [max. 1 page]

The top-line factsheet will serve as an overview of the **national contribution** introducing the study and drawing out key facts and figures from across all sections, with a particular emphasis on elements that will be of relevance to (national) policy-makers. Please add any innovative or visual presentations that can carry through into the synthesis report as possible infographics and visual elements.

Please provide a concise summary of the main findings of Sections 1-3:

In Finland, the asylum procedure and the competencies of asylum authorities are governed by the Aliens Act of 2004. The Act provides grounds for granting international protection as well as other, non-protection-related grounds for a residence permit, which must be considered during a single asylum procedure.

Sections covering international protection in Finnish Aliens Act are asylum (section 87), subsidiary protection (section 88), issuing residence permits when exception clauses are applied (section 89), resettled refugees (section 90) and other humanitarian immigration (section 93). Furthermore, section 109 covers temporary protection as laid out in the temporary protection directive.

In the midst of the European refugee crisis in 2016, the Finnish government decided to abolish its only fully-fledged national protection status; humanitarian protection (section 88a of the Aliens Act). The Finnish government argued⁴⁶ that this was done as a concerted effort to harmonize Finnish legislation with EU-law and to avoid the situation, where Finnish legislation on protection would appear more favourable than that of other Member States.

Hence, Finland does no longer have national protection statuses in the traditional sense. However, apart from the EU-harmonized international protection statuses, there are other clauses that are worth mentioning in the context of this study that fall on "grey area" in terms of what counts as national protection. These are sections 52, 89 and 93 of the Aliens act.

A person who does not qualify for asylum or subsidiary protection, can still be granted a residence permit on compassionate grounds as per section 52 of the Aliens Act. Technically this is not a protection status as such, but it is an integral part of considering the protection status of an individual. Some of the justifications for granting a residence permit under section 52 can be categorized as protection of a sort and therefore the section deserves a mention in this study.

Section 89 of the aliens act ("Issuing residence permits when exception clauses are applied") covers the cases of non-removables, who are not granted international protection usually due to reasons related to crime, but cannot be returned due to the principle of non-refoulement. While the section is based on the international principle of non-refoulement, the policy of issuing a temporary residence permit with slightly restricted rights can be regarded as national.

Section 93 of the Aliens Act states that the Government may decide in a plenary session on admitting aliens into Finland on special humanitarian grounds or to fulfil international obligations. This is a somewhat less used section which contains diverse options of granting protection. It enables granting the beneficiaries either temporary or continuous residence permits and these are determined on a case-by-

⁴⁶ Government proposal 2/2016 <https://www.finlex.fi/fi/esitykset/he/2016/20160002> (in Finnish and Swedish)
Accessed 16.4.2019

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case basis. As it often deals with groups of people, it can also be seen as a collective protection status of a kind.

These three sections of the Aliens Act enable granting a residence permit to a person in situations, which fall out of the scope of international protection, but can still, according to Finnish law, be seen as situations where the person (or persons) is granted protection by the state of Finland.

The rights granted by these pieces of legislation are generally less favourable than refugee status or subsidiary protection. With section 52 and 89, the grounds for granting a residence permit are re-examined with each subsequent residence permit application, so they are always related to the current circumstances of the applicant.

One exception with section 52 is that it enables family reunification of unaccompanied minors with their underage siblings. Otherwise, siblings are not considered as immediate family members as per section 37 of Aliens Act, which limits family reunification to the nuclear family.

Finally, there are also a variety of situations, where a person may be granted a residence permit for other than international protection grounds, but they fall out of the remit of this study. These are section 51 as well as some of the subsections of section 52.

Section 51 covers some cases of non-removables. It enables issuing a person with a temporary residence permit if they cannot be returned to their home country or country of permanent residence for temporary reasons of health or if they cannot actually be removed from the country.

Subsections of section 52 enable granting protection to victims of human trafficking (section 52a), victims of labour exploitation (section 52d) and witnesses in witness protection programs (section 52e).

Section 1: Overview and mapping of types national protection statuses

Q1. Aside from the EU-harmonised protection statuses, are there any other protection statuses currently available in your Member States? **Yes/No**

Please note that any evolution in the type of statuses that were available in the past years but not currently available is to be developed in question 8.

YES (with some caveats)

Apart from EU-harmonised protection statuses, Finland may grant a person seeking international protection a residence permit based on discretionary grounds adopted by national legislation, even if they are excluded from refugee status or subsidiary protection.

Within the scope of this study, non-refoulement principle covers all other statuses except residence permit on compassionate grounds under **section 52**. Non-refoulement principle may be given broader interpretation than its literal definition and it may cover some exceptional cases under Section 52.

Upon examining the grounds for an individual's asylum application, other possible grounds for granting a residence permit are also examined. These grounds are not related to the need or requirements for international protection per se, but all circumstances must be taken into consideration in order to decide, whether the exceptions to the non-refoulement principle are considered grave enough to refuse residence permit.

Section 52 states that a continuous residence permit can be granted, *if refusing a residence permit would be manifestly unreasonable with regard to their health, ties to Finland or on other compassionate grounds, particularly in consideration of the circumstances they would face in their home country or of their vulnerable position.*

In this case, the circumstances under which the applicant would find him or herself in the home country or his or her vulnerable position are given special consideration.

As mentioned already in the 2009 Finnish NCP EMN study on non-harmonised protection statuses "the practice has shown that Section 52 has become a kind of protection status –people are seeking protection for reasons not

foreseen in the traditional refugee regime and therefore receiving protection statuses with lower guarantees⁴⁷. For example, between 2016-2017, most residence permits granted under section 52 were for unaccompanied minors from Afghanistan⁴⁸.

Section 89 of the aliens act (*"Issuing residence permits when exception clauses are applied"*) covers the cases of non-removables, who still are entitled to protection based on non-refoulement.

It enables granting a residence permit to persons, who are not granted asylum or subsidiary protection, because they have committed, or there are reasonable grounds to suspect that they have committed a crime against peace, war crime or crime against humanity as defined by international agreements concerning such crimes; an aggravated crime; or an act which violates the aims and principles of the United Nations.

The permit can be granted for a maximum of one year at a time, if a person cannot be removed from the country because they are under the threat of the death penalty, torture, persecution or other treatment violating human dignity. Despite its link to international law, the implementation (i.e. which type of residence permit is issued) is based on national guidelines and the Finnish Immigration Service's discretion.

Section 93 of the Aliens Act states that the Government may decide in a plenary session on admitting aliens into Finland on special humanitarian grounds or to fulfil international obligations.

This is, however, a clause that has extremely rarely been applied and exists in legislation mostly to cover unexpected contingencies such as natural, or other, disasters requiring prompt international humanitarian measures.

Section 93 was applied in 2015, when Finland agreed to take 100 Syrian asylum seekers from Germany as a gesture of burden-sharing during the European refugee crisis⁴⁹. The asylum seekers' cases were reviewed in Finland and decisions on their applications were made according to the Aliens Act⁵⁰.

Section 112 of the Aliens act states that a temporary residence permit is issued to persons who are admitted to Finland on the basis of a Government decision under section 93 or whose residence permit is issued under section 89. Hence, the permits issued would be temporary in nature and would therefore give only limited rights to the beneficiary. However, section 113 also states that a continuous permit can be issued.

Government proposal 28/2003 addressed section 93 by stating that apart from quota refugees, Finland may have to take in various kinds of groups of aliens in a multitude of situations.

It may be due to participation in some international project or there might be domestic political motivations to do so. The Government pointed out that since it is impossible to foresee what kind of situations might require such a clause, it was considered unnecessary to define more clearly, under which humanitarian, or equivalent, conditions such residence permits would be granted⁵¹.

The temporary protection directive lays out the right to family reunification. This has been transposed into Finnish legislation in section 109. In contrast, sections 89 and 93 can be considered national protection statuses of a sort, because unlike temporary protection under section 109, they may not automatically grant rights to family reunification. This means the rights provided by these statuses can be less than those laid out in EU-legislation.

⁴⁷ Asa, Riikka, The Different National Practices Concerning Granting of Non-EU Harmonised Protection Statuses - 2009 http://www.emn.fi/files/192/EMN_study_III_nonEUharmonised_protection_statuses.pdf (Accessed 18.3.2019)

⁴⁸ https://migri.fi/artikkeli/-/asset_publisher/jatkolupa-yksintulleille-alaikaisille-myonnetaan-talla-hetkella-yleensa-2-vuodeksi (in Finnish) Accessed 5.4.2019

⁴⁹ https://intermin.fi/artikkeli/-/asset_publisher/suomi-valmistautuu-vastaanottamaan-100-syrialaista-turvapaikanhakijaa-saksasta?_101_INSTANCE_jyFHKc3on2XC_languageId=fi_FI (in Finnish) (Accessed 18.3.2019)

⁵⁰ Government of Finland decision 17.9.2015

<https://valtioneuvosto.fi/paatokset/paatos?decisionId=0900908f80481ae9> (In Finnish, accessed 9.5.2019)

⁵¹ Government proposal HE28/2003 <https://www.finlex.fi/fi/esitykset/he/2003/20030028> (in Finnish or Swedish) Accessed 25.3.2019

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Q2. If no to Q1, please elaborate.

Please note question 12 (e.g. in case statuses reported in the 2010 study no longer exist, please note your answer there).

N/A

Q3. If yes to Q1, please complete **Table 1** with the type of non-harmonised protection statuses currently available.

Please indicate in **Table 1** the type of non-harmonised protection status(es) currently available

- Do not include any non-protection statuses: please refer to the scope of the study as defined in the introduction of the template.
- The type of statuses listed in **Table 1** is not exhaustive and is meant to act as a guide.
- National protection statuses can include for example those issued on the basis of ECHR Articles 3 and the principle of non-refoulement, medical reasons, climate change reasons, and other measures used to facilitate the legal admission and issuing of residence permits to persons in need of protection.

If a group of statuses (e.g. for medical, climate change and non-refoulement reasons) fall within a more general, overarching humanitarian status, please fill in the row below related to humanitarian status and include information on who is eligible for such status in Table 3. If there are differences in the content of protection, however, please indicate them in Table 4.

Table 1 Type of non-harmonised protection status(es) currently available

Type of non-harmonised protection status	Yes	No	Comments
Constitutional asylum			
Please note section 3 in the template for background; if the status provided falls under an 'EU protection status' please note that that in your answer in the 'comments' column.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Collective protection			
Please note section 3; if the status provided falls under an 'EU protection status' (e.g. the Temporary Protection Directive) please note that that in your answer in the 'comments' column.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Section 93 of Aliens Act states that the Government may decide in a plenary session on admitting aliens into Finland on special humanitarian grounds or to fulfil international obligations.
Other national (including humanitarian) statuses based on:			
Medical reasons See section 3 of the introduction in the study's template	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Section 52 of Aliens Act: Aliens residing in Finland are issued with a continuous residence permit if refusing a residence permit would be manifestly unreasonable with regard to <i>their health</i> , ties to Finland or on other compassionate grounds, particularly in consideration of the circumstances they would face in their home country or of their vulnerable position. Medical grounds can include, for example: mental disorder, PTSD, depression, internal disease (diabetes, coronary disease, cancer etc.). Granting residence permit with regard to applicant's

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			health would require that the disease is expected to shorten the applicant's lifetime and/or there is no adequate health care in applicant's home country.
Statuses available for climate change reasons and natural disasters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The government proposal HE2/2016 mentions that Section 52 allows granting an individual a residence permit fleeing an environmental disaster ⁵² .
Statuses available for local personnel of armed forces of respective Member States (e.g. interpreters in Afghanistan or Iraq)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Special statuses available for unaccompanied/aged-out minors <i>* Please note the recent EMN study on UAM and summarise where relevant</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Section 52 of the aliens act has usually been applied on unaccompanied minors, if they have not been considered eligible for refugee status or subsidiary protection.
Special statuses available for children <i>* Please include only if status is different from the protection-related status provided to adults/unaccompanied minors for the above-listed reasons</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No separate statuses for children. Section 52 of the aliens act, however, has usually been applied on children, if they have not been considered eligible for refugee status or subsidiary protection but the best interest of the child is to be considered. For example: Ties to Finland: the applicant has resided in Finland at least three years due to prolonged process. A typical case is a family with underage children. Children have usually resided most of their lifetime in Finland and are already attending primary school. Parents are usually working, and refusing a residence permit would be manifestly unreasonable. Leading family life would be impossible in the parent's country of origin and best interest of the child is considered (e.g. both guardians represent different nationalities).
Other (national protection) grounds <i>Please specify and add as many rows as necessary.</i> <i>Please note that study covers only national statuses granted to persons based on protection grounds – which could be applicable to persons that cannot be returned on the principle of non-refoulement. However, <u>legal statuses granted due to practical challenges to remove a third-country national fall outside the scope of the study</u> (see Section 3 in the introduction).</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Section 89 - Issuing residence permits when exception clauses are applied: Persons who are not eligible for asylum or subsidiary protection (due to crime-related reasons), but cannot be removed from the country, because they are under the threat of the death penalty, torture, persecution or other treatment violating human dignity.

⁵² <https://www.finlex.fi/fi/esitykset/he/2016/20160002.pdf> (In Finnish) (Accessed 20.3.2019)

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Q4. If yes to Q1, please complete **Table 2** with the type of statuses currently available for relocated and resettled persons, persons who are admitted through private/community sponsorship or other type of special programmes

If statuses available also include non-harmonised protection status(es), please also complete Table 3 and Table 4 in section 2.

Table 2 Type of protection status(es) currently available for relocated and resettled persons, persons who are admitted through private/community sponsorship or other type of special programmes

Type of protection status	Yes		No	Comments
	EU-harmonised protection status	Non-harmonised protection status		
Status(es) available for resettled persons				
<i>*Please note: EMN study on resettlement and humanitarian admission programmes</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Under Section 106 of the Aliens Act, refugee status is granted to an alien who has been admitted to Finland for resettlement under the refugee quota on the basis of refugee status. Section 116 empowers Migri to issue a first residence permit on the basis of refugee status or subsidiary protection to an alien admitted to Finland under the refugee quota.
Status(es) available for relocated persons				
<i>*Please note the EU relocation programmes (introduction of the template)</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The application process and options for statuses are the same for relocated persons as other asylum seekers.
Status(es) available to beneficiaries of community/private sponsorship programmes				
<i>*Please note: EMN study on resettlement and humanitarian admission programmes</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Statuses available to beneficiaries of other special programmes				
<i>E.g.: special programmes designed to assist persons in need of protection to enter and reside in the EU (e.g. in the frame of humanitarian admission programmes; family members of third-country nationals already legally residing in Member States)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

Section 2: Rationale, procedure and content of protection of national protection statuses

Q5. If yes to Q1 and indicated in Tables 1 and 2 types of non-harmonised protection status(es), please elaborate on rationale for the adoption of the status(es) and the determination procedure for each of the non-harmonised protection statuses.

Please refer to the relevant law or policy throughout.

Please add as many tables as necessary, filling one table per status, clearly indicating to which type of non-harmonised category it belongs to.

Table 3: Rationale for national protection status and determination procedure

Status A: Section 52 - Residence permit on compassionate grounds

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):	
Status A: Section 52: Residence permit on compassionate grounds	
Background	
Why was the status adopted? <i>* please briefly brief outline of the policy background that led to the adoption of this status</i>	Section 52 was adopted already in the Aliens Act of 2004. The rationale for adopting section 52 can be found in the government proposal HE28/2003. An amendment to the Aliens Act (537/1999) expanded the scope of granting a residence permit based on the need of international protection while abolishing the option of granting a residence permit on serious humanitarian grounds. These residence permits were granted in situations, where there were compassionate grounds to not deport a person due to, for example, a prolonged sojourn in the country caused by a prolonged application process. This new definition turned out to be problematic with regards to the scope of the law on reception and integration of asylum seekers (537/1999).
In what year was this status established?	2004
Is this status established on: a) A permanent basis? b) A temporary (or ad-hoc) basis? If it is temporary/ad-hoc, when did/will it cease operation?	a) It is established on permanent basis.
Legal basis	
Is the <i>status</i> set out in: a) Legislation? b) Administrative decision/regulation/circular? c) Other (e.g. case law, public policy guidance surrounding the application of any provision in practice)? Please elaborate	a) The status is set out in section 52 of the Aliens Act

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Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):	
Status A: Section 52: Residence permit on compassionate grounds	
Eligibility	
Who is eligible to receive this status?	Applicants for international protection, who are not eligible for asylum or subsidiary protection, but rejecting their application would be clearly unreasonable considering the applicant's health, ties established to Finland, or some other individual, humane reasons. In this case, the circumstances under which the applicant would find him or herself in the home country or his or her vulnerable position are taken into special consideration.
Determination procedure	
Is an application procedure set out in: a) Legislation? b) Administrative decision/regulation/circular? c) Other (e.g. case law)?	a) Legislation
When is application for the national protection status possible: a) Immediately, as part of a single procedure examining the need for international protection? b) Immediately, as part of a separate procedure? c) After exhausting the asylum procedure in-country? d) Other (please explain).	c) If the applicant is not considered eligible for asylum or subsidiary protection, they may still be granted a residence permit under section 52.
Where does the application take place: a) In the territory of your State? b) In a third country? c) Both are possible.	a) This status can only be granted in the territory of Finland
Briefly outline the procedure in terms of: – Authorities involved in examining the application and, if applicable, the issuance of a permit of stay; please clarify if these are the <u>same authorities as those responsible of examining international protection applications</u> ; – Existing timelines and notification of the (first instance) decision, information to the beneficiary	<p>- The application is examined and decided upon by the Finnish Immigration Service, who also examines all applications for international protection.</p> <p>- The processing times are connected to general asylum application processing times. Prior to 20.7.2018, application procedures could have taken as long as 16-20 months⁵³. Under a new law, asylum applications submitted on or after 20 July 2018 must be decided within six months. The new maximum processing time applies only to applications submitted on or after 20 July 2018.</p> <p>Under the law, the processing time may be longer than six months in the following cases: A decision must be made within 15 months if:</p>

⁵³ Finnish Immigration Service's statement on YLE News <https://yle.fi/uutiset/3-10204654> (In Finnish) (Accessed 5.4.2019)

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Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):	
Status A: Section 52: Residence permit on compassionate grounds	
	<p>the case involves complicated issues related to factual or legal circumstances;</p> <p>it is very difficult in practice to finish the procedure within a period of six months because a large number of third-country nationals or stateless persons are applying for international protection at the same time;</p> <p>the delay is clearly due to the fact that the applicant has failed to contribute to the investigation of his or her application.</p> <p>A decision must be made within 18 months if a longer time is needed to ensure a proper and reasoned investigation of the application for international protection.</p> <p>If a decision cannot be made within the periods specified above because the situation in the country of origin is unstable, it must nevertheless be made within 21 months⁵⁴.</p>
Appeal procedures	
Is there an appeal in the event of a negative decision? Yes/No	Yes
If yes, is it a two-level system of appeal or one level?	Finland has a two-level appeal system <ol style="list-style-type: none"> 1. Local administrative courts 2. Supreme administrative court
If yes, is it: <ul style="list-style-type: none"> - An administrative appeal? - A judicial appeal? - Judicial review? - Other? (please explain) 	The appeal process is judicial. All appeals on decisions made by the Finnish Immigration Service are handled by local administrative courts.
Does the appeal have an automatic suspensive effect? Yes/No If no, can it be requested and what is the procedure in this case?	Yes
Are the authorities involved <u>the same as those in appeal procedures against a negative decision in the <i>international protection procedure</i></u> ?	Yes
If the decision on the appeal is negative, will it result in a	No, return decision is considered a separate

⁵⁴ <https://migri.fi/en/frequently-asked-questions-about-processing-times-for-asylum-applications> (Accessed 5.4.2019)

Comparative overview of national protection statuses in the EU

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):	
Status A: Section 52: Residence permit on compassionate grounds	
return decision being issued? Yes/No	<p>administrative process.</p> <p>If a residence permit under section 52 is no longer extended, the person can be deported, but the Finnish Immigration Service will make a separate decision on this, based on the recommendation of the Finnish police.</p> <p>After the appeal process has been exhausted, lodging a (first) subsequent application prevents the enforcement of the return decision made on the original application, but the subsequent application can either be processed in an expedited manner or dismissed. Lodging a second subsequent application does not prevent the enforcement of the return decision which was made on a dismissed (first) subsequent application.</p>
If there is no possibility for appeal, please explain what happens.	N/A
Change of status	
<p>In case the applicant fails on appeal or his/her status ends or is not renewed, can s/he apply for:</p> <p>a. International protection status? (please specify which)</p> <p>b. Other legal migration statuses? (please specify which)</p>	<p>a. The applicant can submit a new application for international protection.</p> <p>b. The applicant can submit a residence permit on other grounds, such as employment, studies or family ties.</p>
Relevant case law	
<p>Is there any relevant case law (by the highest instance courts and final judgements) that led to <i>systemic</i> changes in the procedure (and/or with major policy implications) concerning this national protection status? Yes/No</p> <p>If so, please briefly provide references to case law and briefly describe the changes brought about by this case law.</p> <p><i>In the references to the case law please include: the court name, date of decision, title/parties if applicable, case number (or citation, document symbol), link to the full version of the case (if possible)</i></p>	<p>No. According to both the Finnish Immigration Service's asylum and immigration units (who issue permits based on section 52), there is no case law that would have led to systemic changes in the procedure or had major policy implications. The general opinion⁵⁵ within the Finnish Immigration Service is that the government proposal HE28-2003 exhaustively lists the cases where this status can be granted. Administrative courts have mostly had the role of confirming this notion by setting the bar relatively high on when this status is granted.</p>

⁵⁵ Interviews with the Finnish Immigration Service immigration unit on 5.4.2019 and asylum unit on 9.4.2019

Comparative overview of national protection statuses in the EU

Status B: Section 89 - Issuing residence permits when exception clauses are applied

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):	
Status B: Section 89 - Issuing residence permits when exception clauses are applied	
Background	
Why was the status adopted? <i>* please briefly brief outline of the policy background that led to the adoption of this status</i>	Government proposal 28/2003 states that provisions for the situation described in section 89 did not exist in hitherto legislation. Hence, it was considered necessary to add a proviso to the reformed Aliens Act, which would enable granting a temporary residence permit to a person in accordance with the principle of non-refoulement, even if they were perpetrators of crimes or suspects.
In what year was this status established?	2004
Is this status established on: c) A permanent basis? d) A temporary (or ad-hoc) basis? If it is temporary/ad-hoc, when did/will it cease operation?	a) It is a permanent clause in legislation
Legal basis	
Is the <i>status</i> set out in: d) Legislation? e) Administrative decision/regulation/circular? f) Other (e.g. case law, public policy guidance surrounding the application of any provision in practice)? Please elaborate	a) Section 89 states that under section 89 a person can be granted a residence permit for a maximum of one year at a time. Government proposal 28-2003 states that the permit may be granted up to three years consecutively. If, after three years, removing the person is still not possible, a continuous residence permit can be issued.
Eligibility	
Who is eligible to receive this status?	Aliens residing in Finland who are not granted asylum or a residence permit on the basis of subsidiary protection or humanitarian protection because they have committed, or there are reasonable grounds to suspect that he or she has committed 1) a crime against peace, war crime or crime against humanity as defined by international agreements concerning such crimes; 2) an aggravated crime; or 3) an act which violates the aims and principles of the United Nations, but they cannot be removed from the country because they are under the threat of the death penalty, torture, persecution or other treatment violating human dignity.
Determination procedure	
Is an application procedure set out in: a) Legislation? b) Administrative decision/regulation/circular? c) Other (e.g. case law)?	a) Legislation NB. there is no application procedure as such, rather this status is granted in a situation where the person cannot be returned under the non-refoulement principle.
When is application for the national protection status possible: a) Immediately, as part of a single procedure examining the need for international protection? b) Immediately, as part of a separate procedure? c) After exhausting the asylum procedure in-country? d) Other (please explain).	d) No separate application procedure. See above.

Comparative overview of national protection statuses in the EU

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):	
Status B: Section 89 - Issuing residence permits when exception clauses are applied	
Where does the application take place: a) In the territory of your State? b) In a third country? c) Both are possible.	a) Status under section 89 is granted only in the territory of Finland
Briefly outline the procedure in terms of: – Authorities involved in examining the application and, if applicable, the issuance of a permit of stay; please clarify if these are the <u>same authorities as those responsible of examining international protection applications</u> ; – Existing timelines and notification of the (first instance) decision, information to the beneficiary	<p>- Status under section 89 is granted by the Finnish Immigration Service, who examines applications for international protection as well.</p> <p>- The processing times are connected to general asylum application processing times. Prior to 20.7.2018, application procedures could have taken as long as 16-20 months. Under a new law, asylum applications submitted on or after 20 July 2018 must be decided within six months. The new maximum processing time applies only to applications submitted on or after 20 July 2018.</p> <p>Under the law, the processing time may be longer than six months in the following cases:</p> <p>A decision must be made within 15 months if: the case involves complicated issues related to factual or legal circumstances;</p> <p>it is very difficult in practice to finish the procedure within a period of six months because a large number of third-country nationals or stateless persons are applying for international protection at the same time;</p> <p>the delay is clearly due to the fact that the applicant has failed to contribute to the investigation of his or her application.</p> <p>A decision must be made within 18 months if a longer time is needed to ensure a proper and reasoned investigation of the application for international protection.</p> <p>If a decision cannot be made within the periods specified above because the situation in the country of origin is unstable, it must nevertheless be made within 21 months.</p>
Appeal procedures	
Is there an appeal in the event of a negative decision? Yes/No	Yes
If yes, is it a two-level system of appeal or one level?	Finland has a two-level appeal system 1. Local administrative courts 2. Supreme administrative court
If yes, is it:	The appeal process is judicial. All appeals on

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Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):	
Status B: Section 89 - Issuing residence permits when exception clauses are applied	
<ul style="list-style-type: none"> - An administrative appeal? - A judicial appeal? - Judicial review? - Other? (please explain) 	decisions made by the Finnish Immigration Service are handled by local administrative courts.
Does the appeal have an automatic suspensive effect? Yes/No If no , can it be requested and what is the procedure in this case?	Yes
Are the authorities involved <u>the same as those in appeal procedures against a negative decision in the <i>international protection procedure</i></u> ?	Yes
If the decision on the appeal is negative, will it result in a return decision being issued? Yes/No	<p>No, return decision is considered a separate administrative process.</p> <p>If a residence permit under section 89 is no longer extended, the person can be deported, but the Finnish Immigration Service will make a separate decision on this, based on the recommendation of the Finnish police.</p> <p>After the appeal process has been exhausted, lodging a (first) subsequent application prevents the enforcement of the return decision made on the original application, but the subsequent application can either be processed in an expedited manner or dismissed. Lodging a second subsequent application does not prevent the enforcement of the return decision which was made on a dismissed (first) subsequent application.</p>
If there is no possibility for appeal, please explain what happens.	N/A
Change of status	
<p>In case the applicant fails on appeal or his/her status ends or is not renewed, can s/he apply for:</p> <ul style="list-style-type: none"> a. International protection status? (please specify which) b. Other legal migration statuses? (please specify which) 	<p>Both are possible. A new application can always be submitted if the decision to the previous application has entered into legal force.</p> <p>The applicant can submit an application for asylum or a residence permit application on the basis of work, family ties, studies or other.</p> <p>The Finnish Immigration Service will conduct a preliminary investigation on each new asylum application.</p> <p>A new asylum interview will be conducted, if the applicant has presented new asylum grounds or new additional information that they did not present in their previous application and in their first asylum interview. If they have not presented new grounds or evidence, the application will be dismissed. Recurring applications from the same applicant can ultimately be dismissed and the return enforced.</p> <p>The applicant may also be granted another kind of residence permit, for example on the basis of</p>

Comparative overview of national protection statuses in the EU

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):	
Status B: Section 89 - Issuing residence permits when exception clauses are applied	
	work or studies. If they have applied for another residence permit during their asylum seeking process, they usually make a decision on both applications at the same time. A residence permit is usually granted for a year.
Relevant case law	
<p>Is there any relevant case law (by the highest instance courts and final judgements) that led to <i>systemic</i> changes in the procedure (and/or with major policy implications) concerning this national protection status? Yes/No</p> <p>If so, please briefly provide references to case law and briefly describe the changes brought about by this case law.</p> <p><i>In the references to the case law please include: the court name, date of decision, title/parties if applicable, case number (or citation, document symbol), link to the full version of the case (if possible)</i></p>	No

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Status C: Section 93 - Other humanitarian immigration

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):	
Status C: Section 93 - Other humanitarian immigration	
Background	
Why was the status adopted? <i>* please briefly brief outline of the policy background that led to the adoption of this status</i>	2004
In what year was this status established?	2004
Is this status established on: a) A permanent basis? b) A temporary (or ad-hoc) basis? If it is temporary/ad-hoc, when did/will it cease operation?	a) It is a permanent clause in legislation
Legal basis	
Is the <i>status</i> set out in: a) Legislation? b) Administrative decision/regulation/circular? c) Other (e.g. case law, public policy guidance surrounding the application of any provision in practice)? Please elaborate	a) Other humanitarian immigration is defined in section 93 of the aliens act
Eligibility	
Who is eligible to receive this status?	It is not clearly defined. The definition has been left broad to accommodate a multitude of unanticipated situations that might warrant admitting aliens to Finland under humanitarian grounds. The law states: The Government may decide in a plenary session on admitting aliens into Finland on special humanitarian grounds or to fulfil international obligations.
Determination procedure	
Is an application procedure set out in: a) Legislation? b) Administrative decision/regulation/circular? c) Other (e.g. case law)?	c) The application procedure on this particular clause is not clearly defined.
When is application for the national protection status possible: a) Immediately, as part of a single procedure examining the need for international protection? b) Immediately, as part of a separate procedure? c) After exhausting the asylum procedure in-country? d) Other (please explain).	d) This would be considered a separate ad hoc category for unexpected situations, where the need to grant residence permits based on protection might be necessary.
Where does the application take place: a) In the territory of your State? b) In a third country? c) Both are possible.	c) Considering the ambiguous wording of the section, both options are possible, or neither option is unequivocally excluded, at least.
Briefly outline the procedure in terms of: — Authorities involved in examining the application and, if applicable, the issuance of a permit of stay; please clarify if these are the <u>same authorities as those responsible of examining international protection applications</u> ;	- The Government of Finland decides in a plenary session on the cases on an individual basis. The residence permit is issued by the Finnish Immigration Service. The type of permit and status are at the Immigration Service's

Comparative overview of national protection statuses in the EU

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):	
Status C: Section 93 - Other humanitarian immigration	
– Existing timelines and notification of the (first instance) decision, information to the beneficiary	discretion. - Timeline and notification of the (first instance) decision depend on the type of permit and status granted by the Finnish Immigration Service.
Appeal procedures	
Is there an appeal in the event of a negative decision? Yes/No	Yes
If yes, is it a two-level system of appeal or one level?	Finland has a two-level appeal system 1. Local administrative courts 2. Supreme administrative court
If yes, is it: - An administrative appeal? - A judicial appeal? - Judicial review? - Other? (please explain)	The appeal process is judicial. All appeals on decisions made by the Finnish Immigration Service are handled by local administrative courts.
Does the appeal have an automatic suspensive effect? Yes/No <u>If no</u> , can it be requested and what is the procedure in this case?	Yes
Are the authorities involved <u>the same as those in appeal procedures against a negative decision in the <i>international protection procedure</i></u> ?	Yes
If the decision on the appeal is negative, will it result in a return decision being issued? Yes/No	Yes
If there is no possibility for appeal, please explain what happens.	-
Change of status	
In case the applicant fails on appeal or his/her status ends or is not renewed, can s/he apply for: c. International protection status? (please specify which) d. Other legal migration statuses? (please specify which)	Both are possible. A new application can always be submitted if the decision to the previous application has entered into legal force. The applicant can submit an application for asylum or a residence permit application on the basis of work, family ties, studies or other. The Finnish Immigration Service will conduct a preliminary investigation on each new asylum application. A new asylum interview will be conducted, if the applicant has presented new asylum grounds or new additional information that they did not present in their previous application and in their first asylum interview. If they have not presented new grounds or evidence, the application will be dismissed. Recurring applications from the same applicant can ultimately be dismissed and the return enforced. The applicant may also be granted another kind of residence permit, for example on the basis of work or studies. If they have applied for another

Comparative overview of national protection statuses in the EU

Type of category the national protection status belongs to (as mentioned in Table 1 or Table 2):	
Status C: Section 93 - Other humanitarian immigration	
	<p>residence permit during their asylum seeking process, they usually make a decision on both applications at the same time.</p> <p>A residence permit is usually granted for a year.</p>
Relevant case law	
<p>Is there any relevant case law (by the highest instance courts and final judgements) that led to <i>systemic</i> changes in the procedure (and/or with major policy implications) concerning this national protection status? Yes/No</p> <p>If so, please briefly provide references to case law and briefly describe the changes brought about by this case law.</p> <p><i>In the references to the case law please include: the court name, date of decision, title/parties if applicable, case number (or citation, document symbol), link to the full version of the case (if possible)</i></p>	No.

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Q6. If yes to Q1 and indicated in Tables 1 and 2 types of non-harmonised protection status(es), please also fill in **Table 4 for each status**. Please add as many tables as necessary, completing one table per status, clearly referring to the name/title of the status used in Table 3.

Table 4: Content of protection of national statuses

Status A: Section 52 - Residence permit on compassionate grounds

Status [A] Section 52: Residence permit on compassionate grounds <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
Residence permit				
Issuance of a residence permit required?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Yes
Validity of the first residence permit (or initial length) (in years)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	One year
Possibilities of renewal/extension?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Validity of the residence permit after renewal? (in years)	-	-	-	<p>The Finnish Immigration Service grants the extended permit if the reasons due to which the person received the previous fixed-term residence permit continue to exist.</p> <p>The extended permit can also be granted on grounds other than the earlier permit if such grounds would qualify the person for the first residence permit. Extended residence permits have been issued for 1-2 years, or until the applicant turns 18.</p> <p>According to the Finnish Immigration Service, the extended permit is normally issued for two years to four years. An extended permit may be issued for a shorter period, if the applicant has not attended his or her studies, for instance. In the case of unaccompanied minors, the extended permit is usually granted for two years⁵⁶.</p> <p>After an unaccompanied minor has turned 18, an extension can still be granted to his or her permit, if the prerequisites for granting the permit still exist and there are no impediments to granting the permit, such as crimes⁵⁷.</p>

⁵⁶ Interview with the Finnish Immigration Service immigration unit 5.4.2019

⁵⁷ https://migri.fi/uutishuone/uutinen/-/asset_publisher/migri-vastaa-voiko-yksin-tullut-alaikainen-turvapaikanhakija-jaada-maahan-taysi-ikaisena- (in Finnish) Accessed 10.4.2019

Comparative overview of national protection statuses in the EU

Status [A] Section 52: Residence permit on compassionate grounds <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
Time period required to be entitled to permanent residence permit (in years) ⁵⁸	-	-	-	Four years
Does this time period differ from the general rule for applying for permanent residence permit?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Travel document				
Is a travel document issued ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	An alien's passport may also be issued if <ul style="list-style-type: none"> - they are unable to obtain a passport from the authorities in your home country; - they are a stateless person; - there are other special reasons why they need an alien's passport, such as - they need to travel to their home country to obtain a national passport; or - they have not been able to obtain a national passport despite trying to do so; - they have applied for a residence permit and fulfil the other requirements for getting a residence permit but their national passport has expired during the asylum process and they cannot, for justifiable reasons, get its period of validity extended without travelling to their home country or an embassy of their home country outside Finland
If so, what type of document is it ?	-	-	-	Alien's passport
Validity (in years)	-	-	-	Validity may vary between 1 and 5 years. The alien's passport can exceed the permit in validity, but travelling with the Alien's passport without a valid residence permit is not possible.
Accommodation				

⁵⁸ See definition of permanent residence used in the Long-Term Residence Directive, i.e. third-country nationals who have resided and continuously within its territory for five years prior to the submission of the application for a permanent residence permit.

Comparative overview of national protection statuses in the EU

Status [A] Section 52: Residence permit on compassionate grounds <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
Access to accommodation (on the same basis as other legally residing third-country nationals)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Access to specific schemes/programmes to support access to accommodation?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>During the asylum process, unaccompanied minor asylum seekers live in group homes or supported residential units intended for minors. After receiving a residence permit, they usually move on to family group homes. This special provision is stipulated by Section 27 of the Act on Integration of Immigrants and Reception of Asylum Seekers, which states:</p> <p><i>The care for and upbringing of unaccompanied minors or young persons who have been issued with a residence permit after they have applied for international protection in Finland as minors and who have been admitted to Finland under a refugee quota referred to in section 90 of the Aliens Act is organised in family group homes or using supported family placement or otherwise in an appropriate manner.</i>⁵⁹</p> <p>The activities of the family group homes are coordinated by the ELY Centres (Centres for Economic Development, Transport and the Environment), and the operation of the group homes is coordinated by the Finnish Immigration Service. A minor, who is an asylum seeker or who has been issued with a residence permit may also live in private accommodation while being registered with a group home or a family group home⁶⁰.</p> <p>Otherwise, in the case of adults, the Act on Integration of Immigrants and Reception of Asylum Seekers (Act on Integration) does not unequivocally define the authorities responsible for aiding Aliens with finding accommodation. Municipalities in Finland have solved this in various ways and the range of services or programmes provided is at their discretion.</p>

⁵⁹ <https://www.finlex.fi/fi/laki/kaannokset/2010/en20101386.pdf> Accessed 6.5.2019

⁶⁰ Centre of Expertise in Immigrant Integration at the Ministry of Economic Affairs and Employment <https://kotouttaminen.fi/en/family-group-homes> Accessed 17.4.2019

Comparative overview of national protection statuses in the EU

Status [A] Section 52: Residence permit on compassionate grounds <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
Dispersal mechanism? ⁶¹	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	There is no dispersal mechanism. Reception and allocation of beneficiaries of protection is decided by the municipalities independently.
Family reunification				
Right to family reunification?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Family members of an alien, who has been issued with a continuous or permanent residence permit, are issued with a continuous residence permit.
Eligible family members, for example:				The definition of family member is laid out in Aliens Act section 37 and is mostly limited to the nuclear family.
- partner in a legal marriage or in a comparable relationship	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
- unmarried partner (<i>e.g. registered partnership, cohabitation, attested long term relationship</i>)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
- underage partner	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
- minor child (beneficiary's and/or partner's; foster or adopted child)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
- adult dependent children (beneficiary's and/or partner's or adopted child)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
- brother or sisters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	If unaccompanied minor children, who have entered Finland are issued with a residence permit under Section 52, subsection 4, their minor siblings residing abroad are issued with a continuous residence permit upon application. A requirement for issuing a residence permit is that the children and their siblings have lived together and that their parents are no longer alive or the parents' whereabouts are unknown. Another requirement for issuing a residence permit is that issuing the permit is in the best interest of the children.
- dependent parents	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
- parents of UAMs	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

⁶¹ In asylum policies, a 'dispersal mechanism' refers to a policy implemented by national authorities to 'distribute' asylum seekers or beneficiaries of protection across the territory of the State, to ensure an even distribution among local authorities and avoid 'overburdening' available accommodation or housing facilities.

Comparative overview of national protection statuses in the EU

Status [A] Section 52: Residence permit on compassionate grounds <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
Material requirements sponsor must guarantee, for example: <ul style="list-style-type: none"> - accommodation - health insurance - sufficient income/financial means - other (e.g. criminal record, medical certificate) 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Income requirement depends on the family member in Finland.
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Is there an equivalent of a 'grace period' ⁶² during which no material conditions are required? If so, please indicate the duration of the grace period in the comments column.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
What is the validity of the residence permit of the family member?	-	-	-	One year.
Labour market and qualifications				
Specific conditions to be granted access (e.g. hold work permit)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Residence permit under section 52 grants full rights to employment. There is no need for a separate work permit. A young person who has been granted a residence permit has a right to work if they have reached the age of 15 or will reach that age during the permit's period of validity. A person who has been granted a residence permit under section 52, who registers at an Employment and Economic Development Office as an unemployed jobseeker, is entitled to the same workforce services as any other client of the Employment and Economic Development Office. At this stage, an integration plan is drawn up to the person. As a client of the Employment and Economic Development Office, the person has the chance to get information about open positions and receive labour market training, career counselling and integration and language training.

⁶² See Article 12 of the Family Reunification Directive: material requirements do not have to be fulfilled or may be subject to a grace period before these requirements apply (minimum 3 months).

Comparative overview of national protection statuses in the EU

Status [A] Section 52: Residence permit on compassionate grounds <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
Access to procedures for recognition of qualifications?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A. In Finland, recognition decisions are made by different bodies for different purposes. ⁶³ For further information, see the Finnish National Agency for Education (OPH) website.
Social assistance				
Social assistance limited to core benefits ? <i>*please note definition of 'core benefits' in the introduction</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Beneficiaries are allowed to work (section 79 of the Aliens Act) and have access to social assistance, health care and accommodation. The extent is the same as that of Finnish citizens.
Health care				
Access to emergency health care?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	A person who has been granted a residence permit is entitled to all services provided in the public healthcare system, such as primary care, emergency treatment, specialised medical care and mental health services.
Access to mainstream services?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	See above.

⁶³ <https://www.oph.fi/english/services/recognition> (Accessed 29.3.2019)

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Status [A] Section 52: Residence permit on compassionate grounds <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
Specific support to those with special needs (e.g. to persons who have undergone torture, rape, or other serious forms of psychological, physical or sexual violence)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The Centre for Torture Survivors (CTS) in Finland is an adult psychiatric outpatient clinic, which assesses treats and rehabilitates severely traumatised refugee torture victims and their family members. Treatment starts during the evaluation and analysis phase. Rehabilitation involves psycho, physio, activity and family therapy, as well as guidance on social services.</p> <p>The activities are based on the international agreements done by Finland on conduct toward refugees and asylum seekers⁶⁴.</p> <p>According to the Act on the Reception of Persons Applying for International Protection, unaccompanied minors are entitled to the same healthcare services as other municipal residents already during the asylum process.</p>
Education				
Access to general system of education (same as nationals)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Children who reside in Finland permanently are subject to compulsory education. This means an obligation to obtain the amount of education provided in basic education. Compulsory education terminates in the year when a young person turns 17.</p> <p>Municipalities, on the other hand, are obligated to organise basic education to all children in their area subject to compulsory education, i.e. children aged 7–16. The right to attend school is not dependent on the status of a residence permit.</p> <p>Unaccompanied minors usually attend school during the asylum process.⁶⁵</p>

⁶⁴ <https://www.hdl.fi/en/support-and-action/immigrants/rehabilitation-for-torture-victims/centre-for-torture-survivors-in-finland/> Accessed 18.3.2019

⁶⁵ http://www.emn.fi/files/1855/EMN_UAM_EN_FI_NETTI3.pdf Unaccompanied Minors Following Status Determination: Approaches in EU Member States and Norway – National Report of Finland

Comparative overview of national protection statuses in the EU

Status [A] Section 52: Residence permit on compassionate grounds <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
Additional support provided (e.g. preparatory classes, additional classes of official language, remedial classes, assistance of intercultural assistant)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Act on Integration of Immigrants and Reception of Asylum Seekers (Act on Integration) governs the integration of refugees and also applies to persons granted residence permit on the basis of subsidiary protection or humanitarian protection under Section 113. Likewise persons with residence permit granted under Section 51, 52 and 93 are covered with the same provisions.</p> <p>An integration plan is made with every recognised refugee and beneficiaries of complementary protection for three years.</p> <p>The integration plan consists of language courses, vocational training, and preparatory training for vocational studies. The studies include Finnish and everyday skills, communication skills and information technology as well as an introduction to Finnish society and culture.</p>

Comparative overview of national protection statuses in the EU

Status [A] Section 52: Residence permit on compassionate grounds <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
Integration				
Access to 'mainstream' support (available for legally residing third-country nationals)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Act on Integration of Immigrants and Reception of Asylum Seekers (Act on Integration) ⁶⁶ governs the integration of refugees and also applies to persons granted residence permit on the basis of subsidiary protection or humanitarian protection under Section 113. Likewise persons with residence permit granted under Section 51, 52, 89 and 93 are covered with the same provisions.</p> <p>The integration plan consists of language courses, vocational training, and preparatory training for vocational studies. The studies include Finnish and everyday skills, communication skills and information technology as well as an introduction to Finnish society and culture.</p>
Access to targeted support (i.e. specifically for beneficiaries of the status)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
If so, how long is the support granted for?	-	-	-	
End of protection				
Are there any <i>formal</i> ways foreseen to end or refuse to renew the national protection status (e.g. it is foreseen in national legislation)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
How can national protection end?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
- The person no longer qualifies for protection	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
- Protection was fraudulently acquired	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
- Status ceased	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
- Status can no longer be renewed	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
- Other (please explain)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The person has been granted a residence permit under new grounds (e.g. employment, studies, family ties). The person has committed crimes.

⁶⁶ <https://www.finlex.fi/fi/laki/ajantasa/2010/20101386> Accessed 10.4.2019

Comparative overview of national protection statuses in the EU

Status [A] Section 52: Residence permit on compassionate grounds <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
Naturalisation/citizenship acquisition				
Minimum legal residence required to apply for citizenship/naturalisation <i>*please note that a 2019 EMN study will research in more depth the issue of acquisition of citizenship in Member States</i>				The applicant must be permanently resident and domiciled in Finland: a) for the last five years without interruption; or b) for a total of seven years since reaching the age of 15 years with the last two years without interruption. According to section 18a of the Nationality Act, if the person fulfils the language requirement, the minimum residence period can be reduced to four years without interruption or six years since reaching the age of 15 years with the last two years without interruption ⁶⁷ .
Status offers more or less favourable conditions (compared to either refugee or subsidiary protection)				
Please describe the extent to which the status offers a) <i>more</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	In the case of unaccompanied minors, section 52 enables them to apply for family reunification with their underage sibling. Hence, in those cases the definition of family member, as defined in section 37 of the Aliens act, extends to underage siblings as well.
b) <i>same or</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
c) <i>less favourable conditions compared to either refugee or subsidiary protection?</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The validity of the first permit under section 52 is always one year. The person might still be expected to turn to the authorities of his or her home country to procure identity documents or at least a certificate stating that identity documents cannot be issued to the said person. A residence permit issued under section 52 is also determined on a permit-by-permit basis.

⁶⁷ Finnish nationality act 2003/359 (in Finnish or Swedish only), <https://www.finlex.fi/fi/laki/ajantasa/2003/20030359> Accessed 15.3.2019

Comparative overview of national protection statuses in the EU

Status [A] Section 52: Residence permit on compassionate grounds <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
Relevant case law				
<p>Is there any relevant case law (by the highest instance courts and final judgements) that led to <i>systemic</i> changes in the procedure (and/or with major policy implications) concerning this national protection status? Yes/No</p> <p>If so, please briefly provide references to case law and briefly describe the changes brought about by this case law.</p> <p><i>In the references to the case law please include: the court name, date of decision, title/parties if applicable, case number (or citation, document symbol), link to the full version of the case (if possible)</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>No. According to both the Finnish Immigration Service's asylum and immigration units (who issue permits based on section 52), there is no case law that would have led to systemic changes in the procedure or had major policy implications. The general opinion within the Finnish Immigration Service is that the government proposal HE28-2003 exhaustively lists the cases where this status can be granted. Administrative courts have mostly had the role of confirming this notion by setting the bar relatively high on when this status is granted.</p>

Comparative overview of national protection statuses in the EU

Status B: Section 89 - Issuing residence permits when exception clauses are applied

Status B: Section 89 - Issuing residence permits when exception clauses are applied <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
Residence permit				
Issuance of a residence permit required?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The residence permit is issued by the Finnish Immigration Service for one year at a time.
Validity of the first residence permit (or initial length) (in years)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	One year. Upon the expiry of the permit, the person's situation vis a vis non-refoulement is re-examined.
Possibilities of renewal/extension?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>Upon the expiry of the first permit, the person's situation vis a vis non-refoulement is re-examined.</p> <p>If, upon the expiry of the first residence permit, the situation remains unchanged, the person issued another residence permit for one year.</p> <p>According to section 113 of the Aliens Act, an alien with temporary residence permit under Section 89 is issued with a continuous residence permit after three years of continuous residence in Finland if the grounds for issuing a residence permit still exist (e.g. postponed removal).</p>
Validity of the residence permit after renewal? (in years)	-	-	-	One year.
Time period required to be entitled to permanent residence permit (in years) ⁶⁸	-	-	-	<p>The minimum requirement is four years with a continuous residence permit.</p> <p>Note that permits issued under section 89 are always temporary up until three years, after which a continuous permit can be issued. The time period of four years begins on the first day of the first continuous residence permit if the permit was applied for in Finland.</p>

⁶⁸ See definition of permanent residence used in the Long-Term Residence Directive, i.e. third-country nationals who have resided and continuously within its territory for five years prior to the submission of the application for a permanent residence permit.

Comparative overview of national protection statuses in the EU

Status B: Section 89 - Issuing residence permits when exception clauses are applied <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
Does this time period differ from the general rule for applying for permanent residence permit?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	See above.
Travel document				
Is a travel document issued ?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>An alien's passport may be issued if</p> <ul style="list-style-type: none"> they are unable to obtain a passport from the authorities in their home country; they are a stateless person; there are other special reasons why they need an alien's passport, such as they need to travel to their home country to obtain a national passport; or they have not been able to obtain a national passport despite trying to do so; they have applied for a residence permit and fulfil the other requirements for getting a residence permit but their national passport has expired during the asylum process and they cannot, for justifiable reasons, get its period of validity extended without travelling to their home country or an embassy of their home country outside Finland
If so, what type of document is it ?	-	-	-	Alien's passport

Comparative overview of national protection statuses in the EU

Status B: Section 89 - Issuing residence permits when exception clauses are applied <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
Validity (in years)	-	-	-	Usually one year (as the permit under section 89 is always one year). Generally, validity may vary between 1 and 5 years. The alien's passport can exceed the permit in validity, but travelling with the Alien's passport without a valid residence permit is not possible.
Accommodation				
Access to accommodation (on the same basis as other legally residing third-country nationals) ?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Access to specific schemes/programmes to support access to accommodation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Act on Integration of Immigrants and Reception of Asylum Seekers (Act on Integration) does not unequivocally define the authorities responsible for aiding Aliens with finding accommodation. Municipalities in Finland have solved this in various ways and the range of services or programmes provided is at their discretion.
Dispersal mechanism? ⁶⁹	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	There is no dispersal mechanism. Reception and allocation of beneficiaries of protection is decided by the municipalities independently.
Family reunification				
Right to family reunification ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Only after they have been issued a continuous residence permit (HE28/2003) and thus no longer hold the status under section 89.
Eligible family members, for example:				
- partner in a legal marriage or in a comparable relationship	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
- unmarried partner (<i>e.g. registered partnership, cohabitation, attested long term relationship</i>)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
- underage partner	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

⁶⁹ In asylum policies, a 'dispersal mechanism' refers to a policy implemented by national authorities to 'distribute' asylum seekers or beneficiaries of protection across the territory of the State, to ensure an even distribution among local authorities and avoid 'overburdening' available accommodation or housing facilities.

Comparative overview of national protection statuses in the EU

Status B: Section 89 - Issuing residence permits when exception clauses are applied <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
- minor child (beneficiary's and/or partner's; foster or adopted child)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
- adult dependent children (beneficiary's and/or partner's or adopted child)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
- brother or sisters	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
- dependent parents	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
- parents of UAMs	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Material requirements sponsor must guarantee, for example:				
- accommodation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
- health insurance	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
- sufficient income/financial means	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
- other (e.g. criminal record, medical certificate)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Is there an equivalent of a 'grace period' ⁷⁰ during which no material conditions are required? If so, please indicate the duration of the grace period in the comments column.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
What is the validity of the residence permit of the family member?	-	-	-	
Labour market and qualifications				
Specific conditions to be granted access (e.g. hold work permit)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Persons issued with a temporary residence on the basis of Section 89 do not have the right to employment. A person with this permit is not considered to be living in Finland permanently, and can usually only be entitled to emergency social assistance (e.g. food, acute need of medicines) from the Social Insurance Institution of Finland. ⁷¹
Access to procedures for recognition of qualifications?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A. In Finland, recognition decisions are made by different bodies for different purposes. For further information, see the Finnish National Agency for Education (OPH) website.

⁷⁰ See Article 12 of the Family Reunification Directive: material requirements do not have to be fulfilled or may be subject to a grace period before these requirements apply (minimum 3 months).

⁷¹ EMN Ad-Hoc Query on AHQ on legal status of aliens who are subject to the principle of non-refoulement and have been recognized as representing a threat to national security
https://ec.europa.eu/home-affairs/sites/homeaffairs/files/2017.1212_-lt_ahq_on_legal_status_of_alien.pdf

Comparative overview of national protection statuses in the EU

Status B: Section 89 - Issuing residence permits when exception clauses are applied <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
Social assistance				
Social assistance limited to core benefits? <i>*please note definition of 'core benefits' in the introduction</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	See above
Health care				
Access to emergency health care?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	See above
Access to mainstream services ?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Specific support to those with special needs (e.g. to persons who have undergone torture, rape, or other serious forms of psychological, physical or sexual violence)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The Centre for Torture Survivors (CTS) in Finland is an adult psychiatric outpatient clinic, which assesses treats and rehabilitates severely traumatised refugee torture victims and their family members. Treatment starts during the evaluation and analysis phase. Rehabilitation involves psycho, physio, activity and family therapy, as well as guidance on social services.</p> <p>The activities are based on the international agreements done by Finland on conduct toward refugees and asylum seekers.</p>
Education				
Access to general system of education (same as nationals)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Additional support provided (e.g. preparatory classes, additional classes of official language, remedial classes, assistance of intercultural assistant)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

Comparative overview of national protection statuses in the EU

Status B: Section 89 - Issuing residence permits when exception clauses are applied <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
Integration				
Access to 'mainstream' support (available for legally residing third-country nationals)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Act on Integration of Immigrants and Reception of Asylum Seekers (Act on Integration) governs the integration of refugees and also applies to persons granted residence permit on the basis of subsidiary protection or humanitarian protection under Section 113. Likewise persons with residence permit granted under Section 51, 52, 89 and 93 are covered with the same provisions.</p> <p>The integration plan consists of language courses, vocational training, and preparatory training for vocational studies. The studies include Finnish language, life skills, communication skills and information technology as well as an introduction to Finnish society and culture.</p>
Access to targeted support (i.e. specifically for beneficiaries of the status)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
If so, how long is the support granted for?	-	-	-	
End of protection				
Are there any <i>formal</i> ways foreseen to end or refuse to renew the national protection status (e.g. it is foreseen in national legislation)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Upon the expiry of the first permit, the person's situation vis a vis non-refoulement is re-examined.</p> <p>If, upon the expiry of the first residence permit, the situation remains unchanged, the person issued another residence permit for one year. Otherwise the person is to be removed.</p>
How can national protection end?				
- The person no longer qualifies for protection	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
- Protection was fraudulently acquired	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
- Status ceased	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
- Status can no longer be renewed	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
- Other (please explain)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Person has been granted a residence permit under new grounds.

Comparative overview of national protection statuses in the EU

Status B: Section 89 - Issuing residence permits when exception clauses are applied <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
Naturalisation/citizenship acquisition				
<p>Minimum legal residence required to apply for citizenship/naturalisation</p> <p><i>*please note that a 2019 EMN study will research in more depth the issue of acquisition of citizenship in Member States</i></p>				<p>The applicant must be permanently resident and domiciled in Finland:</p> <p>a) for the last five years without interruption; or</p> <p>b) for a total of seven years since reaching the age of 15 years with the last two years without interruption.</p> <p>According to section 18a of the Nationality Act, if the person fulfils the language requirement, the minimum residence period can be reduced to four years without interruption or six years since reaching the age of 15 years with the last two years without interruption.</p>
Status offers more or less favourable conditions (compared to either refugee or subsidiary protection)				
Please describe the extent to which the status offers				
d) <i>more</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
e) <i>same or</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
f) <i>less favourable conditions compared to either refugee or subsidiary protection?</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Residence permit issued under section 89 does not grant right to family reunification, no right to work and limited access to benefits.
Relevant case law				
<p>Is there any relevant case law (by the highest instance courts and final judgements) that led to <i>systemic</i> changes in the procedure (and/or with major policy implications) concerning this national protection status? Yes/No</p> <p>If so, please briefly provide references to case law and briefly describe the changes brought about by this case law.</p> <p><i>In the references to the case law please include: the court name, date of decision, title/parties if applicable, case number (or citation, document symbol), link to the full version of the case (if possible)</i></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

Comparative overview of national protection statuses in the EU

Status C: Section 93 - Other humanitarian immigration

Status C: Section 93 - Other humanitarian immigration <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
Residence permit				
Issuance of a residence permit required?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The residence permit is issued by the Finnish Immigration Service. Section 112 of Aliens Act states that a temporary residence permit is to be granted. Section 113, however, states that the permit can also be issued as continuous.
Validity of the first residence permit (or initial length) (in years)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	If the person is granted a temporary residence permit under section 112, the first permit is issued for one year. If the person is issued a continuous permit according to section 113, the permit is issued for four years (section 53 of Aliens Act).
Possibilities of renewal/extension?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Validity of the residence permit after renewal? (in years)	-	-	-	
Time period required to be entitled to permanent residence permit (in years) ⁷²	-	-	-	Four years with a continuous residence permit.
Does this time period differ from the general rule for applying for permanent residence permit?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Travel document				
Is a travel document issued ?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The applicant may apply for an Alien's passport, but it is not issued automatically.
If so, what type of document is it ?	-	-	-	Alien's passport
Validity (in years)	-	-	-	Validity may vary between 1 and 5 years. The alien's passport can exceed the permit in validity, but travelling with the Alien's passport without a valid residence permit is not possible.
Accommodation				
Access to accommodation (on the same basis as other legally residing third-country nationals)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

⁷² See definition of permanent residence used in the Long-Term Residence Directive, i.e. third-country nationals who have resided and continuously within its territory for five years prior to the submission of the application for a permanent residence permit.

Comparative overview of national protection statuses in the EU

Status C: Section 93 - Other humanitarian immigration <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
Access to specific schemes/programmes to support access to accommodation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Act on Integration of Immigrants and Reception of Asylum Seekers (Act on Integration) does not unequivocally define the authorities responsible for aiding Aliens with finding accommodation. Municipalities in Finland have solved this in various ways and the range of services or programmes provided is at their discretion.
Dispersal mechanism? ⁷³	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	There is no dispersal mechanism. Reception and allocation of beneficiaries of protection is decided by the municipalities independently.
Family reunification				
Right to family reunification?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Government proposal 28/2003 states that the right to family reunification would be considered on a case-by-case basis by the Government of Finland upon deciding on who to take in under section 93. Family members of an alien, who has been issued with a continuous or permanent residence permit, are issued with a continuous residence permit.
Eligible family members, for example:				The definition of family member is laid out in Aliens Act section 37 and is mostly limited to the nuclear family.
- partner in a legal marriage or in a comparable relationship	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
- unmarried partner (<i>e.g. registered partnership, cohabitation, attested long term relationship</i>)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
- underage partner	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
- minor child (beneficiary's and/or partner's; foster or adopted child)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
- adult dependent children (beneficiary's and/or partner's or adopted child)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
- brother or sisters	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
- dependent parents	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
- parents of UAMs	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Material requirements sponsor must guarantee, for example:				

⁷³ In asylum policies, a 'dispersal mechanism' refers to a policy implemented by national authorities to 'distribute' asylum seekers or beneficiaries of protection across the territory of the State, to ensure an even distribution among local authorities and avoid 'overburdening' available accommodation or housing facilities.

Comparative overview of national protection statuses in the EU

Status C: Section 93 - Other humanitarian immigration <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
<ul style="list-style-type: none"> - accommodation - health insurance - sufficient income/financial means - other (e.g. criminal record, medical certificate) 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<p>Is there an equivalent of a 'grace period'⁷⁴ during which no material conditions are required?</p> <p>If so, please indicate the duration of the grace period in the comments column.</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<p>What is the validity of the residence permit of the family member?</p>	-	-	-	It depends; Section 112 of the Aliens Act states that family members of aliens who have been issued a temporary residence permit under section 93 are issued with a residence permit for the same period.
Labour market and qualifications				
<p>Specific conditions to be granted access (e.g. hold work permit)?</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Section 78 of the Aliens Act states that beneficiaries of a residence permit under section 93 (even if temporary), have the right to work.
<p>Access to procedures for recognition of qualifications?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A. In Finland, recognition decisions are made by different bodies for different purposes. For further information, see the Finnish National Agency for Education (OPH) website.
Social assistance				
<p>Social assistance limited to core benefits?</p> <p><i>*please note definition of 'core benefits' in the introduction</i></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Health care				
<p>Access to emergency health care?</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<p>Access to mainstream services?</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

⁷⁴ See Article 12 of the Family Reunification Directive: material requirements do not have to be fulfilled or may be subject to a grace period before these requirements apply (minimum 3 months).

Comparative overview of national protection statuses in the EU

Status C: Section 93 - Other humanitarian immigration <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
Specific support to those with special needs (e.g. to persons who have undergone torture, rape, or other serious forms of psychological, physical or sexual violence)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The Centre for Torture Survivors (CTS) in Finland is an adult psychiatric outpatient clinic, which assesses treats and rehabilitates severely traumatised refugee torture victims and their family members. Treatment starts during the evaluation and analysis phase. Rehabilitation involves psycho, physio, activity and family therapy, as well as guidance on social services.</p> <p>The activities are based on the international agreements done by Finland on conduct toward refugees and asylum seekers.</p>
Education				
Access to general system of education (same as nationals)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Additional support provided (e.g. preparatory classes, additional classes of official language, remedial classes, assistance of intercultural assistant)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Integration				
Access to 'mainstream' support (available for legally residing third-country nationals)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Act on Integration of Immigrants and Reception of Asylum Seekers (Act on Integration) governs the integration of refugees and also applies to persons granted residence permit on the basis of subsidiary protection or other residence permits. Likewise, persons with residence permit granted under Section 51, 52, 89 and 93 are covered with the same provisions.</p> <p>The integration plan consists of language courses, vocational training, and preparatory training for vocational studies. The studies include Finnish and everyday skills, communication skills and information technology as well as an introduction to Finnish society and culture.</p>
Access to targeted support (i.e. specifically for beneficiaries of the status)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
If so, how long is the support granted for?	-	-	-	

Comparative overview of national protection statuses in the EU

Status C: Section 93 - Other humanitarian immigration <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
End of protection				
Are there any <i>formal</i> ways foreseen to end or refuse to renew the national protection status (e.g. it is foreseen in national legislation)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
How can national protection end? <ul style="list-style-type: none"> - The person no longer qualifies for protection - Protection was fraudulently acquired - Status ceased - Status can no longer be renewed - Other (please explain) 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The person has been granted a residence permit under new grounds (e.g. employment, studies, family ties). The person has committed crimes.</p>
Naturalisation/citizenship acquisition				
<p>Minimum legal residence required to apply for citizenship/naturalisation</p> <p><i>*please note that a 2019 EMN study will research in more depth the issue of acquisition of citizenship in Member States</i></p>				<p>The applicant must be permanently resident and domiciled in Finland:</p> <p>a) for the last five years without interruption; or</p> <p>b) for a total of seven years since reaching the age of 15 years with the last two years without interruption.</p> <p>According to section 18a of the Nationality Act, if the person fulfils the language requirement, the minimum residence period can be reduced to four years without interruption or six years since reaching the age of 15 years with the last two years without interruption.</p>

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Status C: Section 93 - Other humanitarian immigration <i>Please insert name as used in Table 3</i>	Yes	No	Other	Details
Status offers more or less favourable conditions (compared to either refugee or subsidiary protection)				
Please describe the extent to which the status offers g) <i>more</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
h) <i>same</i> or	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
i) <i>less</i> favourable conditions compared to either refugee or subsidiary protection?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The beneficiary may be granted only a temporary permit for one year instead of a four year continuous permit (as is the case with refugee status).
Relevant case law				
Is there any relevant case law (by the highest instance courts and final judgements) that led to <i>systemic</i> changes in the procedure (and/or with major policy implications) concerning this national protection status? Yes/No If so, please briefly provide references to case law and briefly describe the changes brought about by this case law. <i>In the references to the case law please include: the court name, date of decision, title/parties if applicable, case number (or citation, document symbol), link to the full version of the case (if possible)</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

Section 3: National debates and challenges as regards national protection statuses

Q7. Are the national protection statuses the **subject of debate** in your Member State (e.g. political, academic and civil society debate)? **Yes/No**

Please outline the key debates referencing parliamentary questions or policy documents media, academic literature and commentary or literature from civil society organisations.

Please note that future plans – if any – should be mentioned under question 10.

The abolishment of the national protection status “humanitarian protection” (section 88a of the Aliens Act) caused some debate in public, as it coincided with the 2015 European refugee crisis.

On 03.02.2017 the Chancellor of Justice published a public statement⁷⁵, where he reprimanded the Finnish Immigration Service on its procedure regarding processing applications for international protection. Applications for international protection were put on hold right before the national humanitarian protection status was abolished from legislation. Hence, applicants who might have been eligible for humanitarian protection would receive a negative decision as the category applying to their situation would no longer exist in legislation.

Implementation of section 52 on unaccompanied minors has been considered problematic in public discussion. Until the end of 2016, the majority of applications concerning the extension of a residence permit were processed by the police. Since the beginning of 2017, all residence permit extension applications have been processed by the Finnish Immigration Service. Since then, many unaccompanied minors have been issued only one year permits after the first residence permit, which has left many of the applicants in a perpetually uncertain situation regarding their status⁷⁶. Attention has been paid to the fact that, on the grounds in question, young people have been issued year-long extended permits following the first year of their residence permit, and that some young people have received a negative decision in terms of their application for an extended permit after they have turned 18. This was in contrast to the previous practice, where those who were issued their first permit on compassionate grounds were usually issued a four-year residence permit extension, following which the young person in question was entitled to permanent residence. The Finnish Immigration Service has since clarified that the extended permit is usually granted for two years⁷⁷.

The initiative (LA 88/2018 vp)⁷⁸ presented by the Sininen Tulevaisuus party (Blue Reform) to amend section 52 of the Aliens act, dated 11.12.2018, proposed adding successful integration as further condition for granting a residence permit on compassionate grounds. The proposed amended clause would read as follows (bolding added):

*Aliens residing in Finland are issued with a continuous residence permit if refusing a residence permit would be manifestly unreasonable with regard to their health, ties to Finland **and successful integration** or on other compassionate grounds, particularly in consideration of the circumstances they would face in their home country or of their vulnerable position.*

⁷⁵ https://www.okv.fi/media/filer_public/58/54/585432a2-fcec-44f5-9ee4-4089f3537d6e/okv_8_50_2016.pdf
Accessed 14.3.2019 (in Finnish)

⁷⁶ <https://yle.fi/uutiset/3-10118282>, Yle news 19.3.2018 (in Finnish) Accessed 18.3.2019,
<https://www.aamulehti.fi/a/200442461> Aamulehti 6.10.2017 (in Finnish) Accessed 18.3.2019

⁷⁷ http://www.emn.fi/files/1855/EMN_UAM_EN_FI_NETTI3.pdf Unaccompanied Minors Following Status Determination: Approaches in EU Member States and Norway – National Report of Finland

⁷⁸ https://www.eduskunta.fi/FI/vaski/Lakialoite/Documents/LA_88+2018.pdf (in Finnish) Accessed 18.3.2019

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Q8. What are the **key practical or operational challenges** in your Member State regarding national protection statuses?

Please consider in particular any challenges related to the implementation and uptake of these statuses in practice, challenges observed to ensure consistency with other EU-harmonised protection statuses, etc.

The numbers of permits issued under sections 52, 89 and 93 are fairly marginal and hence no major recurring operational challenges have been recognized. The main challenges lie in the interpretation of these sections, particularly section 52.

Implementation of section 52 of the aliens act (compassionate grounds) has been considered to be somewhat challenging due to its wide scope for interpretation. Residence permits granted on compassionate grounds are based on assessment of the applicant's situation as a whole, and cannot be jotted down to a single deciding factor. Hence, it is applied more on a case-by-case basis.

Q9. Did your (Member) State adopt any **measures to tackle the above-mentioned challenges**?

Yes/No

If so, please elaborate.

The main measure to tackle the challenges in the interpretation and implementation of section 52 are the decisions made by the Finnish Immigration Service and how they hold through the appeal process in local administrative courts.

The scope of section 52 is considered to be exhaustively defined in government proposal 28/2003. Since then, rulings by the administrative courts have been generally considered to set the standards on implementation and interpretation of the section.

Q10. Is your Member State planning to introduce any **new protection statuses** that have been announced publicly (i.e. in the form of official strategy documents, existing draft legislation or proposal)?

Yes/No

If so, when and why?

No.

Q11. Is your Member State planning to **terminate or significantly change** any of the protection statuses currently available? Yes/No

If so, when and why?

No.

Comparative overview of national protection statuses in the EU

Q12. If applicable, have any of the statuses identified within **the 2010 EMN study**,⁷⁹ and within the scope of the present study, ceased to exist or been significantly amended since 2010? **Yes/No**

Alternatively, if your Member State did not participate in the 2010 EMN study, have any statuses within the scope of the present study and available at the time of the study in 2010 ceased to exist or been significantly amended (regarding grounds and content of protection) since 2010? **Yes/No**

If so, how, when and why?

Yes.

Abolishment of Humanitarian protection

Prior to 16.5.2016, Finland had a separate national protection status called “humanitarian protection” (“humanitaarinen suojelu” in Finnish). This was a form of non-EU harmonised protection nowadays normally replaced by subsidiary protection. The so-called ‘humanitarian protection’, was originally introduced with reference to article 3 of the Qualification Directive allowing for more favourable provisions. It was defined in section 88a of the Aliens act. Humanitarian protection contained the forms of protection that previously had been covered by persons in ‘need of protection’ but that could not be incorporated in ‘subsidiary protection’⁸⁰. It is worth noting also that humanitarian protection was separate from section 52 (residence permit on compassionate grounds).

A person might have been eligible for humanitarian protection, if they did not meet the criteria for asylum or subsidiary protection, but were unable to return to their home country or their former country of habitual residence as a result of a bad security situation or an environmental catastrophe. Bad security situation was usually defined as armed conflict or a poor human rights situation.

Humanitarian protection was abolished from legislation on 16.5.2016. The change in legislation had no effect on those residence permits, which had already been granted. However, any applicant with a residence permit granted on the basis of humanitarian protection had to, upon expiration, apply for a residence permit under new grounds (e.g. employment, studies, entrepreneurship, or family ties) or they would have to leave the country.

The aim was to bring the Finnish legislation in line with EU law and the relevant legislation in other member states. The concept of international protection was to be in compliance with European Union legislation and refer to refugee status and subsidiary protection only⁸¹. Humanitarian protection was also seen to have become obsolete because of its similarity to subsidiary protection.

Amendments to 52§

Unaccompanied minors with no grounds to be granted a residence permit on the basis of international protection may be granted a permit on the basis of compassionate grounds as referred to in section 52 of the Aliens Act, if it has not been possible to ensure appropriate reception conditions.

Previously, those who were issued their first permit on compassionate grounds were usually issued a four-year residence permit extension, following which the young person in question was entitled to permanent residence.

According to the new practice, those who are granted a permit pursuant to section 52 when they are minor are not issued a four-year extended permit as a matter of course. The grounds for the residence permit are reassessed. The Finnish Immigration Service grants the extended permit if the reasons due to which the person received the previous fixed-term residence permit continue to exist. The extended

⁷⁹ ‘The Different National Practices Concerning Granting of Non-EU-Harmonised Protection Statuses’. Member States that participated in the 2010 EMN study, were Austria, Belgium, Bulgaria, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Netherlands, Malta, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden and United Kingdom.

Study is available at : https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/non-eu-harmonised-protection-status/0_emn_synthesis_report_noneuharmonised_finalversion_january2011_en.pdf.

⁸⁰ Liv Feijen; Filling the Gaps? Subsidiary Protection and Non-EU Harmonized Protection Status(es) in the Nordic Countries, *International Journal of Refugee Law*, Volume 26, Issue 2, 1 June 2014, Pages 173–197, <https://doi.org/10.1093/ijrl/eeu022>

⁸¹ https://intermin.fi/en/article/-/asset_publisher/uuuoksia-oleskelulupamaksuihin-ja-kansainvalisen-suojelun-edellytyksiin Accessed 12.3.2019

permit can also be granted on grounds other than the earlier permit if such grounds would qualify the person for the first residence permit (i.e. studies, work, family ties etc.).

Aliens residing in Finland can be granted a continuous residence permit if refusing a residence permit would be manifestly unreasonable with regard to their health, ties to Finland or on other compassionate grounds, particularly in consideration of the circumstances they would face in their home country or of their vulnerable position. When applying for a residence permit extension, the applicant must present the grounds on which they are applying for the residence permit. The consideration of the residence permit includes an assessment of the minor's school attendance and other circumstances, such as work experience, integrity and family situation. Extended residence permits have been issued for 1-2 years, or until the applicant turns 18. According to the Finnish Immigration Service, the extended permit is normally issued for two years. An extended permit may be issued for a shorter period, if the applicant has not attended his or her studies, for instance⁸².

Amendment to Section 93

The government proposal 28/2003 argued that residence permits granted under section 93 were to be considered ad hoc in nature and therefore the permits issued should be primarily temporary for one year at a time. On 6.2.2015, however, an amendment⁸³ to the Aliens Act section 113 was made that included the provision of also granting a continuous permit to beneficiaries of protection under section 93.

As justification for the amendment, government proposal 65/2014⁸⁴ stated that with this change in legislation the beneficiaries can be granted either a temporary permit or a continuous permit on a case by case basis. Furthermore, the provision of granting a continuous permit was intended to facilitate the residence permit matters of beneficiaries of this protection status, as the government proposal argued that the decision of accepting them has already been made elsewhere (i.e. by the parliament). The provision of granting a continuous permit was primarily intended for witnesses in international criminal courts, but enables granting the same rights to other potential beneficiaries of the status as well.

⁸² http://www.emn.fi/files/1855/EMN_UAM_EN_FI_NETTI3.pdf Unaccompanied Minors Following Status Determination: Approaches in EU Member States and Norway – National Report of Finland

⁸³ <https://www.finlex.fi/fi/laki/alkup/2015/20150090#Pdp446589712> (in Finnish) Accessed 4.4.2019

⁸⁴ https://www.eduskunta.fi/FI/vaski/HallituksenEsitys/Documents/he_65+2014.pdf Accessed 4.4.2019 (in Finnish)

Section 4 Conclusions [max 2 pages]

Q13. With regard to the aims of this study, what conclusions would you draw from your findings reached in elaborating your national contribution? In particular, what is the relevance of your findings to (national and/or EU level) policy-makers?

Parallel to the EU-harmonizes statuses, the existence of national residence permit categories reflect on the status quo of providing protection to people on the move; people are seeking protection for reasons not foreseen in the traditional refugee regime and therefore receiving protection statuses with lower guarantees and lesser rights.

It can be argued that by adopting the provisions of the recast Qualification Directive and of the Temporary Protection Directive, Finland has fairly robustly managed to harmonize its legislation with EU-law and no fully-fledged national protection statuses currently exist. The current legislation, however, provides several “grey areas” where a residence permit (continuous or temporary) permit can be issued to a person resulting in a situation that resembles national protection. This emerges from Finland’s commitment to the non-refoulement principle as well as individual compassionate considerations.

This study has explored three clauses that were recognized as somewhat fitting to the scope of this study: Sections 52, 89 and 93. Out of these three, section 52 was the most widely used, albeit relatively little used itself as well. Section 52 has been most typically used in the case of unaccompanied minors who may have not otherwise qualified for refugee status or subsidiary protection.

The statistical data on the permit categories was relatively sparse, but gives a rough indication on how marginal these types of permits have been during 2010-2018. As an exception to the rule, a notable statistical spike can be seen in the permits issued during 2015-2016 especially with permits issued under section 52. This reflects the general situation with asylum seekers in Europe at the time. In 2017-2018 a decline in numbers can be observed again.

Section 89 bases itself on non-refoulement, but the granting of a temporary residence permit is a national level solution to adhere to the principle of non-refoulement. Hence, it was considered to fit into the scope of this study. The principle of this status is the non-returnability of criminals, and thus grants more limited rights than the other two statuses covered.

Section 93 proved to be more challenging to study as this was a much more obscure and less used section of the Aliens Act. What made the situation more complex is that there is no single residence permit issued under this section, rather the type of permit may either be temporary or continuous. Hence, the rights bestowed on the beneficiary also vary on a case-by-case basis. Nevertheless, this was a clear non-EU harmonized provision in national legislation to grant protection to Aliens and thus certainly worth mentioning. No statistical data was available on this status, however.

National protection statuses continue to evoke debate in Finland from time to time. The topic recently re-emerged due to an article published by the Finnish Deaconess Institute on 29.3.2019⁸⁵, which noted that the abolishment of section 88a (humanitarian grounds) from Aliens act has created a new class of undocumented migrants in Finland who are in an unusual state of limbo. Although undocumented individuals generally do not have the right to stay in Finland, they may still have residency status as registered residents of a municipality. In other words, they can simultaneously be Helsinki residents who do not have the right to live in the country. The interior minister responded to this criticism by saying that returning the national protection status would not be feasible⁸⁶. He argued that having several different classes of residence permits which are granted without a sound basis would demoralize Finns from supporting it as a means of helping people fleeing persecution.

⁸⁵ <https://www.hdi.fi/blog/2019/03/29/paperittomia-on-suomessa-entista-enemman-ja- uutena-ilmiona-on-kasvanut-lapsiperheiden-maara/> (in Finnish) Accessed 3.4.2019

⁸⁶ https://yle.fi/uutiset/osasto/news/interior_minister_aims_to_strip_undocumented_migrants_of_municipal_residency_right_to_public_services/10720723 Accessed 3.4.2019

Despite occasionally re-emerging in public discussion, the Finnish government has indicated having no plans to re-introduce any new (or old) national protection statuses to its legislation in the foreseeable future.

The Finnish Ministry of Interior states on its website:

As the numbers of asylum seekers grow, it has become evident that existing EU regulations cannot cope with the pressure created by large numbers of people. Finland is supporting EU efforts to better manage migration and is participating actively in developing common EU migration and asylum policies.⁸⁷

As reflected in the Ministry statement above, Finland advocates a common EU-asylum policy and it has consciously attempted to harmonize its legislation with EU-law as much as possible. As this study has revealed, however, Finnish legislation nevertheless still has some national-level provisions of granting a residence permit to a person, who is seeking protection, but does not qualify for international protection as per international law.

The situation in Finland reflects the broader issues of asylum policy in EU Member states; It remains a challenge for Member states to fully align their legislation with the EU-law, as the motivations and backgrounds of people seeking international protection have become increasingly diverse in the constantly changing global political landscape.

⁸⁷ <https://intermin.fi/en/areas-of-expertise/migration/migration-and-asylum-policy> Accessed 18.4.2019

Annex 1 National statistics

Please note the scope of national statistics:

- Temporal scope 2010–2018 to capture changes from previous study.
- Ask Member States and Norway for total number of national protection statuses granted where available.
- Ask Member States and Norway for the above data to be disaggregated by individual status where available.
- The data will be disaggregated by year and country of origin, sex and age if available, but these will not be cross tabulated.

These data will not be comparable.

Please complete the following tables with available information:

Table A1.1: Number of persons granted national protection status by nationality (2010-2018).



A1.1_nationality
and total.xlsx

Table A1.2: Number of persons granted national protection status by age (2010-2018).



A1.2_age.xlsx

Table A1.3: Number of persons granted national protection status by gender (2010-2018).



A1.3_gender.xlsx

Annex 2 Overview of EU-harmonised statuses and implementation by Member States

All Member States implemented the provisions of the recast Qualification Directive, with the exception of Ireland and the UK,⁸⁸ and of the Temporary Protection Directive. Norway, a State not participating to these Directives, has adopted in its national legislation equivalent protection statuses.

Table A2.1 will present an overview of the content of protection under each of the three harmonised statuses. A more detailed overview of the implementation of these standards by Member States will be included in Annex 2 in the synthesis report. This will support a comparative analysis in the synthesis report between the minimum standards of protection as set out in EU legislation and the content of protection offered by national protection statuses.

This Annex will be prepared by the EMN Service Provider with the support of EASO.

Table A2.1 Content of protection of EU-harmonised statuses

Content of protection	Refugee Protection	Subsidiary Protection	Temporary protection
Residence permit	Article 24 recast QD	Article 24 recast QD	Articles 4 and 8 TPD
<i>Issuance of a residence permit required?</i>	Yes As soon as possible after refugee protection status has been granted	Yes As soon as possible after subsidiary protection status has been granted	Yes
<i>Validity of the first residence permit (or initial length) (in years)</i>	Minimum 3 years	Minimum 1 year	Minimum 1 year
<i>Possibilities of renewal/extension?</i>	Yes	Yes (at least 2 years)	Yes (up to maximum 2 additional years)
<i>Time period required to be entitled to permanent residence permit (in years)</i>	No harmonisation	No harmonisation	No harmonisation
<i>Does this time period differ from the general rule for applying for permanent residence permit?</i>	No harmonisation	No harmonisation	No harmonisation
Travel document	Article 25(1) QD	Article 25(2) QD	No harmonisation
<i>Is a travel document issued ?</i>	Yes	Yes	-
<i>If so, what type of document is it ? (e.g. Geneva travel document or a national travel document)</i>	Travel documents in the form set out in the Schedule to the Geneva Convention	If unable to obtain a national passport should be issued with documents which enable to travel	-

⁸⁸ Ireland participated in Directive 2004/83/EC but is not bound by the recast Directive 2011/95/EU. The UK participated in Directive 2004/83/EC and is not bound by the recast Directive 2011/95/EU.

Comparative overview of national protection statuses in the EU

Content of protection	Refugee Protection	Subsidiary Protection	Temporary protection
<i>Validity (in years)</i>	No harmonisation	No harmonisation	-
Accommodation	Article 32 recast QD	Article 32 recast QD	Article 13 TPD
<i>Access to accommodation (as other legally residing third-country nationals) ?</i>	Yes	Yes	Yes (but only access to 'suitable accommodation' or provide 'means to obtain housing')
<i>Access to specific schemes/programmes to support access to accommodation?</i>	No harmonisation	No harmonisation	-
<i>Dispersal mechanism?⁸⁹</i>	Allowed on condition of non-discrimination of beneficiaries of international protection (Article 32(2) QD)	Allowed on condition of non-discrimination of beneficiaries of international protection (Article 32(2) QD)	No harmonisation
Family unity & reunification	Articles 2 and 23 recast QD	Articles 2 and 23 recast QD	Article 15 TPD
<i>Right to family reunification?</i>	Yes Obligation of MS to maintain family unity ⁹⁰	Yes Same as for refugees	Yes
<i>Eligible family members</i>	Family ties should have already existed in the country of origin Spouse; unmarried partner in a stable relationship; minor unmarried children; father, mother or another adult responsible for the refugee Possibility to restrict family reunification with close relatives on the condition that family ties have already existed in the country of origin and who were dependant on the sponsor	Same as for refugees	Family ties should have already existed in the country of origin Spouse, unmarried partner in a stable relationship, minor unmarried children of the sponsor or of the spouse, other close relatives who lived together as part of the family unit and who were dependent on the sponsor
<i>Material requirements sponsor must guarantee</i>	Articles 6-9 Family Reunification Directive: Accommodation, health insurance and/or sufficient financial resources	Excluded from the scope of the FRD	No harmonisation

⁸⁹ In asylum policies, a 'dispersal mechanism' refers to a policy implemented by national authorities to 'distribute' asylum seekers or beneficiaries of protection across the territory of the State, to ensure an even distribution among local authorities and avoid 'overburdening' available accommodation or housing facilities.

⁹⁰ According to the recast QD (Article 13(2)), family unity involves ensuring that family members who do not qualify for international protection status nevertheless have access to the same rights as the family member with refugee or subsidiary protection status.

Comparative overview of national protection statuses in the EU

Content of protection	Refugee Protection	Subsidiary Protection	Temporary protection
<i>'Grace period'?</i> <i>If so, please indicate the duration of the grace period</i>	Article 12 Family Reunification Directive: Exemption to from the obligation to meet the material requirements for a minimum period of three months after the granting of refugee status	Excluded from the scope of the FRD	No
<i>What is the validity of the residence permit of the family member?</i>	It may be valid for less than 3 years and renewable (Article 24(1) recast QD)	It may be valid for less than 3 years and renewable (Article 24(1) recast QD)	For the duration of the temporary protection of the sponsor (Article 15(6) TPD)
Labour market and qualifications	Articles 26 and 28 recast QD	Articles 26 and 28 recast QD	Article 12 TPD
<i>Specific conditions to be granted access (e.g. hold work permit)?</i>	Yes, possible (Article 26(1): access can be subject to rules generally applicable to the profession and to the public service)	Yes, possible (as for refugees)	Yes Member States may give priority to EU and EEA citizens, and to legally resident third-country nationals receiving unemployment benefit
<i>Access to procedures for recognition of qualifications?</i>	Yes (equal treatment with nationals)	Yes (as for refugees)	No harmonisation
Social assistance	Article 29(1) recast QD	Article 29(2) recast QD	Article 13 TPD
<i>Social assistance limited to core benefits?</i>	No	Yes	Yes ('necessary assistance in terms of social welfare and means of subsistence, if they do not have sufficient resources')
Health care	Article 30 recast QD	Article 30 recast QD	Article 13 TPD
<i>Access to emergency health care?</i>	No harmonisation	No harmonisation	Yes ('emergency care and essential treatment of illness')
<i>Access to mainstream services ?</i>	Yes	Yes	No
<i>Specific support to those with special needs (e.g. to persons who have undergone torture, rape, or other serious forms of psychological, physical or sexual violence)?</i>	Yes	Yes	Yes
Education	Article 27 recast QD	Article 27 recast QD	Article 14 TPD
<i>Access to general system of education (same</i>	Yes	Yes	Yes

Comparative overview of national protection statuses in the EU

Content of protection	Refugee Protection	Subsidiary Protection	Temporary protection
<i>as nationals)?</i>			
<i>Additional support provided (e.g. preparatory classes, additional classes of official language, remedial classes, assistance of intercultural assistant)?</i>	No harmonisation	No harmonisation	No harmonisation
Integration	Article 34 recast QD	Article 34 recast QD	No harmonisation
<i>Access to 'mainstream' support (available for legally residing third-country nationals)?</i>	Yes Access to integration programmes which are considered to be appropriate so as to take into account the specific needs of beneficiaries of international protection or create pre-conditions which guarantee access to such programmes	Yes Same as refugees	-
<i>Access to targeted support (i.e. specifically for beneficiaries of the status)?</i>	Yes	Yes	-
<i>If so, how long is the support granted for?</i>	No harmonisation		-
Ending or refusal to renew protection	Articles 11, 12 and 14 recast QD	Articles 16, 17 and 19 recast QD	Article 6 TPD
<i>Are grounds to end or refusal to renew protection formally foreseen?</i>	Yes	Yes	Yes
Change of status			Articles 3 and 17 TPD
<i>Possibility to lodge an application for another protection status?</i>	Yes, to subsidiary protection ⁹¹	Yes	Beneficiaries of TP can lodge an application for asylum at any point in time.

⁹¹ See CJEU, joined cases C-175/08, C-176/08, C-178/08 and C-179/08, *Aydin Salahadin Abdulla, Kamil Hasan, Ahmed Adem, Hamrin Mosa Rashi & Dier Jamal v Bundesrepublik Deutschland*, 2 March 2010, ECLI:EU:C:2010:105, para 76.