NB: Unofficial translation,
legally binding only in Finnish and Swedish

Ministry of the Interior, Finland

Aliens Act

(301/2004, amendments up to 1152/2010 included)

Chapter 1

General provisions

Section 1

Purpose of the Act

The purpose of this Act is to implement and promote good governance and legal protection in matters concerning aliens. In addition, the purpose of the Act is to promote managed immigration and provision of international protection with respect for human rights and basic rights and in consideration of international agreements binding on Finland.

Section 2

Scope of application

This Act and any provisions issued under it apply to aliens' entry into and departure from Finland and their residence and employment in Finland.

Section 3

Definitions

For the purposes of this Act:

1) *alien* means a person who is not a Finnish citizen;

2) *EU citizen or a comparable person* means a citizen of a Member State of the European Union (EU) or a citizen of Iceland, Liechtenstein, Norway or Switzerland;

2 a) *third-country national* means any person who is not a citizen of the European Union or a comparable person; (358/2007)

3) *carrier* means a natural or legal person professionally engaged in passenger transport by air, land, rail or sea;

4) *visa* means a permit on the basis of which an alien may enter and stay in the country for a short time if the other requirements for entry are met;

5) *residence permit* means a permit issued to an alien for a purpose other than tourism or a comparable short-term residence entitling the alien to enter the country repeatedly and stay in the country;

5 a) *long-term resident's EC residence permit* means a status and residence permit specified in the Council Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents, issued to a third-country national by a Member State of the European Union; (358/2007)

6) *residence permit for an employed person* means a permit required from an alien for residence in Finland or on board a Finnish vessel if the alien intends to have such gainful employment to which he or she would not have the right under another residence permit or without a residence permit;

7) *residence permit for a self-employed person* means a permit required from an alien for residence in Finland if the alien intends to pursue a trade;

8) *gainful employment* means working against payment in an employment relationship in the private or public sector or some other employment relationship;

9) *self-employed person* means a person

who pursues a trade or profession in his or her own name (person pursuing a trade) or is comparable to such a person on the basis of his or her corporate responsibility;

10) *Refugee Convention* means the Convention relating to the Status of Refugees (Treaty Series of the Statute Book of Finland 77/1968);

11) *refugee* means an alien who meets the criteria laid down in Article 1 of the Refugee Convention;

12) *refugee status* means status granted to an alien acknowledged as a refugee;

12 a) subsidiary protection status means a status granted to an alien eligible for subsidiary protection; (323/2009)

13) international protection means refugee status, subsidiary protection status or a residence permit granted on the basis of humanitarian protection; (323/2009)

14) *asylum* means a residence permit issued to a refugee under the asylum procedure;

15) *sponsor* means a person residing in Finland whose residence is the basis for applying for a residence permit on the basis of family ties for a family member abroad;

16) *Council Regulation on determining the State responsible for examining an asylum application* means Council Regulation (EC) No 343/2003/EC of 18 May 2003 on establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national;

17) *Schengen Convention* means the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders concluded in Schengen on 19 June 1990;

18) *Schengen acquis* means a set of rules integrated on 1 May 1999 under the Treaty of Amsterdam as part of the acquis of the European Union, which comprise the 1985 Schengen Agreement, the 1990 Schengen Convention, the accession agreements of the Member States and the decisions and declarations issued by the Schengen Executive Committee, and any provisions issued under the acquis at a later stage;

19) *Schengen State* means a State applying the Schengen aquis;

20) *Schengen area* means the area of Schengen States;

21) *border control authority* means the Border Guard or other authority entitled to perform border checks referred to in the Border Guard Act (578/2005); (619/2006)

22) trafficking in human beings means the trafficking and aggravated trafficking in human beings referred to in chapter 25, section 3 and 3a of the Penal Code (39/1889); (619/2006)

23) *victim of trafficking in human beings* means an alien who, on reasonable grounds, can be suspected of having become a victim of trafficking in human beings. (619/2006)

Section 4

Relationship with other Acts

(1) The provisions of the Administrative Procedure Act (434/2003) shall be observed in processing matters referred to in this Act unless otherwise provided by law. The provisions of the Administrative Judicial Procedure Act (586/1996) shall be observed in appeal matters referred to in this Act unless otherwise provided by law.

(2) The provisions of the Administrative Procedure Act apply to asylum interviews conducted by the police to establish the grounds for applications for asylum. The provisions of the Police Act (493/1995) on police investigation apply to establishing by the police the requirements for aliens' entry into, residence in and removal from the country and asylum seekers' identity, entry into the country and travel routes.

(3) The provisions of section 27 of the Border Guard Act apply to investigations carried out by the Border Guard under this Act. (581/2005)

(4) In addition, the provisions of the Territorial Surveillance Act (755/2000) apply to the entry into the country of military persons in the service of foreign States.

Section 5

Respect for the rights of aliens

The application of this Act may not restrict aliens' rights any more than necessary.

Section 6

Applying the Act to minors

(1) In any decisions issued under this Act that concern a child under eighteen years of age, special attention shall be paid to the best interest of the child and to circumstances related to the child's development and health.

(2) Before a decision is made concerning a child who is at least twelve years old, the child shall be heard unless such hearing is manifestly unnecessary. The child's views shall be taken into account in accordance with the child's age and level of development. A younger child may also be heard if the child is sufficiently mature to have his or her views taken into account.

(3) Matters concerning minors shall be processed with urgency.

Section 6a (549/2010)

Medical Age Assessment

(1) A medical age assessment may be carried out to establish the age of a sponsor or an alien applying for a residence permit if there are reasonable grounds for suspecting the reliability of the information the person has given on his or her age.

(2) The performance of an examination requires that the person to be tested has given an informed consent in writing of his or her own volition. The written consent of his or her parent or guardian or other legal representative is also required.

(3) Anyone who refuses to undergo an examination is treated as an adult if there are no reasonable grounds for refusal. A refusal to undergo an examination may not as such constitute grounds for rejecting an application for international protection.

(4) Before obtaining consent, the applicant or sponsor and the applicant's or sponsor's parent, guardian or other legal representative shall be given information on the importance of age assessment, the examination methods used, potential health effects, and the consequences of having and of refusing an examination. The information shall be given in the native language of the applicant or sponsor and the applicant's or sponsor's parent, guardian or legal representative or in a language which he or she may reasonably be expected to understand.

Section 6b (549/2010)

Performance of a medical age assessment

(1) A medical age assessment to establish the age of a sponsor or an alien applying for a residence permit in Finland is carried out by the University of Helsinki, Hjelt Institute, Department of Forensic Medicine at the request of the police, Border Guard or Finnish Immigration Service. Two experts shall draw up a joint assessment. At least one of the experts shall be an employee of the University of Helsinki, Hjelt Institute, Department of Forensic Medicine. An expert may be an approved medical practitioner or an approved dentist with the necessary competence.

(2) Actions required for the examination may also, at the request of the University of Helsinki, Hjelt Institute, Department of Forensic Medicine, be performed by central hospitals, municipal health centres or private health care units. Persons performing actions necessary for examinations shall be health care professionals. For the purpose of the examination, an official of the police, Border Guard or the Finnish Immigration Service shall establish the identity of the person to be examined. The parent, guardian or other legal representative of the person to be examined has the right to be present when the examination is performed.

(3) Further provisions on the performance of examinations may be given by Government decree.

Section 7

General administrative procedures

(1) The authorities deciding on a matter shall give the person concerned an estimate

of the time required for issuing the decision.

(2) The authorities shall ensure that the matter is investigated. The person concerned shall present the grounds for his or her claim and generally contribute to the investigation of his or her matter. The authorities shall tell the person concerned what further clarification needs to be presented in the matter. A request for clarification shall be specified and in proportion to the means for clarification available to the person concerned, considering his or her circumstances.

(3) If the decision to be issued on the matter might significantly influence another decision pending on a similar matter, these matters shall be prepared jointly and the decisions issued simultaneously, if possible, unless joint processing of these matters causes harmful delay.

Section 8

Appearing in person and using attorneys and counsels

(1) An administrative matter under this Act shall be filed in person unless otherwise provided hereafter. To clarify the matter, a person staying in Finland may also be required to appear before the authorities to be heard. A person who fails to comply with the obligation to appear before the authorities to be heard may be ordered to be brought before the authorities. Provisions on the obligation of the police to provide executive assistance are laid down in the Police Act.

(2) When an administrative matter is filed and handled, the person concerned may use a counsel. When an administrative matter is filed and handled, the person concerned may also use an attorney when it is not necessary to hear him or her in person or if his or her appearance in person is not necessary for investigating the matter or establishing his or her identity.

(3) When an appeal under this Act is filed or handled, the person concerned may use a counsel or attorney. An alien may be required to appear in court in person as provided in the Administrative Judicial Procedure Act.

(4) Separate provisions shall be issued on the competence of counsels and attorneys and their obligation of secrecy.

Section 9

Legal aid

(1) Provisions on aliens' right to legal aid are laid down in the Legal Aid Act (257/2002).

(2) However, when an administrative matter is being handled, the counsel assigned to an alien may also be a person with legal training other than a public legal aid attorney.

(3) When handling a matter referred to in this Act, a court may grant legal aid to an alien without requiring a statement on the financial position of the applicant for legal aid. The counsel's fee is paid out of State funds as provided in the Legal Aid Act.

Section 10

Using interpreters or translators

(1) Aliens have the right to use an interpreter when an administrative matter or an appeal under this Act is being handled. The authorities shall ensure interpretation as provided in section 203. In addition, aliens may also use an interpreter or translator at their own expense in an administrative matter or an appeal.

(2) An interpreter or translator procured by authorities may not be a person whose connection with the person or matter concerned may jeopardize his or her reliability or the safety of the person concerned.

(3) Separate provisions shall be issued on interpreters' obligation to secrecy.

Section 10 a (619/2007)

E-transactions

(1) The Act on Electronic Services and Communication in the Public Sector (13/2003) applies to e-transactions.

(2) If an application has been filed electronically, the processing fee must be

paid before the processing of the application is started.

Chapter 2

Entry into Finland

Section 11

Requirements for entry

(1) Aliens may enter Finland if:

1) they hold a required valid travel document that entitles them to cross the border;

2) they hold a required valid visa, residence permit or residence permit for an employed or self-employed person, unless otherwise provided by European Community law or any agreement binding on Finland;

3) they can, if necessary, produce documents which indicate the purpose of their intended stay and prove that the requirements for entry are met, and they can prove that they have the secure means of support, considering both the projected length of their stay and their return to the country of departure or transit to a third country to which they are certain to be admitted, or that they can legally acquire such funds;

4) they have not been prohibited from entering the country; and

5) they are not considered a danger to public order, security or health or Finland's international relations.

(2) Provisions on the grounds for refusal of entry are laid down in section 148.

Section 12 (581/2005)

Provisions on border crossing

Provisions on the crossing of the border, border crossing points and their opening hours and on sharing the border check tasks among the Border Guard, Police and Customs at different border crossing points are laid down in the Border Guard Act and in the provisions issued under it.

Section 13

Passports

(1) When entering and staying in Finland, aliens shall hold a valid passport issued by the authorities of their home country or country of residence, which shall be presented to border control authorities or the police upon request.

(2) An alien's passport shall state the holder's name, date of birth, sex and citizenship and the validity, issuer and place of issue of the passport. In addition, the passport shall include a photograph from which the holder of the passport is easily recognizable.

(3) An alien's spouse and children under sixteen years of age travelling with the passport holder may use the alien's passport if their names and dates of birth are stated in the passport and the passport includes a photograph of the spouse and a photograph of each child over seven years of age.

(4) Unless a passport states a specific area of validity, it is considered to be valid in Finland.

Section 14

Approving passports

Further provisions on passports approved for aliens' entry and residence in Finland may be given by decree of the Ministry for Foreign Affairs. Provisions on exceptions to the requirements for the content of a passport referred to in section 13(2) and (3) necessary for supervising aliens' entry and safeguarding their residence in the country, may be issued by decree of the Ministry for Foreign Affairs. Before issuing such a decree, the Ministry for Foreign Affairs shall consult the Ministry of the Interior.

Section 15

Documents substituting for passports

(1) A document that meets the requirements laid down in section 13(2) and (3) may be accepted as a substitute for a passport entitling its holder to enter and stay in the country. Further provisions on such

documents may be issued by decree of the Ministry for Foreign Affairs. The Ministry of the Interior shall be consulted when such a decree is prepared.

(2) For special reasons, border control authorities may, in individual cases, accept as a temporary passport an identity card or corresponding document which does not meet the requirements for passports set in this Act.

Section 16

Group passports

(1) A passport stating the names and dates of birth of a group of aliens travelling together is approved as a group passport for the group. The persons entered in the group passport shall be citizens of the State that issued the group passport.

(2) The leader of the group shall carry a personal passport. Each person entered in the group passport shall carry an identity card issued by the authorities of his or her home country unless the group passport includes photographs of the members of the group certified by the stamp of the authorities.

(3) Upon entry into and departure from the country, the leader of the group shall, upon request, submit a list of all those travelling under the group passport to border control authorities. The list shall contain the names and dates of birth of the members of the group.

Chapter 3

Visas

Section 17

Provisions applied to processing visa matters

Instead of the Administrative Procedure Act, the provisions of this Act and the common consular instructions for diplomatic and consular missions complying with the Schengen acquis apply to the filing and processing of applications for visas, decision-making procedures, grounds for and contents of decisions and notification of decisions.

Section 18

Abolishing visas and visa requirement

(1) EU citizens and comparable persons may enter and stay in Finland without a visa if they hold a travel document accepted in Finland.

(2) Provisions on States whose citizens shall apply for visas and States whose citizens do not need a visa for entry into and short-term residence in the Schengen area are laid down by Council Regulation.

(3) Provisions on visa-free travel for holders of a refugee travel document are laid down in the European Agreement on the Abolition of Visas for Refugees (Treaty Series of the Statute Book of Finland 36/1990).

Section 19

Visa requirement at the expiry of a visa-free stay

Aliens whose visa-free stay in the Schengen area has expired are required to obtain a visa or residence permit.

Section 20

Types of Schengen visas

(1) The types of Schengen visas are a single-entry visa, multiple-entry visa, transit visa, airport transit visa and re-entry visa.

(2) A single-entry visa may be issued for a single entry into the Schengen area and a stay of a maximum of three months. A multiple-entry visa may be issued for two or more entries into the Schengen area. The total combined stay of the holder of a multiple-entry visa during a period of six months may be a maximum of three months from the first entry into the Schengen area.

(3) A single-entry visa may be issued as a group visa entered in a group passport for transit journey or stay of a maximum of one month to a minimum of five and a maximum of fifty persons who intend to participate in an artistic, scientific or sports event or who

enter and depart from the country together as tourists. A group visa is issued with regional restrictions to seamen who transfer to or from a vessel in Finland together.

(4) A re-entry visa may be issued for one or several return journeys to Finland during the validity of the single-entry visa or while a residence permit matter is pending.

(5) A transit visa may be issued for one, two or, as an exception, several transit journeys in the Schengen area lasting for a maximum of five days at a time.

(6) An airport transit visa may be issued for a stay in the international area of an airport in the Schengen area necessary for a stopover or a transfer between two journeys.

Section 21

Validity of visas

(1) The days of residence permitted under a visa may be spent within a year or a shorter period. On reasonable grounds, the days may be spent during a period longer than a year.

(2) A visa is valid for no longer than the expiry date of the travel document.

Section 22

Filing applications for a visa and providing applicants with an opportunity to be heard

(1) The application process for a visa is initiated after the applicant or his or her representative has filed an application with the mission, and paid the processing fee for it either upon filing the application or to a bank account designated by the mission.

(2) A valid travel document and any necessary documents that indicate the purpose, duration and circumstances of the applicant's intended stay shall be attached to the application.

(3) The applicant may be invited to the mission processing his or her application to present orally the grounds for his or her application, unless hearing the applicant in person is manifestly unnecessary.

Section 23

General requirements for issuing visas

A visa may be issued if the alien meets the requirements for entry and if there are no reasonable grounds to suspect that the alien intends to evade the provisions on entry into or residence in the country.

Section 24

Insurance requirement

An applicant may be required to have insurance issued by a reliable and well-established company or institution against expenses arising from an illness or accident or from sending the applicant back, unless otherwise provided by a bilateral agreement on social security or other international agreement binding on Finland. The holder of a diplomatic or service passport does not need travel insurance.

Section 25

Requirements for issuing Schengen visas with regional restrictions

(1) If an alien's travel document has not been accepted by one or more Schengen States while the other requirements for entry are met, a Schengen visa is issued as a regionally restricted visa only for travel to those Schengen States that have accepted the alien's travel document.

(2) A Schengen visa is issued as a regionally restricted visa for travel to Finland and, if necessary, to other Schengen States if the visa is issued for humanitarian reasons or on grounds of national interest or international obligations and if:

1) one of the requirements for entry laid down in section 11 is not met; or

2) the visa is issued regardless of an obligation to consult other Schengen States or of a request made by another Schengen State not to issue a visa.

(3) A Schengen visa is issued as a regionally restricted visa for travel to Finland only if it is issued as a group visa for seamen who transfer to or from a vessel in Finland together.

(4) A Schengen visa is issued as a regionally restricted visa for travel to Finland only if it is, for special reasons, issued:

1) for a new stay exceeding three months in the same half-year while the visa is still valid; or

2) as a re-entry visa for a return journey to Finland while the Schengen visa is still valid during the return, or while an application process for a residence permit is pending.

Section 26

Issuing visas in conjunction with border checks

Provisions on issuing visas in conjunction with border checks are laid down in the Council Regulation on the issue of visas at the border (415/2003/EC), including the issue of such visas to seamen in transit.

Section 27 (323/2009)

Extending validity period of Schengen visas

The validity period of a Schengen visa may be extended and days of residence added, if there are special reasons for it and if the requirements for issuing a visa are still met. The total combined duration of residence may not exceed three months in a half-year from the first entry into the Schengen area.

Section 28

Cancelling visas, shortening the validity period for visas and reducing the number of days of residence

(1) A Schengen visa may be cancelled if, after the visa was issued, it emerges that the requirements referred to in sections 23-25 did not exist or if the circumstances have changed since the issue of the visa so that the requirements are no longer met.

(2) A visa may also be cancelled if an alien is refused entry on grounds referred to in section 148.

(3) On the basis of an overall consideration, the validity period for a Schengen visa may be shortened and the number of days of residence reduced instead of cancelling the visa.

Section 29

Invalidating visas

(1) An erroneous visa or a visa issued by mistake or a visa which has been cancelled is invalidated by making an invalidation entry on the visa sticker. The same applies to cases where the validity period for the visa has been shortened or the number of days of residence reduced. If the validity period for the visa is shortened or the number of days of residence reduced, a new visa sticker with the corrected data is attached to the visa instead of the sticker with an invalidation entry.

(2) Any measure taken under subsection 1 is recorded in the visa register.

Section 30 (323/2009)

Competence to issue visas or extend their validity period

(1) A Schengen visa is issued abroad by a diplomatic or consular mission of a Schengen State or, if necessary, by the authorities of a contracting party to the Schengen Convention designated under Article 17 of the Convention.

(2) Aliens entering the country without a visa or seamen travelling under a regionally restricted group visa are issued with visas by border control authorities at the point of entry.

(3) Re-entry visas are issued by the District Police who also make decisions on the extension of the validity period of Schengen visas and on the extension of the

number of days of residence under Schengen visas.

Section 31

Competence to cancel visas, shorten the validity period for visas, reduce the number of days of residence and invalidate visas

(1) Finnish diplomatic or consular missions (hereinafter Finnish missions) make decisions on cancelling visas, shortening the validity period for visas or reducing the number of days of residence entered in visas, and invalidate visas they have issued if the alien resides outside the Schengen area.

(2) Border control authorities make decisions referred to in subsection 1 and invalidate visas in conjunction with border checks.

(3) The Finnish Immigration Service, the police or border control authorities make decisions referred to in subsection 1 and invalidate visas if the alien resides on Finnish territory. (973/2007)

Section 32

Notification of refusing a visa

(1) The authorities who refused a visa notify the applicant of the refusal in writing.

(2) The grounds for refusal are given to the applicant on request. The grounds are not given if the refusal is based on information on the applicant received from the authorities of another Schengen State or third country, or on an assumption that the applicant may endanger public order or security, national security or foreign relations of a Schengen State.

(3) The provisions of section 155a apply to notifying the grounds for refusal, if the decision concerns an EU citizen's or a Finnish citizen's family member to whom the provisions in chapter 10 apply. (360/2007)

Chapter 4

Residence

General provisions

Section 33

Types of residence permits

(1) Residence permits are either fixed-term or permanent.

(2) Fixed-term residence permits are issued for a residence of temporary nature (temporary residence permit) or of continuous nature (continuous residence permit). Permit authorities decide on the purpose of residence, taking account of the information given by the alien on the purpose of his or her entry into the country.

(3) Permanent residence permits are valid until further notice. A long-term resident's EC residence permit is considered equal with a permanent residence permit as regards its period of validity. (358/2007)

Section 34

Residence permit entries

(1) The nature of fixed-term residence is indicated in the residence permit with a letter. A continuous residence permit bears the letter A and a temporary residence permit the letter B.

(2) A permanent residence permit bears the letter P. A long-term resident's EC residence permit bears the letters P-EC. (358/2007)

Section 35

Attaching residence permits to travel documents

(1) A requirement for issuing a residence permit is that the alien has a valid travel document. However, a residence permit may be issued even if the alien does not have a valid travel document if the permit is issued under section 51, 52, 52a, 87, 88, 88a, 89 or 110. (323/2009)

(2) An alien shall ensure that the entry concerning a residence permit in his or her travel document is transferred to any new travel document he or she acquires.

Section 36

General requirements for issuing residence permits

(1) A residence permit may be refused if the alien is considered a danger to public order, security or health or to Finland's international relations. Endangering public health does not, however, prevent the issuing of an extended permit, if the requirements for issuing a permit are otherwise met. Endangering international relations does not, however, prevent the issuing of a residence permit on the basis of family ties or issuing a residence permit to an alien who has been issued with a long-term resident's EC residence permit by a Member State of the European Union. (358/2007)

(2) A residence permit may be refused if there are reasonable grounds to suspect that the alien intends to evade the provisions on entry into or residence in the country.

(3) A residence permit by reason of family ties may be refused if there are reasonable grounds for suspecting that the sponsor has received a residence permit by circumventing the provisions on entry or residence by providing false information on his or her identity or family relations. (549/2010)

Section 37

Family members

(1) When applying this Act, the spouse of a person residing in Finland, and unmarried children under 18 years of age over whom the person residing in Finland or his or her spouse had guardianship are considered family members. If the person residing in Finland is a minor, his or her guardian is considered a family member. A person of the same sex in a nationally registered partnership is also considered a family member. (380/2006)

(2) Persons living continuously in a marriage-like relationship within the same household regardless of their sex are comparable to a married couple. The requirement is that they have lived together for at least two years. This is not required if the persons have a child in their joint custody or if there is some other weighty reason for it.

(3) When no official statement is available on the dependency status (foster child), an unmarried child under 18 years who is under his or her parent's or guardian's de facto care and custody and in need of such care and custody on the date a decision is made on the residence permit application shall be treated as a child under subsection 1. Treatment as a child under subsection 1 requires reliable evidence that the child's previous parents or guardians have died or are missing and that the sponsor or his or her spouse was the child's de facto guardian before the sponsor entered Finland. If the sponsor is a foster child residing in Finland, treatment as a child under subsection 1 requires reliable information which shows that the person concerned was the sponsor's de facto guardian before the sponsor entered Finland. (549/2010)

Section 38 (549/2010)

Requirement for a child to be minor

Issuing a residence permit on the basis of family ties to an unmarried minor child requires that the child is a minor on the date when the child's residence permit application is decided. Issuing a residence permit to a family member of a minor sponsor requires that the sponsor is minor on the date when the sponsor's residence permit application is decided. A further requirement for the issue of a residence permit is that the sponsor had a residence permit on the date the matter was initiated.

Section 39

Requirement for means of support when issuing a residence permit

(1) Issuing a residence permit requires that the alien has secure means of support unless otherwise provided in this Act. In individual cases, an exemption may be made from the requirement for means of support if there are exceptionally weighty reasons for such an exemption or if the exemption is in

the best interest of the child. The requirement for means of support is not applicable to cases where a residence permit is issued under Chapter 6, unless otherwise provided in section 114(4). (549/2010)

(2) An alien's means of support are considered secure at the time when the alien's first residence permit is issued if the alien's residence is financed through gainful employment, pursuit of a trade, pensions, property or income from other sources considered normal so that the alien cannot be expected to become dependent on social assistance referred to in the Act on Social Assistance (1412/1997) or on other similar benefit to secure his or her means of support. Social security benefits compensating for expenses are not regarded as such a benefit.

(3) When issuing extended permits, the alien's means of support shall be secure as provided in subsection 2, provided, however, that temporary resort to social assistance or other similar benefit securing the alien's means of support does not prevent the issue of the permit.

(4) The applicant shall submit to the authorities a statement on how his or her means of support will be secured in Finland.

Residence, movement and transit

Section 40

Right of residence

(1) Under this Act, legal residence means:

1) residence under a residence permit issued by Finnish authorities;

2) residence without a residence permit for a maximum of three months if the alien comes from a State whose citizens do not need a residence permit;

3) residence without a visa for a maximum of three months within a period of six months following entry into the Schengen area if the alien comes from a State whose citizens do not need visas;

4) residence under a Schengen visa for a maximum of three months within a period of six months following entry into the country;

5) residence under a national visa of a Schengen State for a maximum of three months from the first day of the validity of the visa; and

6) residence under a residence permit for a maximum of three months issued by a Schengen State; (619/2006)

7) residence of a victim of trafficking in human beings during the reflection period referred to in section 52b. (619/2006)

(2) Provisions on the right of residence of EU citizens and comparable persons are laid down in Chapter 10.

(3) An alien may reside legally in the country while his or her application is being processed until there is a final decision on the matter or an enforceable decision on his or her removal from the country.

Section 41

Freedom of movement

An alien residing legally in the country has the right to move freely in the country and choose his or her place of residence.

Section 42

Right of transit

(1) Aliens may transit through Finland to another Schengen State if they hold a residence permit, national visa or re-entry visa issued by this other State.

(2) Aliens may transit through Finland to a third country if they hold a residence permit, visa or transit visa issued by a Schengen State.

(3) The use of the right of transit requires that the aliens have not been prohibited from entering Finland or that they are not considered a danger to public order and security or public health.

Section 43

Landing of cruise participants

(1) A cruise refers to a sea journey during which the vessel, which is not in

scheduled service traffic, calls at least two foreign ports in addition to a Finnish port. The cruise vessel may not take or leave passengers while in Finland.

(2) Persons participating in a cruise on board a passenger ship registered for passenger traffic may land without a travel document or visa when the ship is in Finland. Border control authorities shall be given a list of passengers confirmed by the master of the ship before landing. Cruise participants shall return to the ship before it proceeds to another port of call.

Section 44

Ship, aircraft and train crews

(1) Seamen holding a seaman's identity document referred to in the Convention concerning Seafarers' National Identity Documents (Treaty Series of the Statute Book of Finland 64/1970) have the right to land at the place where the port is located without a travel document or visa during the time the ship on which they are serving usually remains in port. Seamen shall return to the ship before it proceeds to another port of call.

(2) Members of the crew of an aircraft have the right to enter and leave the country in conjunction with a flight that is part of their normal engagement without a travel document or visa if they hold an identity document with a photograph issued by the aviation authorities of the home country referred to in Annex 9 of the Convention on International Civil Aviation (Treaty Series of the Statute Book of Finland 11/1949). Members of the crew of an aircraft shall leave the country on the next scheduled flight under their engagement.

(3) Railway employees engaged in railway shipments may travel to a cross-border handover point on the train and stay at the cross-border handover point if they produce an identity document with a photograph as agreed separately in the agreement on railway transit traffic between Finland and Russia (Treaty Series of the Statute Book of Finland 48/1997).

(4) Seamen or members of an aircraft or train crew who have been prohibited from entering the country or are considered a danger to public order and security or public health do not have the right to enter or reside in the country mentioned in subsections 1-3.

Requirements for issuing fixed-term residence permits

Section 45

Issuing temporary residence permits to persons residing abroad

(1) Temporary residence permits are issued to persons residing abroad for:

1) working on a temporary basis;
2) pursuing a trade on a temporary basis;
3) studying; or
4) other special reasons.

(2) A residence permit for an employed person or other residence permit is issued for working on a temporary basis. A residence permit for a self-employed person is issued for pursuing a trade on a temporary basis. Further provisions on issuing a residence permit for an employed or self-employed person are laid down in Chapter 5.

(3) Family members of an alien who has been issued with a temporary residence permit are issued with a temporary residence permit for the same period.

Section 46 (486/2006)

Issuing residence permits for studying

An alien who has been accepted into an educational institution in Finland as a student is issued with a temporary residence permit as provided in section 45(1)(3) for studies leading to a degree or vocational qualification or, on reasonable grounds, for other studies. Issuing a residence permit requires that the alien has taken out insurance with a solvent and reliable company or institution covering health care services. It the estimated duration of the course of study is at least two years, it is sufficient for the insurance to cover the costs of medicines.

Section 47

Issue of continuous residence permits to persons residing abroad

(1) A continuous residence permit is issued to a person residing abroad:

1) if the person has been a Finnish citizen or if at least one of his or her parents or grandparents is or has been a Finnish citizen by birth;

2) for employment of continuous nature;

3) for pursuing a trade of continuous nature; or

4) for carrying out scientific research projects referred to in Council Directive 2005/71/EC on a specific procedure for admitting third-country nationals for the purposes of scientific research (Directive on researchers).
(516/2008)

(2) A residence permit for an employed person or other residence permit is issued for continuous employment. A residence permit for a self-employed person is issued for pursuit of a trade of continuous nature. Further provisions on issuing a residence permit for an employed or self-employed person are laid down in Chapter 5.

(3) Family members of an alien who has been issued with a continuous or permanent residence permit are issued with a continuous residence permit. Family members of an alien are issued with a continuous residence permit, if the alien, as a family member of an EU citizen, has been issued with a residence card referred to in Chapter 10 and he or she has retained his or her right of residence on a personal grounds basis under section 161d or 161e. (360/2007)

(4) Issuing a continuous residence permit under subsection 1(1) does not require that the alien or his or her family members have secure means of support.

(5) If an alien has been issued with a continuous or permanent residence permit on the basis of family ties, and the family tie that was the basis for issuing the permit is broken, a member of his or her family residing abroad may be issued with a continuous residence permit, provided that the family member has secure means of support. When making a decision, however, account shall be taken of the possibility of the person already living legally in Finland to return to his or her home country or another country to live with his or her family there, if all his or her family ties can be considered to lie there.

Section 47a (516/2008)

Approval of research institutes

(1) The Ministry of Education shall approve a research institute to host a researcher under the admission procedure referred to in the Directive on researchers, if the research institute has as its tasks or corporate purposes to conduct scientific research.

(2) The decision shall specify the period of approval granted for a research institute, the minimum being five years. The approval may be granted for a period shorter than five years, if there are reasonable grounds for it.

Section 47b (516/2008)

List of approved research institutes

The Ministry of Education shall publish a list of approved research institutes and update it at least once a year.

Section 47c (516/2008)

Refusal to renew or withdrawal of approvals of research institutes

The Ministry of Education may refuse to renew or decide to withdraw the approval of a research institute if the research institute applying for an approval has knowingly given false information on the tasks or corporate purposes of the research institute or other matters relevant to the decision, or concealed information that might have prevented the approval of the research institute.

Section 47d (516/2008)

Hosting agreement

(1) A research institute wishing to host a researcher under the Directive on researchers shall sign a hosting agreement with the latter. In the hosting agreement, the alien undertakes to complete the scientific research project under the Directive on researchers, and the research institute undertakes to host the alien for that purpose.

(2) A research institute may sign a hosting agreement if:

1) it has accepted the research project, after examination of:

a) the purpose and duration of the scientific research project, and the availability of the necessary financial resources for it to be carried out;

b) the foreign researcher's qualifications

2) during his or her stay the alien has sufficient monthly resources to meet his or her expenses and return travel costs;

3) the alien stays a maximum of four months in Finland and has a health insurance with a solvent and reliable company or institution, or a statutory health insurance provided by a State covering his or her health care costs;

4) the hosting agreement specifies the legal relationship and working conditions of the alien.

Section 47e (516/2008)

Issue of residence permits for scientific research

(1) An alien is issued with a residence permit for scientific research referred to in the Directive on researchers if:

1) he or she has signed a hosting agreement with a research institute;

2) he or she meets the requirements for signing a hosting agreement; and

3) he or she does not cause a danger to public order, security or health.

(2) The research institute shall provide the licensing authority with information on the fulfilment of the requirements for the hosting agreement before the alien is issued with a residence permit.

Section 47f (516/2008)

Expiry of hosting agreement

(1) The hosting agreement expires when the researcher has finished his or her research. The hosting agreement is terminated before the research has been completed if the alien is not admitted to the country or if the legal relationship that is the condition for signing the hosting agreement is terminated, or if the Ministry of Education refuses to renew or withdraws the approval of the research institute.

(2) The research institute shall notify the Ministry of Education and the authority that issued the residence permit that the research has been completed. The notification shall be given within two moths of the completion of the research.

(3) The research institute shall without delay inform the Ministry of Education of any circumstances that prevent the implementation of the hosting agreement.

Section 48

Issue of residence permits to persons coming from the former Soviet Union

(1) In addition to what is otherwise provided in this Act, a person from the former Soviet Union is issued with a continuous residence permit:

1) if the applicant belonged to the people evacuated from Ingria to Finland in 1943 or 1944 and returned to the Soviet Union after the war;

2) if the applicant served in the Finnish army during the period 1939-1945; or

3) if the applicant or one of his or her parents or at least two of his or her four grandparents are or have been entered in a document as Finnish nationals and the applicant is sufficiently proficient in Finnish or Swedish.

(2) A residence permit is also issued to

family members of a person referred to in subsection 1 and to children in his or her custody who have not reached the age of eighteen years before the applicant is issued with a residence permit on grounds mentioned in subsection 1.

(3) A further requirement for issuing a residence permit is that:

1) the applicant has registered as a returnee at a Finnish mission;

2) in the case referred to in subsection 1(3), the applicant takes part in re-entry orientation given in the country of departure and presents a certificate of passing a language examination arranged by Finnish authorities, which proves that the applicant has the required proficiency in Finnish or Swedish for level A2 on the scale of assessment of language skills under the Council of Europe's Common European Framework of Reference for Languages, unless participation in re-entry orientation or a language examination is considered unreasonable with regard to the applicant's circumstances; and

3) the applicant has access to accommodation in Finland.

(4) The applicant's Finnish origin referred to in subsection 1(3) is proven with original documents or, if this is not possible, in some other reliable manner.

(5) Issuing a residence permit referred to in this section does not require that the applicant or his or her family members have secure means of support.

(6) Further provisions on the grounds for and arrangement of language examinations referred to in subsection 3(2) may be given by Government decree.

Section 49

Issue of first fixed-term residence permits to aliens who have entered the country without residence permits

(1) An alien who has entered the country without a residence permit is issued with a temporary or continuous residence permit in Finland if the requirements for issuing such a residence permit at a Finnish diplomatic or consular mission abroad are met, and if:

1) the alien or at least one of his or her parents or grandparents is or has been a Finnish citizen by birth;

2) the alien has already, before entering Finland, lived together with his or her married spouse who lives in Finland, or has continuously lived together for at least two years in the same household in a marriage-like relationship with a person who lives in Finland;

3) refusing a residence permit for an employed or self-employed person applied for in Finland would be unfounded from the alien's or employer's point of view;

4) the alien has before entering Finland resided in another Member State for the purposes of carrying out scientific research referred to in the Directive on researchers, and applies for a residence permit in Finland for the same purpose or is a family member of such a person; or

5) refusing a residence permit would be manifestly unreasonable.
(516/2008)

(2) A temporary or continuous residence permit is issued on the same grounds as an equivalent permit applied for abroad.

(3) Correspondingly, the provision in subsection 1(2) applies to registered partnerships of the same sex and to marriage-like relationships of two persons of the same sex living continuously together in the same household.

Section 49a (358/2007)

Issuing residence permits to third-country nationals who have been issued with a long-term resident's EC residence permit by another Member State of the European Union, and to their family members

(1) A third-country national who has been issued with a long-term resident's EC residence permit by another Member State of the European Union is issued with a fixed-term residence permit applied for in Finland or abroad:

1) for exercising an economic activity in an employed or self-employed capacity;

2) for pursuing studies or vocational training; or

3) for other purposes.

(2) A residence permit is issued as a temporary or continuous permit, taking the nature of the intended stay into account.

(3) A residence permit for an employed person or some other residence permit is issued for the purpose of employment. A residence permit for a self-employed person is issued for the purpose of pursuing a trade. Further provisions on the issuing of a residence permit for an employed person and a residence permit for a self-employed person are given in Chapter 5.

(4) When a third-country national with a long-term resident's EC residence permit issued by another Member State of the European Union is issued with a temporary or continuous residence permit, the family members are also issued with a temporary or continuous residence permit in Finland for the same period of time, whether applied for in Finland or abroad.

Section 50 (360/2007)

Issuing residence permits to family members of Finnish citizens

(1) Family members of a Finnish citizen living in Finland and minor unmarried children of the family members are issued with a continuous residence permit on the basis of family ties upon application filed in Finland or abroad.

(2) Relatives other than family members of a Finnish citizen living in Finland are issued with a continuous residence permit if refusing a residence permit would be unreasonable because the persons concerned intend to resume their close family life in Finland or because the relative is fully dependent on the Finnish citizen living in Finland. Such other relatives must remain abroad while the application is processed.

(3) If a Finnish citizen has used the right of movement laid down in the Directive 2004/38/EC of the European Parliament and of the Council amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (*Free Movement Directive*), by moving to another Member State or by residing in another Member State and the family member has accompanied or joined him or her, provisions in Chapter 10 apply to the entry and residence of the family member.

(4) Issuing a residence permit referred to in this section does not require the alien to have secure means of support.

Section 50a (360/2007)

Issuing residence permits to family members of EU citizens residing in Finland

(1) A family member of an EU citizen or a comparable person who is living in Finland and has registered his or her residence or the family member's minor children whose right of residence cannot be registered or approved under Chapter 10 are issued with a continuous residence permit on the basis of family ties. The residence permit is issued upon application filed in Finland or abroad.

(2) Issuing a residence permit referred to in this section to a family member of a Nordic citizen or to his or her minor child, does not require the alien to have secure means of support.

Section 51

Issuing residence permits in cases where aliens cannot be removed from the country

(1) Aliens residing in Finland are issued 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.

(2) Issuing a residence permit does not require that the alien have secure means of support.

(3) If aliens are issued with a residence permit under subsection 1, their family members residing abroad are not issued with a residence permit on the basis of family ties.

Section 52

Issuing residence permits on compassionate grounds

(1) 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 or on other compassionate grounds, particularly in consideration of the circumstances they would face in their home country or of their vulnerable position.

(2) Issuing a residence permit does not require that the alien have secure means of support.

(3) If aliens are issued with a residence permit under subsection 1, their family members are issued with a residence permit under section 47(3).

(4) If unaccompanied minor children who have entered Finland are issued with a residence permit under subsection 1, their minor siblings residing abroad are issued with a continuous residence permit. 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. Issuing a residence permit does not require that the alien have secure means of support.

Section 52a (619/2006)

Issuing a residence permit for a victim of trafficking in human beings

(1) A victim of trafficking in human beings staying in Finland is issued with a temporary residence permit if:

1) the residence of the victim of trafficking in human beings in Finland is justified on account of the pre-trial investigation or court proceedings concerning trafficking in human beings;

2) the victim of trafficking in human beings is prepared to cooperate with the authorities so that those suspected of trafficking in human beings can be caught; and

3) the victim of trafficking in human beings no longer has any ties with those suspected of trafficking in human beings.

(2) If the victim of trafficking in human beings is in a particularly vulnerable position, the residence permit may be issued on a continuous basis regardless of whether the requirements laid down in subsection 1(1) and (2) are met.

(3) Issuing the residence permit is not conditional on the alien having secure means of support.

(4) If a victim of trafficking in human beings is issued with a temporary residence permit, his or her family members staying abroad are not issued with a residence permit on the basis of family ties. If he or she is issued with a continuous residence permit, family members are issued with a residence permit under section 47(3).

Section 52b (619/2006)

Reflection period for a victim of trafficking in human beings

(1) Before issuing a residence permit laid down in section 52a, a reflection period of at least thirty days and a maximum of six months may be granted to a victim of trafficking in human beings.

(2) During the reflection period, a victim of trafficking in human beings must decide whether he or she will cooperate with the authorities referred to in section 52a(1)(2).

(3) The reflection period may be suspended if the victim of trafficking in human beings has voluntarily and on his or her own initiative re-established relations with those suspected of trafficking in human beings or if this is necessary on the grounds mentioned in section 36(1).

Section 52c (619/2006)

Deciding on the reflection period

(1) The District Police or a border control authority shall decide on granting and suspending the reflection period.

(2) The victim of trafficking in human beings is notified of the reflection period and its suspension in writing. The notification must give the purpose, start date and duration of the reflection period, make clear that the reflection period may be suspended, and give the grounds for suspending the reflection period.

Section 53

Validity of first fixed-term residence permits

(1) First fixed-term residence permits are issued for one year, however for no longer than the validity period for the travel document, unless requested for a shorter period.

(2) If a residence permit is issued on the basis of family ties, the validity period for the residence permit must not, however, exceed the validity period for the family member's residence permit which was the basis for issuing the residence permit.

(3) A residence permit may be issued for a period longer or shorter than one year if it is issued for carrying out a legal act, an assignment or studies that will be completed within a set period. However, the duration of a fixed-term residence permit must not exceed two years.

(4) An alien who is or has been a Finnish citizen, or who has at least one parent or grandparent who is or has been a Finnish citizen by birth, is issued with a fixed-term residence permit for a period of four years, unless requested for a shorter period.

(5) A member of the staff of a diplomatic or consular mission of a foreign State or his or her family member may be issued with a residence permit for the duration of the entire announced term of office.

(6) A victim of trafficking in human beings is issued with a residence permit for at least six months and for a maximum of one year. (619/2006)

(7) A residence permit on the basis of refugee status or subsidiary protection is issued for four years. (323/2009)

Requirements for issuing extended permits or permanent residence permits

Section 54 (34/2006)

Issuing extended permits

(1) A new fixed-term residence permit is issued if the requirements under which the alien was issued with his or her previous fixed-term residence permit are still met.

(2) If an alien has been issued with a residence permit on the basis of international protection, a new fixed-term residence permit is issued, unless it is likely on the basis of facts that have emerged that the requirements under which the alien was issued with the previous fixed-term residence permit are no longer met.

(3) An alien who has been issued with a temporary residence permit for employment or pursuing a trade under section 45(1) is issued with a continuous residence permit after two years of continuous residence in the country, if the requirements for issuing the permit are still met.

(4) An alien who has been issued with a temporary residence permit for studying under section 45(1)(3) is issued with a new temporary residence permit for seeking work after he or she has received a degree or other qualification.

(5) An alien who has been issued with a temporary residence permit under section 51 because he or she cannot be removed from the country and a victim of trafficking in human beings who has been issued with a temporary residence permit are issued with a continuous residence permit after a continuous residence of two years in the country if the circumstances on the basis of which the alien was issued with the previous fixed-term permit are still valid.

(6) A new fixed-term residence permit is issued on new grounds if such grounds would qualify the alien for the first residence permit. An alien who has been issued with a temporary or continuous residence permit on

the basis of family ties may be issued with a residence permit on the basis of close ties to Finland after these family ties are broken.

Section 55 (34/2006)

Duration of extended permits

(1) A new fixed-term residence permit is issued for a maximum of four years. (358/2007)

(2) The provisions of section 53 on the duration of the first fixed-term residence permit apply to the cases referred to in section 54(3) and (5) if the temporary grounds for a residence permit become permanent.

(3) If a residence permit is issued on the basis of family ties, the validity period for the fixed-term residence permit must not, however, exceed the validity period of the sponsor's fixed-term residence permit used as the basis for issuing the residence permit.

(4) A person who has received a degree or other qualification in Finland is issued with a temporary residence permit under section 54(4) for one six-month period from the expiry of the previous residence permit.

Section 56 (380/2006)

Issuing permanent residence permits

(1) A permanent residence permit is issued to aliens who, after being issued with a continuous residence permit, have resided legally in the country for a continuous period of four years if the requirements for issuing an alien with a continuous residence permit are still met and there are no obstacles to issuing a permanent resident permit under this Act. Residence is considered continuous if an alien has resided in Finland for at least half the validity period of the residence permit. Absence resulting from ordinary holiday or other travel or work at a work site abroad on secondment by a Finnish employer is not considered an interruption of continuous residence.

(2) An alien who has been issued with a fixed-term residence permit on the basis of family ties may be issued with a permanent residence permit even though the sponsor does not meet the requirements for the issuing of a permanent residence permit.

(3) The period of four years is calculated from the date of entry into the country if the alien held a residence permit for continuous residence upon entry. If the residence permit was applied for in Finland, the period of four years is calculated from the first day of the fixed-term residence permit issued for the first continuous residence in the country.

(4) If a person has been issued with a residence permit on the basis of refugee status, subsidiary protection or humanitarian protection, the period of four years is calculated from the date of entry into the country. (323/2009)

Section 56 a (358/2007)

Issuing long-term residents' EC residence permits

(1) A long-term resident's EC residence permit is issued to a third-country national who, after being issued with a continuous residence permit, has resided legally in the country for a continuous period of five years immediately before submitting a residence permit application, if the requirements for issuing a continuous residence permit are still met and there are no obstacles to issuing a long-term resident's EC residence permit under this Act.

(2) Periods of residence outside Finland not exceeding six consecutive months do not interrupt continuous residence in Finland if the periods of absence do not, however, exceed ten months in total. For special reasons residence may be considered continuous despite periods of absence that exceed the periods of time mentioned above, which, however, are not included in the total period of residence.

(3) The period of five years is calculated from the first day of the fixed-term residence permit issued for the first continuous residence in the country or the date of entry, if the third-country national had a continuous residence permit when he or she entered the country.

(4) Beneficiaries of international

protection are not issued with a long-term resident's EC residence permit.

Section 57

Obstacles to issuing permanent residence permits and long-term residents' EC residence permits (358/2007)

(1) A permanent residence permit and a long-term resident's EC residence permit may be refused if the alien:

1) is found guilty of an offence punishable by imprisonment:

2) is suspected of an offence punishable by imprisonment;

3) is found guilty of two or more offences; or

4) is suspected of two or more offences. (358/2007)

(2) The sentence passed for an offence need not be final. When the obstacles to issuing a residence permit are being considered, the nature and seriousness of the criminal act, the length of the alien's residence in Finland and his or her ties to Finland must be taken into account. (358/2007)

(3) If an alien has been sentenced to unconditional imprisonment, a permanent residence permit may be issued if, on the date of decision on the application, three years have passed since the alien served his or her sentence in full. If the alien has been sentenced to conditional imprisonment, a permanent residence permit may be issued if more than two years have passed since the probation ended. In other cases, a permanent residence permit may be issued if the offence was committed more than two years before the date of decision on the application.

Cancellation and expiry of residence permits

Section 58 (358/2007)

Cancelling residence permits

(1) A fixed-term or permanent residence permit is cancelled if the alien has moved out of the country permanently or has continuously resided outside Finland for two years for permanent purposes.

(2) A long-term resident's EC residence permit is cancelled if the alien has resided outside the territory of the European Union for two consecutive years or outside Finland for six consecutive years.

(3) In the case referred to in subsection 1 or 2, an alien may, before the expiry of the periods mentioned above, file an application to prevent the cancellation of his or her residence permit. If the application is granted, the decision must state the period during which the residence permit is not cancelled. The application may be granted if the alien has resided outside Finland or the Community for special or exceptional reasons.

(4) A fixed-term or permanent residence permit or a long-term resident's EC residence permit may be cancelled if false information on the alien's identity or other matters relevant to the decision was knowingly given when the permit was applied for, or if information that might have prevented the issue of the residence permit was concealed.

(5) A fixed-term residence permit may be cancelled if the grounds on which the permit was issued no longer exist.

(6) A fixed-term or permanent residence permit or a long-term resident's EC residence permit may be cancelled if a Schengen State asks Finland to cancel a residence permit issued to an alien by Finland on the grounds that the alien has been prohibited from entering another Schengen State and ordered to be removed from the Schengen area on the grounds referred to in section 149(1)(2) and (1)(3).

Section 58a (516/2008)

Cancellation of residence permits issued under the Directive on researchers

(1) In addition to the provisions in section 58, a fixed-term residence permit issued under section 47(1)(4) above may be cancelled, if the hosting agreement ends or the Ministry of Education refuses to renew or withdraws the approval of the research institute.

(2) If the hosting agreement ends for the reason that the research has been completed, the residence permit may be withdrawn at the earliest after six months of the completion of the research. If the hosting agreement ends for the reason that the Ministry of Education refuses to renew or withdraws the approval of the research institute, the residence permit may not be withdrawn less than six months after the final decision.

Section 59 (358/2007)

Expiry of residence permits

(1) A residence permit expires when an alien is deported from the country or acquires Finnish citizenship. In addition, a long-term resident's EC residence permit expires if another EU Member State issues him or her with a long-term resident's EC residence permit.

(2) An entry on the expiry is made in the Register of Aliens.

Permit procedure and competent authorities

Section 60

Applications for residence permits

(1) A first residence permit shall be applied for abroad in the country where the alien resides legally before entering Finland. The application is filed with a Finnish mission.

(2) A residence permit may be applied for in Finland under sections 49, 49 a, 50-52, 52a, 54, 56 and 56a. The application is filed with the District Police. (358/2007)

(3) If the permit is issued by the Ministry for Foreign Affairs, the application for a permit may be filed with the Ministry after the applicant has already entered the country.

(4) Further provisions on the application procedure for residence permits may be given by Government decree.

Section 60a (358/2007)

Application for a residence permit of a third-country national who has been issued with a long-term resident's EC residence permit in another EU Member State and of his or her family members, and processing the applications

(1) A residence permit for a third-country national who has been issued with a long-term resident's EC residence permit in another EU Member State and for his or her family members must be applied for as soon as possible and no later than within three months from the entry into the country. An application may also be filed before the entry into the country in the Member State that issued the residence permit referred to above.

(2) A decision on an application for a residence permit must be made within four months of the filing of the application. The time for processing an application may be extended by up to three months, if all the necessary documents are not submitted with the application or for some other special reason.

Section 60b (358/2007)

Processing a long-term resident's EC residence permit

A decision on an application for a long-term resident's residence permit must be served on the applicant no later than six months after the filing of the application. The period may be extended if the processing of the matter has run into exceptional difficulties.

Section 60c (358/2007)

Reapplying for a long-term resident's EC residence permit

(1) If a long-term resident's EC residence permit has been cancelled under section 58(2) or has expired under section 59(1), a new EC residence permit is issued on application. A permit is issued if the applicant meets the requirement for secure means of support laid down in section 39, and there are no obstacles to issuing a permit

under section 36.

(2) An application for a new residence permit must be processed without delay.

Section 61

Taking temporary possession of travel documents

(1) The authorities may take temporary possession of an alien's travel document while a matter related to a visa, residence permit or travel document is being processed if it is necessary for verifying the correctness of the alien's personal data or travel document or for entering a visa or residence permit in the travel document.

(2) The travel document shall be returned to the alien as soon as its possession by the authorities is no longer necessary for processing the matter. The alien has the right to regain possession of the travel document temporarily for travelling or taking care of necessary affairs.

(3) Police or border control authorities issue a certificate of a temporary possession of a travel document.

Section 62

Application procedure for residence permits on the basis of family ties

(1) An alien who has no residence permit (applicant) may apply for a residence permit abroad on the basis of family ties by filing an application with a Finnish mission, or a sponsor may initiate the procedure by filing an application with the District Police.

(2) To establish whether the requirements for a residence permit are met, the persons mentioned in subsection 1 shall be provided with an opportunity to be heard before a decision is issued on the matter, unless the application is rejected immediately as unfounded. (549/2010)

Section 63 (973/2007)

Opinions on applications for a residence permit on the basis of family ties

(1) The Finnish Immigration Service or the District Police may obtain an opinion on an application for a residence permit on the basis of family ties from the social welfare or health care authorities of the sponsor's domicile or place of residence. An opinion on the sponsor's social situation or health may be requested if the sponsor is an unaccompanied minor, if the applicant is a member of the alien's extended family or if there is another special reason related to establishing the family's situation.

(2) Notwithstanding any secrecy provisions, social welfare or health care authorities are obliged to submit in their opinion to the Finnish Immigration Service or the District Police referred to in subsection 1, for the purpose of an application for a residence permit on the basis of family ties, any information that they have on the person's social situation or health that is necessary for a decision on issuing a residence permit on the basis of family ties.

Section 64

Oral hearing when applying for a residence permit on the basis of family ties

(1) When applying for a residence permit on the basis of family ties, the applicant, sponsor or other relative may be heard orally to establish whether the requirements for entry or for a residence permit are met.

(2) The hearing is conducted by the police or by an official of a Finnish mission. The Finnish Immigration Service may conduct the hearing if establishing the matter so requires. (973/2007)

Section 65

Establishing family ties by means of DNA analysis

(1) The Finnish Immigration Service may provide an applicant or sponsor with an opportunity to prove their biological kinship with DNA analysis paid from State funds if no other adequate evidence of family ties based on biological kinship is available and

if it is possible to obtain material evidence of the family ties through DNA analysis. (973/2007)

(2) The person concerned shall be given proper information on the purpose and nature of DNA analysis and any consequences and risks involved. Carrying out DNA analysis requires that the person to be tested has given a written consent based on information and free will. Results of the analysis may not be used for any purposes other than establishing the family ties required for issuing a residence permit in cases as specified in the person's consent.

(3) If the person concerned has deliberately given false information on his or her family ties, as a result of which the person and the family member indicated by him or her have been ordered to take a DNA test, the Finnish Immigration Service shall order the person concerned to reimburse the cost of the test to the State unless this is unreasonable under the circumstances. The decision of the Finnish Immigration Service is enforced as provided in the Act on the Recovery of Taxes and Charges through Execution (973/2007).

Section 66

Carrying out DNA analyses

(1) A DNA test is carried out at the National Public Health Institute or the Department of Forensic Medicine at the University of Helsinki. The person carrying out a DNA test shall send an opinion based on DNA typing to the Finnish Immigration Service without delay. When the Finnish Immigration Service has issued a decision on the matter, it informs the person who carried out the test that the samples and the data concerning DNA identification shall be destroyed. (973/2007)

(2) In Finland, the samples required for a DNA test are taken by a health care professional at the Department of Forensic Medicine at the University of Helsinki or at a health centre. The samples are sent to the person carrying out the test referred to in subsection 1.

(3) Abroad, the samples required for a DNA test are taken by a health care professional at a Finnish mission or at facilities arranged by the mission. The samples are sent to the person carrying out the test referred to in subsection 1.

(4) The police or an official of the Finnish Immigration Service or the mission supervise the taking of samples and establish the identity of the person tested. (973/2007)

(5) Further provisions on carrying out DNA analyses may be given by Government decree.

Section 66a (380/2006)

Consideration in connection with an application made on the basis of family ties

If a residence permit has been applied for on the basis of family ties, account must be taken of the nature and closeness of the alien's family ties, the duration of his or her residence in the country and the cultural and social ties of his or her family to the home country when considering the refusal of the permit. The same applies to consideration when deciding on the cancellation of a residence permit issued on the basis of family ties or on the removal from the country of the sponsor or his or her family member.

Section 67 (973/2007)

Finnish Immigration Service as the residence permit authority

(1) The Finnish Immigration Service issues:

1) a first residence permit to an alien abroad;

2) in the cases referred to in sections 49, 49a, 51, 52 and 52a, a first residence permit to an alien who has entered the country without a residence permit;

3) a residence permit when the District Police have brought the matter to the Finnish Immigration Service for decision.

(2) The Finnish Immigration Service cancels a residence permit on grounds specified in section 58(1),(2) or (6), and cancels, on grounds specified in section

58(4) or (5), or section 58a, a residence permit it has already issued. (516/2008)

(3) In the cases referred to in section 58(3), the Finnish Immigration Service decides that a residence permit is not cancelled.

(4) The Finnish Immigration Service will be the contact point responsible for the exchange of information as laid down in Article 25 of the Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents. .

Section 68 (358/2007)

Local police as the residence permit authority

(1) The District Police of the alien's place of residence issue:

1) a residence permit to a family member of a Finnish citizen and the family member's minor unmarried children and to a family member of an EU citizen who is living in Finland and has registered his or her residence and to the family member's minor unmarried children;

2) a new fixed-term residence permit;

3) a permanent residence permit to an alien residing in the country; and

4) a long-term resident's EC residence permit.

(2) On grounds specified in section 58(1), (2), (4) or (5), or section 58a, the District Police cancel a residence permit they have issued. (516/2008)

(3) The District Police transfer the residence permit to a new travel document.

Section 69

Foreign affairs administration as the residence permit authority

(1) Finnish diplomatic or consular missions receive applications for residence permits from persons abroad and check that the applications are correctly filled in and contain the required documents and information.

(2) Applications for residence permits may also be received abroad by other Finnish missions if the Ministry for Foreign Affairs has given the required authorization to a Finnish citizen serving at the mission.

(3) The Ministry for Foreign Affairs issues temporary residence permits to members of the staff of a diplomatic or consular mission representing the sending State in Finland, or members of the staff of a body of an international organization operating in Finland or their family members, or to persons privately employed by the staff who are citizens of the sending State. The Ministry for Foreign Affairs issues temporary residence permits to aliens for the construction, repair or maintenance of a diplomatic or consular mission.

(4) The Ministry for Foreign Affairs cancels residence permits it has issued.

(5) Finnish missions transfer residence permits to new travel documents.

Section 69a (380/2006)

Decision on an application made on the basis of family ties

A decision on an application for a residence permit made on the basis of family ties must be served on the applicant not later than nine months after the filing of the application. In exceptional circumstances the service may take place at a later date.

Chapter 5

Employment

Provisions on residence permits for employed and self-employed persons

Section 70

Purpose of the system of residence permits for employed persons

The purpose of the system of residence permits for employed persons is to support the availability of labour in a systematic, prompt and flexible manner, with consideration for the legal protection of employers and foreign employees and the

employment opportunities for labour already in the labour market.

Section 71 (1426/2009)

Cooperation with labour market organizations

The social partners participate in monitoring and assessing practices related to issuing residence permits for employed persons, and in preparing national and regional policies related to the general requirements for using foreign labour. National guidelines referred to in this section are issued by Government decision, and regional policies by decisions of relevant Centres for Economic Development, Transport and the Environment.

Section 72

Elements of consideration as regards residence permits for employed and self-employed persons

(1) Issuing residence permits for employed persons is based on consideration in order to:

1) establish whether there is labour suitable for the work available in the labour market within a reasonable time;

2) ensure that issuing a residence permit for an employed person will not prevent a person referred to in subsection 1(1) from finding employment; and

3) ensure that a residence permit for an employed person is only issued to persons who meet the requirements, if the work requires specific qualifications or an accepted state of health.

(2) When considering the issue of residence permits for employed persons, account shall be taken of the guidelines referred to in section 71.

(3) Issuing residence permits for self-employed persons is based on consideration to ensure that the intended business operations meet the requirements for profitable business.

(4) When considering the issue of residence permits for employed or self-employed persons, the authorities shall ensure that the alien's means of support are secured by gainful employment, pursuit of a trade or in some other way.

Section 73

Employer's obligations

(1) An employer shall attach to an application for a residence permit for an employed person:

1) written information on principal terms of work referred to in Chapter 2, section 4 of the Employment Contracts Act (55/2001);

2) an assurance that the terms comply with the provisions in force and the relevant collective agreement or, if a collective agreement is not applied, that the terms correspond to those applied to employees in the labour market doing similar work; and

3) upon request by an employment office, a statement confirming that the employer has met and will meet his or her obligations as an employer.

(2) An employer shall ensure that an alien entering his or her service and working in his or her employment has the required residence permit for an employed person or that the alien does not need a residence permit.

(3) An employer who employs a person other than an EU citizen or comparable person or his or her family member, or an alien residing in the country under a permanent residence permit shall submit a statement referred to in subsection 1 to the employment office without delay, and inform the shop steward, the elected representative and the occupational safety and health representative of the alien's name and the applicable collective agreement.

(4) An employer shall keep the information on the aliens in his or her employment and on the grounds for their right to work easily available at the workplace for inspection by occupational safety and health authorities, if necessary.

The employer shall store the information on the termination of the alien's employment for four years.

Section 74

Contractor's obligations

If employees are working for a foreign contractor or subcontractor or as agency employees of a foreign employer, the employer's obligations referred to in section 73(1)–(3) apply to the main contractor or client operating in Finland. In the case of employees referred to in the Posted Workers Act (1146/1999), the provisions of the said Act apply to their employment contract terms.

Section 75

Issuing residence permits for employed persons to persons abroad

The requirements for issuing a residence permit for an employed person are:

1) Consideration under section 72 has been given to issuing a residence permit, and the requirements mentioned in the section are met, and the requirements for the employer's statements and assurance laid down in section 73(1) are met.

2) The general requirements for issuing a residence permit laid down in section 36 are met, and the alien has not been prohibited from entering the country.

Section 76

Issuing persons abroad with residence permits for self-employed persons

The requirements for issuing a residence permit for a self-employed person are:

1) Consideration under section 72 has been given to issuing a residence permit, and the requirements mentioned in the section are met.

2) The general requirements for issuing a residence permit laid down in section 36 are met, and the alien has not been prohibited from entering the country.

Section 77

Residence permits for employed persons with regard to specific professional fields

A residence permit for an employed person entitles the holder to work in one or several professional fields. For special reasons, a residence permit for an employed person may be restricted to work for a certain employer.

Section 78

Advance information on the requirements for issuing residence permits for employed persons

Upon written application by an employer or contractor, the employment office submits advance written information on the requirements for issuing a residence permit for an employed person as regards the matter referred to in the application. The employment office shall give the advance information without delay. At the employer's request, the employment office shall observe the advance information for the duration mentioned in the advance information when a residence permit is applied for.

Employment without residence permits for employed persons

Section 79

Unrestricted employment under residence permits other than residence permits for employed persons

(1) Aliens who have been issued with a permanent residence permit, a long-term resident's EC residence permit or a continuous residence permit on grounds other than employment or self-employment

have the right to gainful employment. (358/2007)

(2) Aliens who have been issued with a residence permit on the basis of family ties have the right to gainful employment. (380/2006)

(3) Aliens who have been issued with a temporary residence permit on the basis of temporary protection or other humanitarian immigration have the right to gainful employment. (34/2006)

(4) Aliens who have received a degree or other qualification in Finland have a right to gainful employment with a residence permit issued under section 45(1)(1) or section 47(1)(2) without the matter being given the consideration laid down in section 72(1). (34/2006)

(5) Aliens who have been issued with a temporary residence permit under section 52a have a right to gainful employment. (619/2006)

(6) Aliens have the right to gainful employment if they have been issued with a fixed-term residence permit and if they work:

1) in expert duties in the middle or top management of a company or in expert duties that require special expertise;

2) as professional athletes, coaches or umpires;

3) in the service of a religious community or non-profit association;

4) professionally in science, culture or the arts, restaurant musicians excluded; or

5) in an international organization or in duties concerning official cooperation between States. (619/2006)

(7) Aliens whose employer or contractor has no office in Finland have the right to gainful employment if they:

1) work professionally in the mass media; or

2) do market research, prepare for a company's establishment in Finland, negotiate and acquire customer orders or supervise the fulfilment of orders or have other similar duties. (619/2006)

(8) Aliens have the right to gainful employment if they have been issued with a residence permit by the Ministry for Foreign Affairs for the construction, repair or maintenance of a mission. (619/2006)

(9) An entry concerning the right to work under this section must be made in the alien's residence permit except for the residence permit mentioned in subsection 7. (619/2006)

Section 80

Restricted employment under residence permits other than residence permits for employed persons

(1) An alien has the right to gainful employment if he or she has been issued with a residence permit:

1) for studying if the employment is a traineeship required for a degree or other qualification or part of the preparation of a research paper required for the studies and in the form of gainful employment or if the average amount of work is 25 hours a week at a time when there are classes at the educational institution, or if the full-time work is at a time when there are no classes at the educational institution; (34/2006)

2) for working as a visiting teacher, lecturer, trainer, consultant or researcher on the basis of an invitation or agreement if the work lasts for a maximum of a year;

3) for performing work under a supply contract related to an individual machine, device, product line or expert system imported into or exported from the country if such work lasts for a maximum of six months;

4) for employment or traineeship that is part of an intergovernmental agreement or an exchange programme organized by non-governmental organizations if such employment or traineeship lasts for a maximum of 18 months or, for an alien holding a university degree, is an intra-company transfer for a maximum of a year;

5) for traineeship carried out by an 18—30-year-old alien who studies Finnish or Swedish at a foreign university, or if the field of the traineeship corresponds to his or her studies or qualification and lasts for a maximum of 18 months; or

6) under section 51 on grounds that he or she cannot be removed from the country.

(323/2009)

(2) An entry concerning the right to gainful employment based on this section shall be made in the alien's residence permit. If the work exceeds the time limits set in subsection 1(1-5), the alien is required to have a residence permit for an employed person. (323/2009)

Section 81 (549/2010)

Employment without residence permits

Aliens have the right to gainful employment without a residence permit if they:

1) arrive in the country on the basis of an invitation or agreement to work as interpreters, teachers, experts or umpires for a maximum of three months;

2) arrive in the country on the basis of an invitation or agreement to work as professional artists or athletes, including assisting, technical or training staff, for a maximum of three months;

3) work as seamen either on board a vessel entered in the list of merchant vessels in international trade or, if they have entered the service outside Finland, on board a vessel which mainly sails between foreign ports;

4) arrive in the country to pick or harvest berries, fruit, specialty crops, root vegetables or other vegetables or to work on a fur farm for a maximum of three months;

5) arrive in the country as permanent employees of a company operating in another Member State of the European Union or the European Economic Area to perform temporary contracting or subcontracting under the freedom to provide services, if they hold permits entitling them to reside and work in that other State, and if the permits remain in force once they have completed the work in Finland; or

6) enter Finland for a maximum of three months as researchers on the basis of a hosting agreement under the Directive on researches signed in another Member State to carry out a research project specified in the Directive on researchers.

Aliens who have applied for international protection have a right to gainful employment without a residence permit if they:

1) have a document referred to in section 11(1) and have stayed in the country for three months; or

2) have stayed in the country for six months.

If the employer or contractor has no office in Finland, an alien has the right to gainful employment without a residence permit:

1) as a product demonstrator or member of a film crew for a maximum of three months;

2) as a member of the crew of a motor vehicle in foreign ownership or possession, with the alien driving the vehicle, the cross-border transport of which consists of taking the vehicle to its destination or collecting the vehicle from its place of departure, or if the traffic in Finland is connected with a regular service between locations at least one of which is abroad, and the alien has no place of residence in Finland; or

3) as the leader of a tourist group travelling to Finland from abroad.

If an application for a residence permit for an employed person or an application for an extended residence permit for a self-employed person concerning the same professional field was filed while the previous residence permit was still in force, an alien may continue the work until a decision has been made on the application.

Section 81a (34/2006)

Aliens with degrees or qualifications received in Finland who are continuing or starting work

(1) If the application for an extended residence permit for the purpose of employment or seeking work was filed when the previous residence permit issued for the purpose of studying under section 45(1)(3) was still in force, the alien in question may continue the work that he or she had been doing under the previous residence permit or start new work.

(2) If the application for an extended residence permit for the purpose of employment was filed when the previous residence permit issued under section 54(4)

was still in force, the alien in question may start working after he or she has found work.

(3) If the application referred to in subsection 1 or 2 is refused, the work may not continue even if the decision is appealed.

Procedure and competent authorities

Section 82

Filing applications for a residence permit for an employed or self-employed person

(1) An application for a residence permit for an employed person may be filed either by an alien or, on the alien's behalf, by the employer without a specific authorization. The application may be filed with a Finnish mission, an employment office or the District Police.

(2) An application for a residence permit for a self-employed person may be filed with a Finnish mission or the District Police.

Section 83

Competence to issue residence permits for employed persons

(1) Employment offices decide whether the requirements for issuing a residence permit for an employed person under section 75(1) are met. They decide whether the employment is temporary or continuous.

(2) After a favourable decision has been made by an employment office under subsection 1, the Finnish Immigration Service issues the alien with a first residence permit for an employed person, unless otherwise provided in section 75(2) and unless the alien filing the application has another valid residence permit. The Finnish Immigration Service decides whether the grounds are unfounded referred to in section 49(1)(3). (973/2007)

(3) If the alien filing the application has a valid residence permit and the provisions in section 75(2) do not provide otherwise, the District Police issue the alien with a new residence permit for an employed person after a favourable decision has been made by the employment office under subsection 1. If the application concerns the same line of work, the employment office does not, however, carry out the consideration referred to in section 72(1). (619/2007)

Section 84 (1426/2009)

Competence to issue residence permits for self-employed persons

(1) Centres for Economic Development, Transport and the Environment decide whether the requirements for issuing a residence permit for a self-employed person under section 76(1) are met. Centres for Economic Development, Transport and the Environment decide whether the trade pursued by the self-employed person is temporary or continuous.

(2) After a favourable decision has been made by a Centre for Economic Development, Transport and the Environment under subsection 1, the Finnish Immigration Service issues the alien with a first residence permit for a self-employed person, unless otherwise provided in section 76(2) and unless the alien filing the application has another valid residence permit. The Finnish Immigration Service decides whether the grounds are unfounded referred to in section 49(1)(3).

(3) If the alien filing the application has a valid residence permit and the provisions in section 76(2) do not provide otherwise, the District Police issue him or her with a new residence permit for a self-employed person after a favourable decision has been made by a Centre for Economic Development, Transport and the Environment under subsection 1.

Section 85

Other powers of employment offices

(1) Employment offices decide on not issuing residence permits for employed persons on grounds laid down in section 187.

(2) Employment offices give advance information referred to in section 78 on the requirements of the labour market for issuing residence permits for employed persons.

(3) The employment offices in the municipalities with the most relevance to the mobility of foreign labour as provided in more detail by decree of the Ministry of Employment and the Economy are competent to perform the duties provided in this Act. (973/2007)

Section 86

Occupational safety and health authorities

(1) Separate provisions shall be given on the supervision of remuneration and other terms of employment falling under the responsibility of occupational safety and health authorities.

(2) If occupational safety and health authorities have reasonable grounds to suspect that a work permit offence referred to in Chapter 47, section 6a of the Penal Code (39/1899), violation of the Aliens Act referred to in section 185(1) of this Act, or employer's violation of the Aliens Act referred to in section 186 has been committed, they shall report the matter to the police.

(3) Occupational safety and health authorities shall, if necessary, be provided with an opportunity to be present and to be heard when offences referred to in subsection 2 are investigated by the police or heard in court.

(4) Occupational safety and health authorities supervise compliance with the obligations provided in section 73(2) and (4), as provided by the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces (44/2006). (49/2006)

Chapter 6

International protection

Requirements for providing international protection

Section 87

Asylum

(1) Aliens residing in the country are granted asylum if they reside outside their home country or country of permanent residence owing to a well-founded fear of being persecuted for reasons of ethnic origin, religion, nationality, membership in a particular social group or political opinion and if they, because of this fear, are unwilling to avail themselves of the protection of that country.

(2) Asylum is not granted to aliens if they have committed, or if there are reasonable grounds to suspect that they have committed:

1) a crime against peace, war crime or crime against humanity as defined by international agreements concerning such crimes;

2) a serious non-political crime outside Finland before entering Finland as refugees; or

3) an act which violates the aims and principles of the United Nations.

(3) Asylum is not granted to persons who are eligible for protection or help from bodies or offices of the United Nations other than the United Nations High Commissioner for Refugees (UNHCR). Once such protection or help has ceased without final regulation of the status of the person in accordance with the valid resolutions adopted by the United Nations General Assembly, the person is entitled to refugee status. If the person has voluntarily relinquished the protection mentioned above by leaving the safe area for reasons other than those related to a need for protection, his or her right of residence is examined under this Act.

(4) Aliens are refused asylum if the competent authorities in the country where they have settled have granted them the rights and obligations attached to the citizenship of this country. (323/2009)

Section 87a (323/2009)

Acts of persecution

(1) Acts are considered as persecution if they are sufficiently serious by their nature or repetition as to constitute a severe violation of fundamental human rights. An accumulation of various measures of the same level of seriousness, including violations of human rights, is also considered persecution.

(2) Acts of persecution may take the form of:

1) acts of physical or mental violence, including acts of sexual violence;

2) legal or administrative measures or police or judicial measures which are in themselves discriminatory or which are implemented in a discriminatory manner;

3) prosecution or punishment which is disproportionate or discriminatory;

4) absence or denial of judicial redress resulting in a disproportionate or discriminatory punishment;

5) prosecution or punishment for refusal to perform military service in a conflict where performing military service would include acts under section 87(2);

6) acts of gender-specific or child-specific nature.

Section 87b (323/200)

Reasons for Persecution

(1) When assessing the reasons for persecution, account shall be taken at least of factors relating to origin, religion, nationality and political opinion, or membership of a particular social group, in the manner provided later in this section.

(2) As reasons for persecution:

1) origin means colour, descent or membership of a particular ethnic group;

2) religion includes, in particular the holding of theistic, non-theistic and atheistic beliefs, the participation in, or abstention from, formal worship in private or in public, either alone or in community with others, other religious acts or expressions of view, or forms of personal or communal conduct based on or mandated by any religious belief;

3) nationality includes citizenship of a State, or lack thereof and membership of a group determined by its cultural, ethnic or linguistic identity, common geographical or political origins or its relationship with the population of another State;

4) political opinion means in particular an opinion, thought or belief on potential actors of persecution and on their policies or methods.

(3) When assessing the reasons for persecution, a group can be considered to form a particular social group if:

1) the members of the group share a common background or an innate characteristic or belief that is so fundamental to identity or conscience that they cannot be forced to renounce it; and

2) the group is perceived as being different by the surrounding society.

(4) A common characteristic of a social group may also be sexual orientation, which, when assessing reasons for persecution, cannot include acts considered to be criminal. Gender-related aspects do not themselves alone create a presumption of persecution.

(5) When assessing if the applicant has a well-founded fear of being persecuted, it is immaterial whether the applicant actually possesses the origin-specific, religious, national, social or political characteristic which attracts the persecution, provided that such a characteristic is attributed to the applicant by the actor of persecution.

Section 88 (323/2009)

Subsidiary protection

(1) An alien residing in Finland is issued with a residence permit on grounds of subsidiary protection if the requirements for granting asylum under section 87 are not met, but substantial grounds have been shown for believing that the person, if returned to his or her country of origin or country of former habitual residence, would face a real risk of being subjected to serious harm, and he or she is unable, or owing to such risk, unwilling to avail him or herself of

the protection of that country. Serious harm means:

1) the death penalty or execution;

2) torture or other inhuman or degrading treatment or punishment;

3) serious and individual threat as a result of indiscriminate violence in situations of international or internal armed conflicts.

(2) An alien is not issued with a residence permit on the basis of subsidiary protection if there are reasonable grounds to suspect that he or she has committed:

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.

Section 88a (323/2009)

Humanitarian Protection

(1) An alien residing in Finland is issued with a residence permit on the basis of humanitarian protection, if there are no grounds under section 87 or 88 for granting asylum or providing subsidiary protection, but he or she cannot return to his or her country of origin or country of former habitual residence as a result of an environmental catastrophe or a bad security situation which may be due to an international or internal armed conflict or a poor human rights situation.

(2) An alien can be refused a residence permit on the basis of humanitarian protection if 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.

Section 88b (323/2009)

Need for International Protection after Departure

The well-founded fear of being persecuted referred to in section 87b(4) or the real risk of being subjected to serious harm referred to in section 88(1) may be based on incidents after the applicant's departure from his or her home country or country of permanent residence or on acts that the applicant has participated in after his or her departure.

Section 88c (323/2009)

Actors of persecution or serious harm

Actors of persecution or serious harm include:

1) the State;

2) parties or organisations controlling the State or a substantial part of the territory of the State; or

3) non-State actors, if it can be demonstrated that the actors under section 88d are unable or unwilling to provide protection against persecution or serious harm.

Section 88d (323/2009)

Actors of protection

Protection can be provided by the State or an international organisation controlling the State or a substantial part of the territory of the State.

Section 88e (323/2009)

Opportunities to receive internal protection

(1) An alien may be refused asylum or a residence permit under section 88 or 88a, if he or she, in a part of his or her home country or country of permanent residence, does not have a well-founded reason to fear to be persecuted or face a real risk of being subjected to serious harm, and if he or she can reasonably be expected to reside in that part of the country.

(2) When assessing if a part of the country is in accordance with subsection 1, account shall be taken of the general circumstances prevailing in that part of the country and of the applicant's personal circumstances.

Section 89 (323/2009)

Issuing residence permits when exception clauses are applied

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 they have committed, an act referred to in section 87(2), 88(2) or 88a(2) are issued with a temporary residence permit for a maximum of one year at a time if 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.

Section 90

Refugee quota

(1) Under the refugee quota, Finland may admit for resettlement persons considered refugees by UNHCR or other aliens in need of international protection.

(2) The refugee quota means admitting into the country, in accordance with the grounds confirmed in the State budget for each year, aliens who need international protection and are to be resettled.

Section 91 (973/2007)

Allocation of the refugee quota

The Ministry of the Interior, in cooperation with the Ministry for Foreign Affairs, prepares a proposal for the Government on the territorial allocation of the refugee quota.

Section 92

Requirements for admitting aliens into the country under the refugee quota

The grounds for issuing a residence permit under the refugee quota are as follows:

1) The alien is in need of international protection with regard to his or her home country.

2) The alien is in need of resettlement from the first country of asylum.

3) The requirements for admitting and integrating the alien into Finland have been assessed.

4) There are no obstacles under section 36 to issuing a residence permit.

Section 93

Other humanitarian immigration

(1) The Government may decide in a plenary session on admitting aliens into Finland on special humanitarian grounds or to fulfil international obligations.

(2) The Ministry of the Interior and the Ministry for Foreign Affairs prepare a joint proposal for Government decision. (973/2007)

Asylum procedures

Section 94

Asylum procedure

(1) An application based on a need for international protection which is filed with the authorities at the Finnish border or on Finnish territory is processed in the asylum procedure.

(2) An alien who refers to his or her endangered human rights is considered to be applying for asylum unless he or she specifically states otherwise.

(3) Granting the right of residence is also investigated and decided on other emerging grounds in conjunction with the asylum procedure.

Section 95

Filing applications for international protection

(1) An application for international protection shall be filed with police or border control authorities upon entry into the country or as soon after entry as possible.

(2) An application may be filed later if:

1) the circumstances in the alien's home country or country of permanent residence have changed during his or her residence in Finland;
2) the alien has not been able to present a statement in support of his or her application until later; or
3) there are other reasonable grounds for it.

Section 95a (432/2009)

Provision of information to persons applying for international protection

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

Section 95b (432/2009)

Cancellation of applications for international protection

(1) An applicant may cancel his or her application for international protection by submitting a personal written notification to the Finnish Immigration Service, police or border control authorities showing unambiguously that the applicant intends to cancel his or her application. The notification must be signed and dated.
(2) The authority receiving the notification of cancellation shall ask the applicant to give his or her opinion on being removed from the country and prohibited entry, and call two competent witnesses to confirm the cancellation. The witnesses may be Finnish Immigration Service officials or police or border control authorities.
(3) When the Finnish Immigration Service makes a decision on the expiry of the application, it may decide that the alien be removed from the country and prohibited from entering the country, if the requirements for removal from the country and entry prohibition under this Act exist.

Section 95c (432/2009)

Expiry of applications for international protection

(1) The Finnish Immigration Service makes a decision on the expiry of an application for international protection, if the applicant has died or left the country or if he or she is considered, in all likelihood, to have left Finland. The applicant is considered, in all likelihood, to have left Finland if his or her residence, based on the information available at the reception centre, has been unknown for at least two months, or it has been impossible to contact him or her for at least two months under the latest contact information that he or she has provided.
(2) If the applicant reports to the competent authority, after the Finnish Immigration Service has made a decision on the expiry of his or her application under section 1, he or she will be informed of the right to file a new application.

Section 96

Card for an application process initiated in Finland

(1) An alien who applies for international or temporary protection or who has entered Finland under the refugee quota may be issued with a card that shows that an application process concerning him or her has been initiated in Finland. The police or the Border Guard issue the card.
(2) The card bears the applicant's name, date of birth, citizenship and photograph. If the applicant's identity has not been established, an entry about this is made in the card. The card is valid for a fixed term in Finland, but no longer than until a final decision on the matter has been made or the

person has left the country or obtained a travel document.

(3) An alien shall return the card when a final decision has been issued on his or her application or when he or she leaves the country or has obtained a travel document. When the validity of the card has expired, border control authorities, the police or the Finnish Immigration Service may take possession of the card. (973/2007)

Section 97

Asylum investigation

(1) The police or the Border Guard establish the identity, travel route and entry into the country of an alien applying for a residence permit on the basis of international protection. When establishing an applicant's identity, personal data on the applicant's family members and other relatives are collected.

(2) The Finnish Immigration Service conducts an asylum interview to establish orally the grounds given by the applicant for the persecution he or she has faced in his or her home country or country of permanent residence or for other violations of his or her rights or related threats. At the request of the Finnish Immigration Service, the police may conduct such interviews if the number of applications has increased dramatically or, for special reasons, at other times as well. (973/2007)

(3) In addition to the Finnish Immigration Service, the Finnish Security Intelligence Service may conduct an asylum interview, if Finland's national security or international relations so require. (973/2007)

(4) Repealed by 432/2009.

Section 97a (432/2009)

Asylum interview

(1) When the applicant is heard at the asylum interview, a family member is allowed to be present only on reasonable grounds. Section 6 of this Act and section 14 of the Administrative Procedure Act apply to hearing a minor applicant.

(2) At the asylum interview, the applicant shall be asked to give his or her opinion on the possibility of being removed from the country and sent to a safe country of asylum or a safe country of origin and prohibited entry into the country. In particular, the applicant shall be asked to give the grounds on which he or she believes that the State in question is not safe for him or her. In addition, the authorities shall establish whether there are grounds other than international protection for giving the applicant the right of residence.

(3) The asylum interview may be tape-recorded or videotaped. The applicant shall be informed of the tape-recording or videotaping before its start.

(4) A transcript is drawn up of the asylum interview. After the interview has finished, the transcript will be interpreted to the applicant, and he or she will receive information on his or her opportunity to amend the entries in the transcript or add new details to it. The applicant shall accept the content of the transcript with his or her signature. The applicant will receive a copy of the transcript immediately or as soon as possible after the interview.

(5) A representative under section 26(1) of the Act on the Integration of Immigrants and Reception of Asylum Seekers (493/1999) shall be given an opportunity to attend the asylum interview of an unaccompanied minor.

Section 97b (432/2009)

Acquisition of information on individual cases relating to international protection

The authorities referred to in this Act may not obtain information on individual cases relating to international protection in a manner that would result in the actors of persecution or serious harm being informed of the case, thereby jeopardising the security of the person concerned or that of his or her family.

Section 98

Decisions on applications for international protection

(1) Applications for international protection are processed in a normal or accelerated procedure.

(2) The requirements for issuing a residence permit are assessed individually for each applicant by taking account of the applicant's statements on his or her circumstances in the State in question and of real time information on the circumstances in that State obtained from various sources. (432/2009)

(3) After obtaining the available statement, the authorities shall decide on the matter in favour of the applicant on the basis of his or her statement if the applicant has contributed to the investigation of the matter as far as possible and if the authorities are convinced of the veracity of the application with regard to the applicant's need for international protection.

(4) If the application is rejected, a decision on refusal of entry or deportation is issued at the same time, unless special reasons have arisen for not making a decision on removing the applicant from the country.

Section 99

Safe countries of asylum

(1) When deciding on an application in the asylum procedure, a State may be considered a safe country of asylum for the applicant if it is a signatory, without geographical reservations, to the Convention relating to the Status of Refugees, the International Covenant on Civil and Political Rights (Treaty Series of the Statute Book of Finland 8/1976) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Treaty Series of the Statute Book of Finland 60/1989) and adheres to them.

Section 100

Safe countries of origin

(1) When deciding on an application in the asylum procedure, a State where the applicant is not at risk of persecution or serious violations of human rights may be considered a safe country of origin for the applicant.

(2) When assessing a safe country of origin, particular account is taken of:

1) whether the State has a stable and democratic political system;

2) whether the State has an independent and impartial judicial system, and whether the administration of justice meets the requirements for a fair trial; and

3) whether the State has signed and adheres to the main international conventions on human rights, and whether serious violations of human rights have taken place in the State.

Section 101

Manifestly unfounded applications

An application may be rejected as manifestly unfounded if:

1) no grounds as mentioned in section 87(1) or 88(1) or other grounds that are related to non-refoulement have been presented, or if the claims presented are clearly implausible;

2) the applicant obviously intends to abuse the asylum procedure:

a) by deliberately giving false, misleading or deficient information on matters that are essential to the decision on the application;

b) by presenting forged documents without an acceptable reason;

c) by impeding the establishment of the grounds for his or her application in another fraudulent manner; or

d) by filing an application after a procedure for removing him or her from the country has begun, to prolong his or her unfounded residence in the country; or

3) the applicant comes from a safe country of asylum or origin where he or she may be returned, and the Finnish Immigration Service has, for weighty reasons, not been able to issue a decision on the application within the time limit laid down in section 104. (973/2007)

Section 102

Subsequent applications

(1) A subsequent application means an application for international protection filed by an alien after his or her previous application was rejected by the Finnish Immigration Service or an administrative court while he or she still resides in the country, or if he or she has left the country for a short time after his or her application was rejected. (973/2007)

(2) If a new application is filed while the matter is still being processed, the information given by the applicant is submitted to the authorities processing the matter to be considered as a new statement in the matter.

(3) A decision on a subsequent application may be issued without an asylum interview.

Section 103

Dismissing applications and applying an accelerated procedure

(1) An application for international protection may be dismissed if:

1) the applicant has arrived from a safe country of asylum defined in section 99 where he or she enjoyed or could have enjoyed protection referred to in sections 87 and 88 and where he or she may be returned; or

2) the applicant may be sent to another State which, under the Council Regulation on determining the State responsible for examining an asylum application, is responsible for processing the asylum application.

(2) A decision on an application for international protection may be issued in an accelerated procedure if:

1) the applicant comes from a safe country of origin as defined in section 100 where he or she is not at risk of treatment referred to in section 87 or 88 and where he or she may be returned;

2) the application can be considered manifestly unfounded as defined in section 101; or

3) the applicant has filed a subsequent application referred to in section 102, which does not contain any new grounds for staying in the country that would influence the decision on the matter.

Section 104

Procedure in cases of safe countries of asylum or origin

(1) If the applicant is considered to come from a safe country of asylum or origin, a decision on the application shall be made within seven days of the date when the minutes of the interview were completed and the information on their completion was entered in the Register of Aliens.

(2) An alien who is returned to a safe country of asylum is issued with a document stating that his or her application was not examined in substance in Finland.

Section 105 (973/2007)

Asylum applications by citizens of the European Union

The Finnish Immigration Service shall notify the Ministry of the Interior immediately of any application for asylum made by a citizen of the European Union if it does not consider the State in question a safe country of origin for the applicant and if it does not apply sections 103(2)(1) and 104 to a decision on the application. The Ministry of the Interior notifies the Council of the European Union of the matter.

Section 105a (973/2007)

Right to receive information

(1) Notwithstanding any secrecy provisions, the Finnish Immigration Service, the Police and the Border Guard have the right, upon request, to receive information from a reception centre on an unaccompanied minor asylum seeker’s date of birth, family members and their whereabouts necessary

for these authorities to establish the minor's identity, travel route or grounds for entry into the country or issuing a residence permit, or for the Finnish Immigration Service to endeavour under section 105b to trace his or her parents or some other person responsible for the actual guardianship of the unaccompanied minor asylum seeker. When requesting information, the best interest of the child must be a primary consideration for the authorities.

(2) An unaccompanied minor must be notified that information referred to in subsection 1 may, regardless of his or her consent, be distributed to the Finnish Immigration Service, the Police and the Border Guard. When providing information, account must be taken of the child's age and level of development.

(3) Before the reception centre provides the Finnish Immigration Service, the Police or the Border Guard with information referred to in subsection 1, the representative assigned to the minor under section 26 of the Act on the Integration of Immigrants and Reception of Asylum Seekers (493/1999) must be notified of the matter.

Section 105b (1158/2006)

Tracing a parent or some other person responsible for the actual guardianship of an unaccompanied minor asylum seeker

(1) To further the interest of an unaccompanied minor asylum seeker, the Finnish Immigration Service must, if possible, endeavour without delay to trace his or her parents or some other person responsible for his or her actual guardianship. (973/2007)

(2) The information on the parent or some other person responsible for the minor's actual guardianship must be collected, processed and circulated on a confidential basis, as provided in the Act on the Openness of Government Activities (621/1999).

Refugee status

Section 106 (323/2009)

Refugee status and subsidiary protection status

(1) Refugee status is granted to:

1) aliens who have been granted asylum in Finland;

2) aliens who have been admitted to Finland under the refugee quota and issued with a residence permit on the basis of refugee status;

3) family members of aliens referred to in paragraph 1 or 2 who have been issued with a residence permit on the basis of family ties and who are considered refugees.

(2) Subsidiary protection status is granted to:

1) aliens who have been issued with a residence permit on the basis of subsidiary protection;

2) family members of aliens referred to in paragraph 1 who have been issued with a residence permit on the basis of family ties and who are considered to be in need of subsidiary protection.

Section 107 (323/2009)

Withdrawing refugee status and subsidiary protection status

(1) A person's refugee status is withdrawn if he or she

1) voluntarily re-avails him or herself of the protection of his or her country of nationality;

2) having lost his or her citizenship, regains it of his or her own free will;

3) acquires citizenship of another State and may avail him or herself of the protection of the new country of nationality;

4) voluntarily settles in the country from which he or she fled and outside which he or she stayed for fear of persecution; or

5) is manifestly no longer in need of protection as the circumstances under which he or she became a refugee no longer exist.

(2) A person's subsidiary protection status is withdrawn if the circumstances which led to the granting of subsidiary protection status have ceased to exist or have changed to such a degree that protection is no longer required.

(3) The change of circumstances referred to

in subsection 1(5) and subsection 2 must be significant and non-temporary.

(4) When considering a withdrawal of refugee status or subsidiary protection status, an individual investigation shall be conducted.

Section 108 (323/2009)

Cancellation of refugee status and subsidiary protection status

(1) Refugee status or subsidiary protection status is cancelled, if:

1) the applicant has, when applying for international protection, knowingly given false information which has affected the outcome of the decision;

2) the applicant has, when applying for international protection, concealed a fact that would have affected the outcome of the decision; or

3) the applicant should have been refused asylum under section 87(2-4) or a residence permit under section 88(2).

(2) When considering a cancellation of refugee status or subsidiary protection status, an individual investigation shall be conducted.

Temporary protection

Section 109

Temporary protection

(1) Temporary protection may be given to aliens who need international protection and who cannot return safely to their home country or country of permanent residence, because there has been a massive displacement of people in the country or its neighbouring areas as a result of an armed conflict, some other violent situation or an environmental disaster. Providing temporary protection requires that the need for protection may be considered to be of short duration. Temporary protection lasts for a maximum of three years in total.

(2) The Government decides in a plenary session on population groups that may be given temporary protection and on the period when residence permits may be issued on the basis of temporary protection.

Section 110

Issuing residence permits on the basis of temporary protection

(1) Aliens in need of temporary protection are issued with a residence permit for a maximum of one year at a time.

(2) Issuing a residence permit does not require that the alien have secure means of support.

(3) A residence permit on the basis of temporary protection is refused if the alien is considered a danger to public order or security or if there are reasonable grounds to suspect that the alien has committed an act referred to in section 87(2).

Section 111

Processing asylum applications filed by aliens under temporary protection

(1) Processing an asylum application filed by an alien is suspended for the time during which the alien's residence permit issued on the basis of temporary protection is valid. However, the asylum application may be processed during the period of temporary protection if reasonable grounds for it emerge. The asylum application shall be taken up for processing if a procedure for removing the applicant from the country is initiated while he or she enjoys temporary protection.

(2) Once the temporary protection ends, the processing of the asylum application is dropped unless the applicant, upon written inquiry from the Finnish Immigration Service, requests that the application be processed. The Finnish Immigration Service submits the inquiry to the applicant either by post against a postal receipt or by a process server. (973/2007)

(3) The processing of an asylum

application is dropped if the alien cancels his or her application or moves out of the country during the validity period or after the expiry of the residence permit issued on the basis of temporary protection.

Issuing residence permits and competent authorities

Section 112

Issuing temporary residence permits

(1) A temporary residence permit is issued to aliens:
1) who enjoy temporary protection under section 109;
2) who are admitted to Finland on the basis of a Government decision under section 93; or
3) whose residence permit is issued under section 89.
(2) If aliens have been issued with a temporary residence permit referred to in subsection 1(1), their family members are issued with a residence permit for the same period.

Section 113

Issuing continuous residence permits

(1) A continuous residence permit is issued to aliens who are granted asylum or a residence permit under the refugee quota or on the basis of the need for subsidiary protection or humanitarian protection. (323/2009)
(2) Aliens who have been issued with a residence permit under section 112 are issued with a continuous residence permit after three years of continuous residence in the country if the grounds for issuing a residence permit still exist.
(3) If aliens have been issued with a continuous residence permit referred to in subsection 1 or 2, or if the aliens reside in Finland under a permanent residence permit, their family members are issued with a continuous residence permit.
(4) A continuous residence permit is issued to other relatives of aliens referred to in subsection 1, if refusing a residence permit would be unreasonable because the persons concerned intend to resume their close family life in Finland or because the relative is fully dependent on the person living in Finland.

Section 114

Issuing residence permits to family members of beneficiaries of international or temporary protection

(1) A residence permit is issued on the basis of family ties to a family member of a refugee or an alien who has been issued with a residence permit on the basis of the need for subsidiary protection or humanitarian protection, or who has enjoyed temporary protection if:
1) the sponsor lives in Finland or has been issued with a residence permit for the purpose of moving to Finland; and
2) the applicant is not considered a danger to public order, security or health. (323/2009)
(2) If any of the circumstances mentioned in subsection 1(2) emerge, an overall consideration is made taking account of the sponsor's possibilities for leading a family life with the applicant in a third country. In the consideration, the importance of the family tie for the persons concerned shall be taken into account.
(3) If the sponsor has been granted a residence permit on the basis of the need for subsidiary protection, and the ground for issuing the permit was an armed conflict, or if he or she has been granted a residence permit on the basis of humanitarian protection or temporary protection, it is taken into account in the overall consideration that there is no absolute impediment to the sponsor's return to his or her home country. (323/2009)
(4) Issuing a residence permit referred to in this section does not require that the alien have secure means of support if the family was formed before the sponsor entered Finland. (549/2010)

Section 115

Issuing residence permits to other relatives of beneficiaries of international or temporary protection

(1) A residence permit is issued to other relatives of a refugee or an alien who has been granted a residence permit on the basis of subsidiary protection or humanitarian protection or enjoyed temporary protection, if refusing a residence permit would be unreasonable because the persons concerned intend to resume their close family life in Finland or because the relative is fully dependent on the sponsor living in Finland. If the applicant is considered a danger to public order, security or health or Finland's international relations, an overall consideration is carried out as provided in section 114(2). (323/2009)

(2) Issuing a residence permit does not require that the alien have secure means of support.

Section 116 (973/2007)

Competence of the Finnish Immigration Service with regard to international protection

(1) The Finnish Immigration Service:

1) grants asylum and issues a first residence permit on the basis of subsidiary (protection) or humanitarian protection under the asylum procedure;

2) issues a first residence permit under section 89;

3) issues a first residence permit on the basis of refugee status or subsidiary protection to an alien admitted to Finland under the refugee quota;

4) issues a first residence permit under section 93 on the basis of other humanitarian immigration;

5) issues a first residence permit on the basis of temporary protection;

6) decides on withdrawing or cancelling refugee status and subsidiary protection status;

7) at the request of another Contracting State, decides on taking charge of or taking back an asylum seeker in accordance with the Council Regulation on determining the State responsible for examining an asylum application, and requests a similar decision on taking charge of or taking back an asylum seeker from another Contracting State; and

8) issues an alien who is returned to a safe country of asylum with a document stating that his or her application was not examined in substance in Finland. (323/2009)

(2) The Finnish Immigration Service decides on a matter referred to in subsection 1(3) after receiving the opinion of the Finnish Security Intelligence Service.

Section 117

Competence of the local police with regard to international protection

(1) The District Police issue a new fixed-term residence permit or a permanent residence permit to an alien on the basis of a need for international protection.

(2) The District Police issue a new fixed-term residence permit to an alien on the basis of temporary protection for no longer than the date on which the duration of temporary protection set by the Government ends.

(3) If the police consider that they cannot issue a residence permit under subsection 1 or 2, they shall refer the matter to the Finnish Immigration Service for decision. (973/2007)

(4) The District Police issue an alien who is returned to a State applying the Council Regulation on determining the State responsible for examining an asylum application with a laissez-passer in accordance with the Regulation.

Chapter 7

Interim measures

Section 118

Obligation to report

(1) An alien may be obliged to report at regular intervals to police or border control authorities if this is necessary for:

1) establishing that he or she meets the requirements for entry into the country; or

2) preparing or ensuring the enforcement of a decision on removing the alien from the country, or for otherwise supervising that the alien leaves the country.

(2) The obligation to report is ordered by the authorities preparing the matter referred to in subsection 1 or the enforcement authorities. The person obliged to report shall be informed of the grounds for the obligation.

(3) The obligation to report is in force until it has been established that the alien meets the requirements for entry, a decision on removal from the country has been enforced or the processing of the matter has ended otherwise. However, the obligation to report shall be immediately ordered to end when it is no longer necessary for ensuring the issue or enforcement of a decision.

Section 119

Other obligations

(1) Subject to the requirements laid down in section 118(1), an alien may be ordered to hand over his or her travel document and travel ticket to police or border control authorities or to give them the address where he or she may be reached.

(2) The authorities referred to in section 118(2) make a decision on the matter. The alien shall be informed of the grounds for the order.

Section 120

Giving a security

(1) Instead of the obligations referred to in sections 118 and 119, an alien may be obliged to give a security to the State for the expenses related to his or her residence and return. The authorities referred to in section 118(2) make a decision on giving a security.

(2) The security shall be released or returned when it is no longer required for establishing whether the alien meets the requirements for entering the country or for preparing or ensuring the enforcement of a decision on removing the alien from the country. In other cases, the security is used to cover the expenses related to the alien's residence or return. The remainder of the security after such expenses have been paid shall be returned immediately.

Section 121

Requirements for holding an alien in detention

(1) Instead of the interim measures referred to in sections 118-120, an alien may be ordered to be held in detention if:

1) taking account of the alien's personal and other circumstances, there are reasonable grounds to believe that the alien will prevent or considerably hinder the issue of a decision concerning him or her or the enforcement of a decision on removing him or her from the country by hiding or in some other way;

2) holding an alien in detention is necessary for establishing his or her identity; or

3) taking account of the alien's personal and other circumstances, there are reasonable grounds to believe that he or she will commit an offence in Finland.

(2) Holding an alien in detention on grounds that his or her identity is unclear requires that the alien gave unreliable information when the matter was processed or refused to give the required information, or that it otherwise appears that his or her identity cannot be considered established.

Section 122

Holding a minor in detention

Before a person under 18 years of age is placed in detention, the representative of social welfare authorities shall be heard.

Section 123 (581/2005)

Deciding on holding an alien in detention and placing a detained alien

(1) A decision to hold an alien in detention,

when taken by the Police, is made by a commanding officer at the local police department, the National Bureau of Investigation, the Finnish Security Intelligence Service or the National Traffic Police, and when taken by the Border Guard, by an official of the Border Guard entitled to arrest people or a Border Guard officer holding the rank of at least lieutenant. The detained alien or his or her legal representative shall be informed of the grounds for detention. (1152/2010)

(2) A detained alien shall, as soon as possible, be placed in a detention unit referred to in the Act on the Treatment of Aliens Placed in Detention and on Detention Units (116/2002).

(3) An official referred to in subsection 1 may decide on placing a detained alien exceptionally in police detention facilities if:

1) the detention units are temporarily full; or

2) the alien is held in detention far from the nearest detention unit, in which case the detention in police detention facilities may last for a maximum of four days.

(4) In a situation referred to in subsection 3(2) the alien may exceptionally be placed in Border Guard detention facilities instead of police detention facilities, however, for a maximum of 48 hours.

(5) A person under 18 years of age may be placed in police and Border Guard detention facilities only if his or her parent or guardian or other adult member of his or her family is also held in detention in police or border guard detention facilities.

(6) The provisions of the Act on the Treatment of Persons in Police Detention (841/2006) apply to aliens placed in police or border guard detention facilities, taking account of the grounds for detaining a person. The provisions on appeal in Chapter 5 of the Act on the Treatment of Aliens Placed in Detention and on Detention Units apply, however, to the alien's right of appeal. (849/2006)

Section 124

Notifying of detention and court proceedings

(1) The official responsible for a decision on holding an alien in detention or on placing him or her exceptionally in police detention facilities referred to in section 123(3) shall, without delay and no later than the day after the alien was placed in detention, notify the District Court of the municipality where the alien is held in detention or, in an urgent case, another District Court of the matter, as further provided by Ministry of Justice decree. Notification may be made by telephone or electronically. A notification made by telephone shall be submitted without delay to the District Court in writing.

(2) The District Court shall hear a matter concerning the detention of an alien or the exceptional placement referred to in section 123(3)(1) without delay and no later than four days from the date when the alien was placed in detention. In the case referred to in section 123(3)(2), the matter shall be heard without delay and no later than 24 hours from the notification.

(3) In matters concerning detention, the chairman alone constitutes a quorum of a District Court. A district court hearing may be held at a time and place other than the one laid down in the provisions on district court hearings.

(4) The provisions of section 5 of the Act on Calculation of Time Limits (150/1930) do not apply to the determination of time limits referred to in this section.

Section 125

District court procedure

(1) The official or the person delegated by this who is responsible for the decision on holding an alien in detention or on placing him or her exceptionally in police detention facilities referred to in section 123(3) shall be present at the hearing of the matter at a District Court.

(2) When the matter is heard by a District Court, the Court shall be presented with a statement on the requirements for detention or the exceptional placement of a detained alien. An alien held in detention shall be brought before the District Court to

answer questions concerning the requirements for holding him or her in detention or for his or her exceptional placement.

(3) The hearing of the matter may be postponed only for special reasons. The detention will continue until the next hearing of the matter unless otherwise ordered by the District Court.

Section 126

Decision of a District Court

(1) A District Court shall order a detained alien to be released immediately if there are no grounds for holding him or her in detention. The decision shall state the grounds for detention or transfer. The decision shall be pronounced immediately after the hearing.

(2) If the District Court orders that the detention of the alien be continued, the alien shall be ordered to be sent to detention facilities referred to in section 123(2) or (3). If the grounds for holding the alien in pre-trial detention facilities no longer exist, the District Court shall order that the alien be returned to the detention facilities for aliens.

(3) If the decision on detention or transfer is made by a District Court other than the District Court of the place of detention, the District Court shall immediately notify the District Court of the place of detention of its decision.

Section 127

Releasing detained aliens

(1) The authorities handling the matter shall order a detained alien to be released immediately once the requirements for detention cease to exist.

(2) If the District Court has decided that the detention of the alien be continued, the authorities shall immediately notify the District Court of the place of detention of the alien's release. The notification may be made by telephone or electronically. A notification made by telephone shall be submitted without delay to the District Court in writing.

Section 128

Rehearing at a District Court

If the release of an alien who has been held in detention has not been ordered, the District Court of the place of detention shall, on its own initiative, always rehear the matter concerning the detention or exceptional placement of an alien referred to in section 123 (3) no later than two weeks after the decision under which the District Court ordered continuation of the detention of the alien at the facility concerned.

Section 129

Appeal against detention

(1) A decision on detention made by the authorities or a District Court is not subject to appeal.

(2) The person held in detention may make a complaint about the decision of a District Court. There is no deadline for the complaint. The complaint shall be handled with urgency.

Section 130

Establishing identity and providing information on residence

(1) At the request of the police or other authorities processing a matter concerning an alien, the alien shall present his or her travel document or prove his or her identity in some other reliable manner.

(2) Upon request, an alien shall appear before police or border control authorities or the Finnish Immigration Service to submit the necessary information on his or her residence. (973/2007)

(3) A non-EU citizen or comparable alien shall report to the authorities within three days of his or her entry into the country. Further provisions on reporting may be given by Ministry of the Interior decree.

Section 131

Recording personal descriptions

(1) For the purposes of identification and registration, police or border control authorities may take fingerprints and a photograph and record other personal descriptions of aliens:

1) who have applied for asylum or a residence permit on the basis of subsidiary protection, humanitarian protection or temporary protection;

2) who have applied for a residence permit on the basis of family ties;

3) who have been issued with a residence permit as aliens admitted to Finland under the refugee quota;

4) who the authorities have decided to refuse entry into or deport from the country; or

5) whose identity is unclear.

(323/2009)

(2) The personal descriptions referred to in subsection 1 above are recorded in a register maintained by the police. The information shall be kept separate from the personal descriptions of criminal suspects. The information is deleted under the provisions of section 9 of the Act on the Register of Aliens (1270/1997).

(3) Any secrecy provisions notwithstanding, personal data referred to in subsection 1 may be disclosed to foreign authorities for the identification of the alien with due regard to the provisions of the Personal Data Act (523/1999).

Section 132

Taking possession of travel documents by the authorities

(1) Police or border control authorities, the Finnish Immigration Service or Finnish missions may take possession of false or forged travel documents, or travel documents intended for giving false personal data, held or presented by an alien. (973/2007)

(2) Police or border control authorities may conduct a non-intimate body search of an alien to take possession of a document held by him or her.

(3) False or forged travel documents taken into possession by the police or border control authorities are sent to the Crime Laboratory of the National Bureau of Investigation. Travel documents intended for giving false personal data may be sent to the mission of the State in question. When refusing a person entry into Finland, his or her travel document may also be sent to the authorities of the receiving State.

(4) Forged travel documents or travel documents intended for giving false personal data taken into possession by a Finnish mission may be sent to the authorities who issued them.

(5) If travel documents taken into possession are sent to the authorities of a foreign State, the safety of the person who has applied for international protection or the safety of his or her relatives shall not be endangered.

(6) The authorities' decision to take possession of a travel document may not be appealed separately.

Section 133

Registering a large number of displaced persons entering the country simultaneously

(1) If the number of displaced persons entering the country is exceptionally high, which makes it impossible to establish that the requirements for entry are met and to register the aliens in the normal procedure, the Government may decide in a plenary session that persons whose requirements for entry or identity are unclear may be sent to the transit centre for displaced persons referred to in section 6 a of the Act on the Integration of Immigrants and Reception of Asylum Seekers (493/1999) for the purposes of registration.

(2) The Government decision is issued for a fixed term, not exceeding three months, however.

(3) Police or border control authorities or, under the supervision of these, an official assigned to the duty by the Ministry of the Interior may, in conjunction with registration, record the personal descriptions referred to in section 131(1) of the persons entering the country. A person entering the

country is obliged to stay at the transit centre for displaced persons for the duration of the registration, unless otherwise required by the state of his or her health or for other important personal reasons.

(4) Registration shall be carried out without delay.

Chapter 8

Travel documents issued to aliens in Finland

Section 133a (458/2009)

Application of the Passport Act

The provisions of the Passport Act (671/2006) on the security features in passports, fingerprinting, technical specifications of the passport, checking the data recorded in the technical specifications, security of the data in the technical specifications, and on reading the fingerprints recorded in the technical specifications also apply to travel documents referred to in this Chapter. In addition to what is provided in the Passport Act, the fingerprints recorded in the technical specifications of an alien's passport or a refugee travel document may be read by the Finnish Immigration Service to establish the authenticity of the document and the identity of the document holder where the performance of functions laid down for it by law so requires.

Section 134

Issuing alien's passports

(1) Alien's passports may be issued to aliens residing in Finland if the alien cannot obtain a passport from the authorities of his or her home country, if he or she has no citizenship or if there are other special reasons for issuing an alien's passport to him or her.

(2) Aliens who have been issued with a residence permit on the basis of a need for subsidiary protection are issued with an alien's passport. (323/2009)

(3) Aliens who have been issued with a residence permit on the basis of temporary protection are issued with an alien's passport if they hold no valid travel document.

(4) Aliens residing abroad who have been issued with a residence permit in Finland are issued with an alien's passport for return to Finland in replacement of a lost or damaged alien's passport or refugee travel document.

(5) Alien's passports may be issued for a maximum of five years. Aliens residing abroad may, however, be issued with an alien's passport for a maximum one month. (673/2006)

Section 135

Issuing refugee travel documents

(1) Refugee travel documents are issued to aliens who have been granted refugee status referred to in section 106, and whose refugee status has not been withdrawn or cancelled.

(2) Refugee travel documents may be issued for a maximum of five years. (673/2006)

Section 136 (673/2006)

Contents of alien's passports and refugee travel documents

(1) The person's family name, first names, sex, personal identity code, citizenship, place of birth, the date on which the passport was issued, the last day of validity, the authority issuing the passport and the passport number shall be entered on an alien's passport. Citizenship information may be left out if the alien in question does not want the citizenship information to be entered and there are security-related grounds for the omission. The passport also contains the photograph and signature of the passport holder.

(2) The person's family name, first names, sex, personal identity code, place of birth, the date on which the passport was issued, the last day of validity, the authority issuing the passport and the passport number shall be entered on a refugee travel document. The passport also contains the

photograph and signature of the passport holder.
(3) Repealed by 458/2009.
(4) Repealed by 458/2009
(5) If it is impossible to verify the identity of the alien, an appropriate entry shall be made in the alien's passport or the refugee travel document.

Section 137 (973/2007)

Handing over travel documents carried by aliens

Aliens shall hand the travel document they hold over to the Finnish Immigration Service before they are given an alien's passport or a refugee travel document.

Section 138

Cancelling alien's passports and refugee travel documents

(1) An alien's passport and a refugee travel document is cancelled if:
1) the holder of the document has been issued with another travel document or if it emerges that he or she already has another travel document;
2) the holder of the document has acquired Finnish citizenship;
3) the residence permit of the holder of the document has been cancelled or has expired; or
4) the document has been lost.
(2) An alien's passport or a refugee travel document may be cancelled if:
1) the document has been damaged or any entries in it have been altered;
2) facts have emerged since the document was issued on the basis of which the document might have been refused when the issue of the document was under consideration;
3) the document is used or held by a person other than the one to whom it was issued; or
4) the Population Register Centre has, for a special reason, cancelled the certificate relating to establishing the authenticity and integrity of the data recorded in the technical specifications of the document or to reading fingerprints.
(458/2009)
(3) A refugee travel document is also cancelled if the holder of the document is no longer a refugee or the responsibility for the refugee has transferred to another State.

Section 139

Competence to issue and cancel alien's passports or refugee travel documents

(1) The Finnish Immigration Service decides on issuing alien's passports and refugee travel documents to aliens residing in Finland and on cancelling these. (973/2007)
(2) Finnish missions decide, after consulting the Finnish Immigration Service, on issuing alien's passports to aliens residing abroad. (973/2007)
(3) The District Police decide on issuing new alien's passports and refugee travel documents when the applicant is able to present a valid alien's passport or a valid refugee travel document. (673/2006)

Section 140

Taking possession of alien's passports and refugee travel documents by the authorities

(1) The authorities take possession of an alien's passport or a refugee travel document when a decision is made on cancelling the document.
(2) The authorities may take temporary possession of the document before the decision on cancelling the document is issued if the document is damaged or entries in it have been altered, or if it is used or held by a person other than the one to whom it was issued.
(3) A decision on taking possession of a document may not be appealed separately.

Section 141

Competence to take possession of alien's passports and refugee travel documents by the authorities

(1) The police, border control

authorities, the Finnish Immigration Service or a Finnish mission may take possession of an alien's passport or a refugee travel document. (973/2007)

(2) The authorities may conduct a non-intimate body search of an alien to take possession of a document.

(3) An alien's passport or a refugee travel document taken possession of by the authorities shall be sent to the Finnish Immigration Service without delay. (973/2007)

Section 141a (673/2006)

Model of an application form for an alien's passport and a refugee travel document

The Ministry of the Interior shall approve the form used in the application for and issuing of alien's passports and refugee travel documents and shall decide on the model of alien's passports and refugee travel documents and other matters related to their production.

Chapter 9

Removing aliens from the country

Definitions

Section 142

Refusal of entry

(1) For the purposes of this Act, refusal of entry means:

1) preventing an alien from entering the country at the border when he or she holds:

a) a visa;

b) no visa;

c) no residence permit; or

d) a residence permit issued abroad and he or she is about to enter the country for the first time during the validity of the residence permit; or

2) removing from the country an alien who did not hold a residence permit upon entry into the country if he or she has not been issued with a residence permit or residence card after his or her entry into the country or if his or her right of residence has not been registered after his or her entry into the country as provided in this Act.

Section 143

Deportation

(1) For the purposes of this Act, deportation means removing from the country an alien who:

1) resides in the country under a fixed-term or permanent residence permit issued by Finnish authorities;

2) resides in the country and whose residence has been registered as provided in this Act; or

3) continues to reside in the country after his or her residence permit, registered residence or residence card has expired.

Section 144

Prohibition of entry

For the purposes of this Act, prohibition of entry means prohibiting entry into one or more Schengen States for a fixed term or until further notice.

Common provisions on removing aliens from the country

Section 145

Opportunity to be heard

An alien and his or her spouse or comparable partner residing in Finland shall be given an opportunity to be heard in a matter relating to refusal of entry, deportation or prohibition of entry concerning him or her.

Section 146

Overall consideration

(1) When considering refusal of entry, deportation or prohibition of entry and the duration of the prohibition of entry, account must be taken of the facts on which the decision is based and the facts and circumstances otherwise affecting the matter as a whole. When considering the matter, particular attention must be paid to the best interest of the children and the protection of family life. Other facts to be considered must include the duration and purpose of the alien's residence in Finland, the nature of the residence permit issued to him or her, the alien's ties to Finland and the cultural and social ties to the home country of his or her family. Should the refusal of entry, deportation or related prohibition of entry be on the basis of the criminal activity of the alien, account must be taken of the seriousness of the act and the detriment, damage or danger caused to public or private security. (380/2006)

(2) When considering prohibition of entry and its duration, account shall also be taken of whether the alien has any such family or work ties to Finland or to another Schengen State that would suffer unreasonably from prohibition of entry. When considering prohibition of entry and the duration of the prohibition of entry for an alien whose application for international protection has been dismissed or rejected, the facts on which the dismissal or rejection was based and whether the alien has, by his or her own actions, hampered the processing of his or her application for asylum may also be taken into account.

Section 147

Non-refoulement

No one may be refused entry and sent back or deported to an area where he or she could be subject to the death penalty, torture, persecution or other treatment violating human dignity or from where he or she could be sent to such an area.

Grounds for removing aliens from the country and prohibition of entry

Section 148

Grounds for refusal of entry

(1) An alien may be refused entry into the country if:

1) he or she does not meet the requirements for entry laid down in section 11;

2) he or she refuses to give the necessary information on his or her identity or journey, or deliberately gives false information on these;

3) upon application for a visa or residence permit, he or she deliberately gave false information on his or her identity or journey, which affected the issue of the visa or residence permit;

4) during his or her short residence in Finland, he or she has rendered him or herself incapable of sustaining him or herself;

5) there are reasonable grounds to suspect that he or she may earn income through dishonest means;

6) there are reasonable grounds to suspect that he or she may sell sexual services;

7) he or she crossed the border from outside or through a border crossing point without permission to cross the border at a time when the border crossing point was closed;

8) on the basis of an earlier prison sentence or for other reasons, there are grounds to suspect that he or she may commit an offence which is punishable by imprisonment in Finland, or commit repeated offences;

9) he or she was sentenced for an offence during his or her residence in Finland;

10) on the basis of his or her earlier activities or for other reasons, there are grounds to suspect that he or she may engage in activities that endanger Finland's national security or relations with a foreign State; or

11) a decision referred to in Articles 1-3 of Council Directive 2001/40/EC on the mutual recognition of decisions on the expulsion of third country nationals has been issued to remove him or her from the country.

(2) An alien who has entered the country without a residence permit and who is required to hold a visa or residence permit to stay in Finland but who has not applied for

one or has not been issued with one may also be refused entry.

Section 149 (358/2007)

Grounds for deportation

(1) An alien who has resided in Finland under a residence permit may be deported if:

1) he or she resides in Finland without the required residence permit;

2) he or she is found guilty of an offence carrying a maximum sentence of imprisonment for a year or more, or if he or she is found guilty of repeated offences;

3) he or she has, through his or her activities, shown that he or she is liable to endanger other people's safety; or

4) he or she has been engaged, or on the basis of his or her previous activities and for other reasons there are grounds to suspect that he or she may engage in activities that endanger Finland's national security or relations with a foreign State.

(2) An alien who has been issued with a long-term resident's EC residence permit in Finland may be deported only if he or she poses an immediate and sufficiently serious threat to public order or security.

(3) In addition, an alien may be deported on grounds provided in subsection 1(2) if his or her punishment has been waived on the basis of criminal irresponsibility under Chapter 3, section 4 of the Penal Code.

(4) A refugee may be deported in the cases referred to in subsection 1(2)-(4). A refugee may not be deported to his or her home country or country of permanent residence against which he or she still needs international protection. A refugee may only be deported to a State which agrees to admit him or her.

Section 150

Ordering and revoking prohibitions of entry

(1) In a decision on refusal of entry or deportation, an alien may be prohibited from entering the country.

(2) A prohibition of entry is ordered for a fixed term of a maximum of five years or until further notice. An alien who has been sentenced for an offence of aggravated or professional nature may be prohibited entry until further notice.

(3) A prohibition of entry is restricted to Finland if the alien has a residence permit in another Schengen State, and the permit is not cancelled.

(4) A prohibition of entry may be revoked on the basis of a change in circumstances or for important personal reasons.

Competent authorities

Section 151

Police and border control authorities

(1) Police or border control authorities shall take action to refuse an alien entry or deport an alien who does not meet the requirements for entry into or residence in the country. Police or border control authorities may decide on refusal of entry within three months of the alien's entry into the country. After that period, police or border control authorities shall submit a proposal to the Finnish Immigration Service to the effect that the alien be refused entry or deported, unless the Finnish Immigration Service has already taken action to remove the alien from the country. (973/2007)

(2) Police or border control authorities may order a maximum of two years' prohibition of entry for an alien if he or she is refused entry on grounds laid down in section 148(1)(5)-(8).

(3) Police or border control authorities shall submit a proposal to the Finnish Immigration Service to the effect that the alien be refused entry if they are not competent to refuse entry or if they consider that the alien should be prohibited from entering the country for more than two years. Police or border control authorities may also submit a proposal to the Finnish Immigration Service to the effect that the alien be refused entry if it is important for the application of section 148 in other similar cases. (973/2007)

Section 152 (973/2007)

Finnish Immigration Service

(1) The Finnish Immigration Service decides on refusal of entry upon proposal by the District Police or border control authorities or on its own initiative.

(2) The Finnish Immigration Service always decides on refusal of entry if more than three months have passed since the alien's entry into the country, or if the alien has applied for a residence permit on the basis of international or temporary protection.

(3) The Finnish Immigration Service decides on deportation upon proposal by the District Police or border control authorities or on its own initiative.

(4) The Finnish Immigration Service may prohibit entry of aliens for a fixed term or until further notice. The Finnish Immigration Service decides on abolishing a prohibition of entry.

Section 152 a (283/2007)

Carrying out removals from a country through Finnish territory

The police or border control authorities may, under an international agreement or other obligation binding on Finland, give competent authorities of another State permission to remove a third-country national from the country through Finnish territory. The document granting permission shall specify the authorities to perform the transit and decide the powers of the other State's authorities and specify the level of force they may use.

Transit is performed by the police or border control authorities, and competent authorities of the other State may participate in it. In cases where the police or border control authorities cannot perform a transit without delay, they may give the other State's competent authorities permission to perform the transit independently.

Competent authorities of the other State participating in a transit performed by the police or border control authorities have, when staying in Finnish territory, the right to use such powers available to a police officer or border guardsman, including force, that a police officer or border guardsman may accord them insofar as they have power to do so.

The authorities of the other State performing a transit independently have the right to give any necessary binding commands and prohibitions to the persons being removed. The police or border control authorities may give them the right to use force in Finnish territory to prevent the persons being removed from escaping, to overcome resistance and to address an immediate risk of a crime or other dangerous act being committed, or some other dangerous situation developing. Force must be reasonable and proportionate to the circumstances. A further requirement for the use of force by a foreign State's authorities is that any competent Finnish officials are not immediately in a position to use force themselves.

Chapter 10

Residence of citizens of the European Union or comparable persons

Section 153 (360/2007)

Scope of application of the Chapter

(1) This Chapter applies to EU citizens and comparable persons and their family members and other relatives.

(2) This section contains provisions on:

1) the conditions on how EU citizens and their family members can use their right to move and reside freely within the territory of the Member States;

2) the right of EU citizens and their family members to reside within the territory of the Member States on a permanent basis;

3) restrictions concerning the rights referred to in paragraphs 1 and 2 on grounds of public order, public security or public health.

(3) The Chapter applies to EU citizens who move to Finland or reside in Finland,

and to their family members who accompany them or join them later. (432/2010)

(4) The Chapter applies to family members of a Finnish citizen if the Finnish citizen has exercised his or her right of free movement under the Directive by settling in another Member State, and the family member accompanies him or her to Finland or joins him or her later. (432/2010)

Section 153a (360/2007)

Exception to the scope of application of the Chapter

(1) EU citizens whose right of residence cannot be registered or approved on the basis of the provisions of this Chapter may, as an exception, be issued with a residence permit on the basis of Chapter 4.

(2) A family member of an EU citizen, who is not an EU citizen and to whom the provisions of this Chapter do not apply, is issued with a residence permit on the basis of Chapter 4.

Section 154 (360/2007)

EU citizens' family members

(1) The following persons are considered family members of an EU citizen:

1) his or her spouse;

2) his or her descendants who are under 21 years of age or dependent on him or her, and the descendants of similar status of his or her spouse;

3) his or her direct relatives in the ascending line who are dependent on him or her, and relatives of similar status of his or her spouse.

(2) If the EU citizen living in Finland is a minor, his or her guardian is considered a family member.

(3) In the application of this Chapter, persons living continuously in a marriage-like relationship in the same household regardless of their sex are comparable to a married couple if they have lived in the same household for at least two years. In the application of this Chapter, the relationship between them is comparable to a marriage. However, the requirement of living together for at least two years does not apply if the persons living in the same household have a child in their joint custody or if there are other weighty reasons for it.

(4) Other relatives are treated in the same manner as family members of EU citizens, regardless of their citizenship, if:

1) the relative is, in the country of departure, dependent on an EU citizen who has the primary right of residence, or the relative lived in the same household with the EU citizen in question; or

2) serious health grounds absolutely require the EU citizen in question to give the relative personal care.

Section 155 (360/2007)

EU citizens' entry into and residence in the country

(1) EU citizens entering into and residing in the country must have a valid identity card or passport.

(2) If an EU citizen or his or her family member who is not an EU citizen does not have the necessary travel document or, where required, the necessary visa, he or she must, before being refused entry, be given an opportunity to obtain the necessary documents or to have them delivered to him or her, or prove by other means that he or she has a right to move and reside freely in the country.

Section 155a (360/2007)

Entry and residence in the country of EU citizens' family member

(1) A family member of an EU citizen who is not an EU citizen entering into and residing in the country must have a valid passport. Such a family member may be required to have a visa if the family member is a citizen of a country for which, under a Council regulation, a visa is required.

(2) A family member who holds a valid residence card referred to in the Free Movement Directive, is not required to have a visa, and no entry or exit stamp is placed

on his or her passport. The residence card must be produced when entering the country from outside the Schengen area.

(3) The visa applicant must be notified of the refusal of a visa in writing and grounds must be given for the refusal unless this is contrary to the security interests of Finland or another EU Member State.

Section 156 (360/2007)

Public order and security

(1) A requirement for an EU citizen's and his or her family member's entry into and residence in the country is that they are not considered a danger to public order or security.

(2) Preventing entry into and removal from the country on grounds of public order or security must be based solely on the alien's own behaviour and not merely on any previous convictions. The behaviour of the alien must represent a genuine, immediate and sufficiently serious threat affecting a fundamental interest of society. Justifications that are isolated from the particulars of the case or that rely on considerations of general prevention will not be accepted.

Section 156a (360/2007)

Public health

(1) Entry into and residence in the country by an EU citizen and his or her family members may be restricted on grounds of public health. The restrictions may apply only on the basis of a disease with epidemic potential as defined by the relevant instruments of the World Health Organization and other infectious diseases which would justify restrictions to the freedom of a Finnish citizen who had caught the disease or who was suspected of having caught the disease, so as to prevent the disease from spreading.

(2) A disease posing a threat to public health that occurs after a three-month period from the date of arrival may not constitute grounds for removal from the country.

(3) An EU citizen or his or her family members may, within three months of the date of arrival, and if it is clearly necessary, be required to undergo a free medical examination to certify that they are not suffering from any of the diseases referred to in subsection 1. Such medical examinations may not be required of all applicants as a matter of routine.

Section 157

Nordic citizens' entry into and residence in the country

(1) Citizens of Iceland, Norway, Sweden and Denmark have the right to enter the country directly from any of these States without a passport and to reside in Finland without registering their right of residence. (360/2007)

(2) Citizens of Iceland, Norway, Sweden and Denmark shall be able to prove their identity and citizenship in a reliable way.

(3) Nordic citizens entering the country for a purpose other than short-term residence shall register their residence in the manner agreed between the Nordic Countries on population registration. (34/2006)

Section 158 (360/2007)

EU citizens' short-term residence

(1) EU citizens may reside in Finland without registering their right of residence for a maximum of three months without any conditions or any formalities other than the requirement to hold a valid identity card or passport.

(2) The provisions of subsection 1 also apply to family members of EU citizens who are not EU citizens and who hold a valid passport.

(3) An EU citizen may reside in Finland as a jobseeker for a reasonable time beyond the three-month limit without registering his or her right of residence if he or she continues to look for employment and if he or she has a genuine chance of being employed.

Section 158a (432/2010)

Right to reside in the country for more than three months

(1) EU citizens may reside in Finland for more than three months if they:

1) are engaged in economic activity as paid employees or self-employed persons;

2) have for themselves and their family members sufficient funds and, if necessary, health insurance so that, during their time of residence, they do not become a burden on Finland's social security system by resorting repeatedly to social assistance provided in the Act on Social Assistance or other comparable benefits or in some other similar manner;

3) are enrolled at an accredited educational institution in Finland for the principal purpose of following a course of study and they have, for themselves and their family members, sufficient funds for their residence and, if necessary, health insurance, so that, during their time of residence, they do not become a burden on Finland's social security system by resorting repeatedly to social assistance provided in the Act on Social Assistance or other comparable benefits or in some other similar manner;

4) are family members of an EU citizen meeting the requirements laid down in subsection 1(1)-(3).

(2) The right of residence laid down in subsection 1 above also applies to family members of an EU citizen who are not themselves EU citizens, if the EU citizen meets the requirements laid down in subsection 1(1)-(3).

(3) Family members of Nordic citizens have a right of residence even if they do not have any secure means of support.

Section 159 (360/2007)

Registering EU citizens' right of residence

(1) EU citizens residing in Finland for more than three months must register their residence. The application for registering the right of residence must be submitted to the District Police of their place of residence within three months of the date of entry into the country.

(2) An EU citizen who has provided proof that he or she meets the requirements of registration must be immediately issued with a registration certificate, giving his or her name and address, and the date of registration.

Section 159a (360/2007)

Proof required in connection with registration

(1) A valid identity card or passport and the following documents must be presented in connection with the application for a registration certificate:

1) if the applicant is gainfully employed, a confirmation of engagement from the employer or a certificate of employment;

2) if the applicant is self-employed, proof of self-employment;

3) if the applicant is an EU citizen referred to in section 158a(1)(2), proof that the applicant has sufficient funds for himself or herself and for his or her family members and, if necessary, proof of health insurance;

4) if the applicant is a student referred to in section 158a(1)(3), proof that he or she is enrolled at an accredited educational institution in Finland and that he or she has sufficient health insurance coverage and personal insurance or any other sufficient proof that he or she has sufficient funds for himself or herself and for his or her family members; the applicant cannot be required to refer to any specific amount of resources in his or her personal insurance.

Section 160 (360/2007)

Retaining the status of employed or self-employed person

In cases referred to in section 158a(1)(1) above, EU citizens who are no longer employed or self-employed persons, will retain their status as employed or self-

employed persons even if:

1) they are temporarily unable to work as the result of an illness or accident;

2) after having been employed for more than one year they become unemployed involuntarily and are registered as jobseekers with the relevant employment office,

3) after completing a fixed-term employment contract of less than a year or during the first twelve months of employment they become unemployed involuntarily and are registered as jobseekers with the relevant employment office; in this case they retain their status as employees for six months; or

4) they embark on vocational training that is related to their previous employment or, if they are involuntarily unemployed, on other vocational training.

Section 161 (360/2007)

Residence card

(1) Family members of EU citizens who are not EU citizens are, on application, issued with a residence card of a family member of an EU citizen, if the sponsor meets the requirements laid down in section 157 or 158a.

(2) A residence card is issued to family members planning to stay in Finland for more than three months.

Section 161a (360/2007)

Applying for a residence card

(1) The application for a residence card of a family member of an EU citizen must be filed within three months of the date of entry.

(2) The following must be presented in connection with the application for a residence card:

1) a valid passport;

2) a document attesting to the existence of a marriage or a registered partnership;

3) the registration certificate of the EU citizen whom the applicant is accompanying or joining;

4) in cases referred to in section 154(1)(2) or 154(1)(3), a document attesting to a family relationship;

5) in cases referred to in section 154(3), proof of existence of a durable relationship with the EU citizen in question;

6) in cases referred to in section 154(4), a document issued by an authority in the country of origin or the country of departure certifying that the other family members are dependants of an EU citizen or members of the same household or proof of the existence of serious health grounds which absolutely require the personal care of the family member by the EU citizen.

Section 161b (360/2007)

Issuing a residence card

The residence card of a family member of an EU citizen must be issued within six months of the submission of the application. A certificate of application for the residence card must be issued immediately.

Section 161c (360/2007)

Validity of the residence card

(1) The residence card for a family member of an EU citizen is issued for five years or, if the envisaged period of residence is less than five years, for the envisaged period of residence.

(2) When considering the validity of the residence card, consideration is not given to temporary absences not exceeding six months a year, or to longer absences to undertake compulsory military service or to one absence of a maximum of twelve consecutive months for important reasons such as pregnancy or childbirth, serious illness, study or vocational training, or a posting in another EU Member State or a third country.

Section 161d (360/2007)

Retaining the right of residence by family members in the event of death or departure from Finland

(1) An EU citizen’s death or departure

from the country does not affect the right of residence of his or her family members who are EU citizens. However, before being granted a right of permanent residence, the family member must meet the requirements laid down in section 158a(1).

(2) EU citizens' family members who are not EU citizens and who have resided in Finland as family members for at least one year before the death of the EU citizen do not lose their right of residence at the death of the EU citizen. Before family members are granted the right of permanent residence, they are subject to the requirement that they are employees or self-employed, or that they have, for themselves and their family members, sufficient funds so that they or their family members do not become a burden on the social assistance system of Finland, and comprehensive health insurance coverage in Finland, or that they are members of the family, already constituted in Finland, of an EU citizen meeting these requirements. Such family members retain their right of residence solely on personal grounds.

(3) When an EU citizen dies or leaves the country, his or her children or the parent who has actual custody of the children do not, irrespective of nationality, lose their right of residence before the children have completed their studies, if the children reside in Finland and are enrolled at an educational institution for the purpose of studying there.

Section 161e (360/2007)

Retaining the right of residence of family members in the event of divorce

(1) A marriage of an EU citizen ending in divorce does not affect the right of residence of a family member of the EU citizen, if the family member is an EU citizen. However, before being granted the right of permanent residence, the family member must meet the requirements laid down in section 158a(1).

(2) Family members of an EU citizen who themselves are not EU citizens do not lose their right of residence in the event of divorce if:

1) the marriage has lasted at least three years, including one year in Finland;

2) by agreement between the spouses or a court decision, the spouse who is not an EU citizen has custody of the children of the EU citizen;

3) it is warranted by particularly difficult circumstances such as violence in the marriage; or

4) by agreement between the spouses or by a court decision, the spouse who is not an EU citizen has a right of access to a minor, and the court has ruled that the access must be in Finland.

(3) Before family members referred to in subsection 2 who are not EU citizens are granted the right of permanent residence, they are subject to the requirement that they are employees or self-employed, or that they have, for themselves and their family members, sufficient funds so that they or their family members do not become a burden on the social assistance system of Finland, and comprehensive health insurance coverage in Finland, or that they are members of the family, already constituted in Finland, of an EU citizen meeting these requirements. Such family members retain their right of residence solely on personal grounds.

Section 161f (360/2007)

Retaining the right of residence

(1) EU citizens and their family members have the right to short-time residence laid down in section 158 if they do not, by resorting repeatedly to social assistance provided in the Act on Social Assistance or other comparable benefits or in other similar manner, become an unreasonable burden on Finland's social security system during their residence.

(2) EU citizens and their family members have the right to stay in Finland for more than three months, as laid down in section 158a, 161d or 161e, if they meet the requirements laid down in these sections.

(3) In specific cases, if there are reasonable grounds to suspect that an EU citizen or his or her family member does not

meet the requirements laid down in section 158a, 161d or 161e, the fulfilment of the requirements may be looked into.

Section 161g (360/2007)

Right of permanent residence

(1) EU citizens who have resided legally in Finland for a continuous period of five years have the right to permanent residence. The right is not subject to the requirements for short-term residence or residence for more than three months.

(2) The provisions in subsection 1 also apply to family members of an EU citizen who are not EU citizens and who have legally resided in Finland with the EU citizen for a continuous period of five years.

(3) Continuity of residence is not affected by temporary absences not exceeding six months a year, or longer absences to undertake compulsory military service, or one absence of a maximum of twelve consecutive months for important reasons such as pregnancy or childbirth, serious illness, study or vocational training, or a posting in another EU Member State or a third country.

Section 161h (360/2007)

Document certifying the right of permanent residence of EU citizens

(1) EU citizens who have the right to permanent residence are, on application, issued with a document certifying permanent residence.

(2) The document must be issued as soon as possible after the period of residence has been verified.

Section 162 (360/2007)

Permanent residence card

(1) Family members of an EU citizen who are not EU citizens and who have the right to permanent residence are, on application, issued with a permanent residence card within six months of filing the application.

(2) The application for a permanent residence card must be filed before the expiry of the validity of the residence card.

(3) Interruptions to residence not exceeding a maximum of two consecutive years do not affect the validity of the permanent residence card.

Section 163 (360/2007)

Right of permanent residence of persons who are no longer working or engaged in self-employment

(1) Employees and self-employed persons have the right of permanent residence before completing a continuous period of five years of residence, if they:

1) at the time they stop working, have reached the age entitling them to an old-age pension and have been working or self-employed in Finland for at least the preceding 12 months and have lived in Finland for a continuous period of at least three years; self-employed persons not entitled to an old-age pension are granted the right to permanent residence when they reach the age of 60;

2) have stopped working as a result of permanent incapacity after having lived in Finland for a continuous period of two years; or

3) after working and living in Finland for a continuous period of three years, have moved to work in the territory of another Member State but still live in Finland and return to Finland on a regular basis every day or at least once a week.

(2) If the incapacity referred to in subsection 1(2) is the result of an accident at work or an occupational disease that entitles an EU citizen to a statutory pension in Finland, the period of stay has no relevance for the granting of a right of permanent residence.

(3) For obtaining a right of permanent residence under subsection 1(1) or 1(2), employment within the territory of another Member State will also be taken into consideration in the applicant's favour. Any periods of involuntary unemployment not

attributable to the applicant and recorded by the relevant employment office, or any breaks in self-employment not attributable to the applicant, or any absences due to illness or accident are considered periods of employment.

(4) The requirements concerning the length of residence and employment laid down in subsection 1(1), or the length or residence in subsection 1(2), do not apply if the employed or self-employed person's spouse is a Finnish citizen or has lost his or her Finnish citizenship upon marriage to that employed or self-employed person.

(5) Family members of an employed or self-employed person who has obtained the right of permanent residence under subsection 1 or 2 have the right of permanent residence in Finland.

(6) If the employed or self-employed person dies while still working but before obtaining the right of permanent residence in Finland under subsection 1 or 2, his or her family members residing in Finland with him or her have the right to stay in Finland permanently, if:

1) the employed of self-employed person had lived in Finland continuously for two years before his or her death;

2) the death of the employed or self-employed person was due to an accident at work or an occupational disease; or

3) the spouse of the deceased employed or self-employed person has lost his or her Finnish citizenship upon marriage to the employed or self-employed person.

Section 164 (360/2007)

Employment and self-employment

A person with the right of residence under this Chapter has an unrestricted right to gainful employment without a residence permit for an employed person, or to pursue a trade without a residence permit for a self-employed person.

Section 165 (360/2007)

Cancelling registration of the right of residence or a residence card

(1) The registration of the right of residence or a fixed-term residence card is cancelled if:

1) the person whose right of residence has been registered or who has been issued with a fixed-term residence card has permanently moved away from Finland;

2) the person whose right of residence has been registered or who has been issued with a fixed-term residence card has resided outside Finland continuously for two years with the intention of staying there permanently; or

3) the grounds for registering the right of residence or issuing a fixed-term residence card no longer exist.

(2) The right of permanent residence or a permanent residence card is cancelled, if an EU citizen or his or her family member has continuously resided outside Finland for over two years.

(3) Registration of the right of residence, the right of permanent residence, or a fixed-term or permanent residence card is cancelled, if it was obtained by knowingly providing false information about the applicant's identity or other relevant facts, or by concealing such information, or by other abuse of rights.

(4) A person who has moved away from Finland may apply for non-cancellation of the registration of his or her right of residence or residence card within two years of moving from Finland. If the application is granted, the decision must state the period during which cancellation will not be made.

Section 166 (360/2007)

Expiry of registration of the right of residence or a residence card

The registration of the right of residence or a residence card expires if the person whose right of residence has been registered or who has been issued with a residence card is deported from Finland or acquires Finnish

citizenship.

Section 167 (360/2007)

Grounds for refusing EU citizens, their family members or other relatives entry into Finland

EU citizens or their family members can be refused entry into the country, if their right of residence has not been registered or they have not been issued a residence card, and if they:

1) do not meet the requirements for entry laid down in section 155, 156 or 156a;

2) by resorting repeatedly to social assistance provided in the Act on Social Assistance or other comparable benefits or in other similar manner during their short-term stay, become an unreasonable burden on Finland's social security system;

3) would be required to have their right of residence registered or a residence card issued in order to continue their residence in Finland, but do not meet the requirements for registering the right of residence or for being issued with a residence card; or

4) have been prohibited from entering the country on grounds of public order or security.

Section 168 (360/2007)

Grounds for deporting EU citizens and their family members

(1) EU citizens whose right of residence has been registered, or their family members who have been issued with a residence card, may be deported if they fail to meet the requirements for the right of residence laid down in section 158a, 161d or 161e, or if they are considered a danger to public order or security under section 156 or to public health under section 156a.

(2) EU citizens who have been granted a right of permanent residence, or their family members who have been granted a permanent residence card, may only be deported on serious grounds of public order or security.

(3) EU citizens who have resided in the country legally for the previous ten years may only be deported on imperative grounds of public security.

(4) An EU citizen who is a minor can only be deported on imperative grounds of public security, unless the deportation is in the best interests of the child.

(5) Imperative grounds as laid down in subsections 3 and 4 are considered to exist where an EU citizen is guilty of an act which is punishable by no less than one year of imprisonment, and where he or she, on grounds of the seriousness of the crime or of continued criminal activity, is considered a danger to public security, or where there are grounds for suspecting that he or she is seriously endangering the national security of Finland or another State.

Section 168a (360/2007)

Deportation of an employee or a jobseeker

As an exception to section 167 paragraph (2) or 168(1), an EU citizen or his or her family member may be refused entry into or deported from the country only on grounds of public order or security as laid down in section 156, or on grounds of public health as laid down in section 156a, where the EU citizen is an employed or self-employed person, or has entered the country in order to seek employment and can provide evidence that he or she has a genuine chance of being employed.

Section 168b (360/2007)

Overall consideration of deportation

Before a decision concerning deportation on grounds of public order or security, account must be taken of the duration of residence of the EU citizen or his or her family member, his or her age, state of health, and family and economic situation, and how well the person has become integrated into Finnish society and culture. In addition, consideration must be given to the EU citizen's and his or her family member's links with their country of origin.

Section 169 (360/2007)

Grounds for refusing Nordic citizens entry into or deporting Nordic citizens from the country

(1) Citizens of Iceland, Norway, Sweden or Denmark whose residence in Finland has not been registered in the manner laid down in section 157(3) may be refused entry if they are considered a danger to public order or security under section 156 or to public health under section 156a.

(2) Citizens of Iceland, Norway, Sweden or Denmark whose residence in Finland has been registered in the manner laid down in section 157(3) may be deported if they are considered a danger to public order or security or to public health.

(3) If a citizen of Iceland, Norway, Sweden or Denmark has resided in Finland for over five years, he or she may only be deported on serious grounds of public order or security, and if the residence has lasted for more than ten years, he or she can only be deported on imperative grounds of public security.

Section 170 (360/2007)

Ordering and abolishing prohibitions of entry

(1) If removing an EU citizen or his or her family member from the country is based on the fact that the person is considered a danger to public order or security or to public health, the decision on refusal of entry or deportation may prohibit him or her from entering the country for a maximum of fifteen years.

(2) Upon application, a prohibition of entry may be revoked in part or in full on the basis of a change in circumstances or for important personal reasons. A decision in the matter must be reached within six months of filing the application.

Section 171

Competent authorities

(1) The District Police of the applicant's place of residence enter the right of residence into the Register of Aliens and issue a fixed-term or permanent residence card. (360/2007)

(2) The District Police of the applicant's place of residence cancel the registered right of residence and a fixed-term and permanent residence card. They also decide, on application, that the registration of right of residence or a residence card is not cancelled in cases referred to in section 165(4). (360/2007)

(3) The Finnish Immigration Service decides on a prohibition of entry under section 170. (973/2007)

(4) The provisions of section 151 and 152 apply to the competence of the authorities to make decisions on removal from the country.

Section 172

Enforcing removal of EU citizens or their family members from the country (360/2007)

(1) A decision on refusal of entry may be enforced immediately regardless of any appeal unless otherwise ordered by an administrative court if the person is refused entry under section 167(1) or 169(1), and if the matter is justifiably urgent.

(2) A decision on refusal of entry under section 167(2) or (3) may be enforced within 30 days at the earliest of the date when the decision was served on the person concerned. If a decision issued under section 167(3) is based on the fact that the person to whom the decision applies is considered a danger to public order and security, and the matter is justifiably urgent, the decision may be enforced immediately regardless of any appeal unless otherwise ordered by an administrative court.

(3) A decision on deportation under section 168 or 169(2) may be enforced after a final decision.

(4) The provisions of section 202 apply to a decision on refusal of entry or deportation that is enforced with the consent of the person concerned before the decision is final.

(5) When serving a decision on refusal

of entry or deportation, the document served must state the period during which the person who has been refused entry or deported must leave the country. This period must be at least one month from the date when the decision was served, unless urgent grounds for leaving the country exist. During this period, the authorities may not enforce the decision. (360/2007)

(6) If a decision on refusal of entry or deportation is enforced more than two years after it was made, the enforcing authority must confirm with the authority who made the decision that the person to be removed still poses a genuine threat to public order and security, and assess whether circumstances have changed since the deportation decision was made. (360/2007)

Section 172a (360/2007)

Abuse of rights

Any rights conferred in this Chapter may be refused, terminated or withdrawn, if they have been obtained by knowingly providing false information about the applicant's identity or other relevant facts, or by concealing such information, or by other abuse of rights, such as marriages of convenience for the purpose of obtaining rights under this Chapter.

Section 172b (360/2007)

Further provisions on residence of EU citizens

Further provisions on administrative procedures concerning the entry into, residence in and removal from the country of EU citizens and comparable persons and members of their family may be given by Government decree.

Chapter 11

Obligations and financial penalties on carriers

Section 173

Carriers' obligation to check

A carrier shall ensure that an alien whom it brought to Finland by air, land, rail or sea from outside the Schengen area and who is not an EU citizen or comparable person holds a travel document required for entry into the country and the required visa or residence permit.

Section 174 (581/2005)

Obligation of vehicle drivers and carriers to report and control

(1) The driver of a vehicle, the master of a vessel or aircraft and the representative of the carrier on board another vehicle are obliged to ensure that people not entitled to enter the country do not enter it without the permission of border control authorities. The master of a vessel must notify border control authorities in advance of any stowaway detected on board.

(2) Sections 19 and 20 of the Act on the Processing of Personal Data by the Border Guard (579/2005) lay down provisions on the obligation of vehicle drivers and carriers to report. (581/2005)

Section 175

Obligation to return third-country nationals

(1) If an alien is refused entry, the carrier which transported him or her to Finland is obliged to transport him or her to:

1) the country of embarkation;

2) the country which issued the alien with the travel document on which he or she travelled; or

3) any country to which the alien is certain to be admitted.

(2) The provisions of subsection 1 also apply to the carrier if a citizen of a third country in transit through Finland is refused entry and if:

1) another carrier, which was supposed to transport the alien to the country of destination, refuses to take him or her on board; or

2) the authorities of the country of

destination have refused the alien entry and he or she has been sent back to Finland.

(3) If border control authorities have allowed the alien's entry into the country, the carrier is not under the obligation provided in subsection 1 unless the alien has applied for asylum or a residence permit at the border on the basis of subsidiary protection, humanitarian protection or temporary protection. (323/2009)

Section 176

Costs of return transport

(1) If an alien who has been refused entry does not have funds for his or her return journey, the carrier is obliged to arrange his or her transport at its own cost. If immediate transport is not feasible, the carrier also bears any costs that arise from the alien's stay.

(2) If an alien has stayed in the country after disembarking from a vehicle without the required travel document, visa, residence permit or funds sufficient for his or her residence in the country, the carrier is obliged to reimburse any costs incurred by the State as a result of the alien's residence and refusal of entry. If the alien has stayed in the country after disembarking from a vessel, the master of the vessel, the shipowner and the shipping agent used by the shipowner are jointly and severally liable for the compensation.

Section 177

Escorts

(1) Upon enforcing the removal of an alien from the country, police or border control authorities may order a necessary number of escorts if the security of the vehicle or the enforcement of the decision on the alien's removal so requires. An escort may also be ordered if an alien leaves the country voluntarily without a decision on removal. The carrier responsible for transporting the alien may submit a request for ordering an escort.

(2) The authorities' decision on ordering an escort may not be appealed separately.

Section 178

Costs of escorts

(1) If an alien is refused entry at the border and the refusal is based on his or her not holding the required travel document, visa, residence permit or funds sufficient for his or her residence in the country, and the alien needs an escort, the carrier is also obliged to pay for the costs arising from the escort. The carrier is not entitled to receive compensation from the State for the costs arising from the transport.

(2) The carrier's obligation under subsection 1 to pay the costs arising from the escort also applies if the alien has applied for asylum at the border and the decision on refusal of entry is issued within three months of entry into the country.

(3) If the authorities escort the alien in cases other than those referred to in subsections 1 or 2 without the carrier's request, police or border control authorities bear the costs arising from the escort.

Section 179 (581/2005)

Financial penalties on carriers

(1) A carrier who violates the obligation to report laid down in section 173 or the obligation to provide information laid down in section 20 of the Act on the Processing of Personal Data by the Border Guard is liable to financial penalty (financial penalty on a carrier). The penalty for violation of section 173 amounts to 3,000 euros per transported person. The penalty for violation of section 20 of the Act on the Processing of Personal Data by the Border Guard amounts to 3,000 euros per each journey where passenger information is missing or inadequate, or where false information has been supplied.

(2) No financial penalty on a carrier is imposed if:

1) the carrier can prove that that it has fulfilled its obligation to ensure that the alien held the required travel document and the required visa or residence permit when taken

on board;

2) the required travel document, visa or residence permit has proved to be a forgery and the forgery has not been easy to detect;

3) transporting a person without the required travel document, visa or residence permit or the mistake in supplying air passenger data has been excusable, all circumstances considered; or

4) imposing a penalty would be otherwise unreasonable under the circumstances.

Subsection 2(1) does not apply to a penalty imposed for violation of section 20 of the Act on the Processing of Personal Data by the Border Guard. (581/2005)

Section 180

Carriers' opportunity to be heard

Before imposing a financial penalty on a carrier, the carrier or its representative shall be given an opportunity to present an explanation in writing within a fixed period, which may not be less than two weeks.

Section 181

Imposing financial penalties on carriers

A financial penalty on a carrier is imposed in conjunction with a border check by the Commander or Deputy Commander of the Border Guard District or Coast Guard District or the head of the Border Guard office or Coast Guard office within whose territory the violation of section 173 of this Act or section 20 of the Act on the Processing of Personal Data by the Border Guard was detected. If the border control authority is the police, the financial penalty on a carrier is ordered by a Commanding Officer of the District Police. If the border control authority is a customs authority, the head of the Customs District or the head of the Enforcement Unit of the Customs District imposes the financial penalty on a carrier. (581/2005)

182 (653/2004)

Revoking financial penalties on carriers

(1) The authorities who imposed a financial penalty on a carrier shall revoke the penalty if:

1) the alien may stay in the country on the grounds that he or she is issued with a residence permit on the basis of refugee status, a need for protection or of temporary protection; or

2) the carrier is sentenced to punishment for facilitation of illegal entry under Chapter 17, section 8 or for aggravated facilitation of illegal entry under Chapter 17, section 8a of the Penal Code.

(2) The authorities who imposed a financial penalty on a carrier shall revoke the penalty if:

1) the alien may stay in the country on the grounds that he or she is issued with a residence permit on the basis of refugee status, subsidiary (protection), humanitarian (protection) or temporary protection; or

2) the carrier is sentenced for facilitation of illegal entry under Chapter 17, section 8 of the Penal Code or for aggravated facilitation of illegal entry under Chapter 17, section 8a of the Penal Code.

(323/2009)

Section 183

Term of payment

(1) A financial penalty on a carrier shall be paid within one month of service of the decision.

(2) A penalty interest at an interest rate under section 4(1) of the Interest Act (633/1982) is charged on overdue financial penalties.

Section 184

Enforcement

(1) The Legal Register Centre is responsible for the enforcement of a financial penalty on a carrier.

(2) The Legal Register Centre shall be notified of any decision by the authorities or a court of law on reducing or revoking the financial penalty.

(3) The Legal Register Centre shall refund, without application, any financial penalty paid without justification.

Chapter 12

Penal provisions

Section 185

Violation of the Aliens Act

(1) An alien who
1) deliberately resides in the country without the required travel document, visa or residence permit, or through negligence fails to comply with the obligation to register his or her residence or apply for a residence card or permanent residence card;
2) deliberately, without right to gainful employment is gainfully employed or pursues a trade;
3) deliberately fails to comply with the obligation to report under section 118, another obligation under section 119, or a request under section 130 to appear before the authorities to submit information on his or her residence; or
4) deliberately enters the country despite a prohibition of entry on grounds of public order, security or health
shall be sentenced to a fine for a violation of the Aliens Act. (323/2009)
(2) A person who deliberately or through gross negligence fails to comply with the obligation under section 174 or 175 shall also be sentenced for violation of the Aliens Act.
(3) A person who deliberately or through gross negligence fails to comply with the obligation under section 174 or 175 of this Act or section 19 or 20 of the Act on the Processing of Personal Data by the Border Guard is also sentenced for violation of the Aliens Act. (581/2005)

Section 186

Employer's violation of the Aliens Act

(1) An employer or his or her representative who:
1) deliberately or through negligence employs an alien who does not have the right to gainful employment;
2) deliberately or through gross negligence gives false or misleading information to the authorities on the alien's terms of employment or duties and the requirements of these duties; or
3) deliberately or through gross negligence fails to fulfil the obligation provided in section 73(3),
shall be sentenced for employer's violation of the Aliens Act to a fine, unless a more severe punishment for the act is provided elsewhere in the law.
(2) Allocation of liability between an employer and a contractor is determined under section 74. Provisions on the allocation of liability between an employer and his or her representative are laid down in Chapter 47, section 7 of the Penal Code.

Section 187

Not issuing residence permits for employed persons

An employment office may decide not to issue residence permits for employed persons as regards employment for an employer or contractor who has him or herself or through his or her representative given the authorities false or misleading information referred to in section 186(1)(2). A decision not to issue a permit is made for a fixed term or until further notice. A decision may not be made if a punishment has been imposed for the act.

Section 188

Work permit offence

The punishment for a work permit offence is laid down in Chapter 47, section 6a of the Penal Code.

Section 189 (653/2004)

Facilitation of illegal entry

The punishment for facilitation of illegal entry and for aggravated facilitation of illegal entry is laid down in Chapter 17, sections 8 and 8a of the Penal Code.

Chapter 13

Due process

Section 190 (516/2008)

Appeal

A decision of the Finnish Immigration Service, the police, a border control authority, an employment office, a Finnish diplomatic or consular mission or the Ministry of Education referred to in this Act may be appealed to an administrative court as provided in the Administrative Judicial Procedure Act.

Section 191

Appeal prohibition

(1) The following decisions issued under this Act are not subject to appeal:

1) decisions on issuing a visa, altering the validity period for a visa or the number of days of residence entered in a visa, cancelling a visa, or disclosing the grounds for a decision on a visa, unless the matter concerns an adverse visa decision of a family member of an EU or Finnish citizen to which the provisions of Chapter 10 on the right of an EU citizen and a member of his or her family to move freely apply; (360/2007)

2) decisions by the Ministry for Foreign Affairs on issuing a residence permit to or cancelling a residence permit issued to a member of the staff of a foreign mission in Finland or his or her family member;

3) decisions on issuing a residence permit to an alien admitted to Finland under the refugee quota;

4) decisions on issuing a residence permit on the basis of other humanitarian immigration;

5) decisions on issuing a residence permit on the basis of temporary protection while the alien's application for asylum is still being processed;

6) repealed by 581/2005

7) decisions stating that the processing of an application for asylum is dropped under section 111(2);

8) decisions stating that the matter is dropped because the applicant has cancelled his or her application or there is reasonable cause to believe that the applicant has moved out of Finland;

9) advance information given by an employment office under section 78; (619/2006)

10) the decision on the reflection period as laid down in section 52b and its suspension. (619/2006)

(2) When hearing an appeal against an alien's removal from the country, the court may, subsection 1(1) notwithstanding, hear, as appended to the main issue, a decision concerning a visa included in the decision appealed.

Section 192

Competent administrative courts

(1) An administrative court is competent to hear an appeal referred to in section 190 if the operating area or office of the decision-making authority is in the judicial district of that court. If the operating area of the decision-making authority covers the entire country, the competent administrative court is the one in whose judicial district the person concerned lives.

(2) In a matter related to issuing a residence permit on the basis of family ties, the competent administrative court is the one in whose judicial district the family member lodging the appeal, or the family member to be otherwise heard in the matter, lives. If such family members live in several judicial districts in Finland, the Administrative Court of Helsinki is the competent administrative court.

(3) In matters related to residence permits of employed or self-employed persons, the competent administrative court is the one in whose judicial district the applicant lives. If the applicant does not live in Finland, the competent administrative

court in matters pertaining to residence permits for self-employed persons is the Administrative Court of Helsinki, and in matters pertaining to residence permits for employed persons the administrative court in whose judicial district the office of the employer referred to in the application is located.

(4) The Administrative Court of Helsinki is competent to hear an appeal submitted by a person residing abroad if the case does not involve a person or employer residing in Finland referred to in subsection 2 or 3.

Section 193 (232/2009)

Appeals to the Administrative Court of Helsinki

(1) A decision of the Finnish Immigration Service is appealed to the Administrative Court of Helsinki if the decision pertains to:

1) an application for a residence permit granted on the basis of asylum, subsidiary protection or humanitarian protection;

2) rejection of an application for temporary protection;

3) removal from the country, prohibition of entry or cancellation of a travel document issued in Finland, and the decision relates to a rejection under the asylum procedure or procedure related to temporary protection;

4) withdrawal of refugee status and cancellation of related refugee travel document or withdrawal of subsidiary protection status and cancellation of related alien's passport;

5) cancellation of refugee status and related refugee travel document or cancellation of subsidiary protection status and related alien's passport;

In the case of an appeal relating to a matter referred to in section 103, the Administrative Court of Helsinki may hear the appeal with only the chairman present. (323/2009)

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Section 194

Employers' right of appeal

Employers have the right to appeal against a decision relating to a residence permit for an employed person insofar as the appeal relates to the requirements under section 75(1) decided by employment authorities.

Section 195 (973/2007)

Finnish Immigration Service's right of appeal

The Finnish Immigration Service has the right to appeal against a decision of an administrative court quashing or amending a decision of the Finnish Immigration Service.

Section 196

Appeals to the Supreme Administrative Court

A decision of an administrative court referred to in this Act may be appealed to the Supreme Administrative Court if the Supreme Administrative Court gives leave to appeal. A leave to appeal may be given if it is important for the application of the Act to other similar cases, or for the sake of consistency in legal practice, to submit the case to the Supreme Administrative Court for a decision or if there is some other weighty reason for giving the leave.

Section 197

Submitting an appeal document

(1) An appeal document shall be submitted to the authorities who issued the decision, who shall submit its opinion and the documents on which it based its decision to the administrative court without delay.

(2) In asylum matters, an appeal document may also be submitted to the Administrative Court of Helsinki or the police. Immediately after being notified of the appeal, the Finnish Immigration Service shall submit the documents on which it based its decision to the administrative court. (973/2007)

(3) Abroad, an appeal document may be submitted to a Finnish mission. A person held in detention may submit his or her

appeal document to the person in charge of the detention facilities. The recipient of an appeal document shall ensure that the appeal document is submitted without delay to the authorities who issued the decision. At the same time, the administrative court shall be notified of the appeal.

Section 198

Appeal documents in matters subject to leave to appeal

(1) When applying for leave to appeal, an appeal document shall be submitted to the Supreme Administrative Court.

(2) An appeal document may be submitted to a Finnish mission if the appellant no longer resides in Finland. A person held in detention may submit his or her appeal document to the person in charge of the detention facilities. The recipient of an appeal document shall ensure that the appeal document is submitted to the Supreme Administrative Court without delay.

Section 198a (432/2009)

Expiry of cases relating to international protection at administrative courts

An administrative court or the Supreme Administrative Court may decide that an appeal relating to international protection expires if the appellant has left Finland at his or her own initiative without any measures being taken by authorities, or he or she is considered in all likelihood to have left Finland in a manner referred to in section 95c(1).

Section 199

Deciding petitionary matters relating to enforcement

(1) An administrative court may decide, upon presentation, a petitionary matter relating to prohibition or stay of enforcement of a decision with only the chairman present. The decision may be issued without documents submitted by the authorities concerned if the facts necessary for deciding the matter appear from the appeal document or otherwise.

(2) A decision of the administrative court in a matter relating to prohibition or stay of enforcement may not be appealed separately.

(3) Similarly, the Supreme Administrative Court may decide, upon presentation, on a petitionary matter relating to prohibition or stay of enforcement with only one member present. The decision may be issued on the grounds laid down in subsection 1 without documents accumulated in the matter.

Section 200

Enforceability

(1) A decision on removal from the country referred to in this Act may not be enforced until a final decision has been issued on the matter, unless otherwise provided in this Act. Applying for leave to appeal from the Supreme Administrative Court does not prevent the enforcement of a decision unless otherwise ordered by the Supreme Administrative Court.

(2) However, a final decision or a decision that is otherwise enforceable under this Act may not be enforced if there is reason to believe that returning the alien to his or her country of origin or another country may expose him or her to danger referred to in section 147.

Section 201

Enforcing decisions on refusal of entry

(1) A decision on refusal of entry may be enforced regardless of appeal, unless otherwise ordered by an administrative court. However, a decision of the Finnish Immigration Service on refusal of entry concerning an alien who has applied for a residence permit on the basis of international or temporary protection may not be enforced

until a final decision has been issued on the matter, unless otherwise provided in subsection 2 or 3. (973/2007)

(2) If a decision on refusal of entry has been issued under section 95b, 103(1)(2) or 103(2)(3), the decision may be enforced after service on the applicant, unless otherwise ordered by an administrative court. (432/2009)

(3) A decision issued under section 103(1)(1) on refusal of entry concerning an alien who has arrived from a safe country of asylum, or under section 103(2) on refusal of entry concerning an alien who has arrived from a safe country of origin, or a decision under section 103(2)(2) on refusal of entry concerning an alien whose application is considered manifestly unfounded, may be enforced at the earliest on the eighth day from service of the decision on the applicant, unless otherwise ordered by an administrative court. Before the enforcement, it shall be ensured that the eight-day period contains at least five working days.

Section 202

Consent to enforcement

A decision on refusal of entry or deportation may be enforced before the decision becomes final if the person refused entry or ordered to be deported gives, in the presence of two competent witnesses, his or her consent to the enforcement of the decision and signs the corresponding entry made in the decision.

Section 202a

Repealed by 458/2009.

Chapter 14

Miscellaneous provisions

Section 203

Interpretation and translation

(1) The authorities shall provide interpretation or translation if the alien does not understand the Finnish or Swedish language used by the authorities under the Language Act (423/2003), or if he or she, because of his or her disability or illness, cannot be understood in a matter that:

1) is processed in the asylum procedure;

2) pertains to refusal of entry or deportation; or

3) may be initiated by the authorities.

(2) To clarify the matter or to secure the rights of the person concerned, the authorities may also provide interpretation or translation in matters other than those referred to in subsection 1.

(3) The provisions on the obligation of an administrative court to provide interpretation or translation are laid down in the Administrative Judicial Procedure Act.

(4) The obligation of the authorities or a court to provide translation or interpretation does not apply to material that has no bearing on the processing of a matter.

(5) The person concerned has the right to be notified of a decision concerning him or her in his or her mother tongue or in a language which, on reasonable grounds, he or she can be expected to understand. A decision is notified through interpretation or translation.

Section 204

Modes of service

(1) The service of decisions issued under this Act is effected as regular or verifiable service or as service by public notice, as further provided in this Act. Otherwise, the Administrative Procedure Act is applied to the service of decisions of the authorities, unless otherwise provided in this Act.

(2) The provisions of section 55 of the Administrative Judicial Procedure Act apply to the service of decisions of administrative courts, unless otherwise provided in this Act.

(3) The Act on Electronic Services and Communication in the Public Sector (13/2003) applies to the electronic service of decisions of the authorities or administrative courts and of other documents.

Section 205

Service of decisions in Finland

(1) Regular service is effected by sending a letter to the addressee. The addressee is deemed to have received service in seven days of the sending of the letter, unless it is otherwise proven. However, the Finnish Immigration Service is deemed to have received service of the matter on the date of arrival of the letter. Regular service may be applied to decisions issued in favour of the applicant.

(2) Otherwise, service shall be effected by post against a postal receipt. Upon request, a decision may also be handed out to the addressee or his or her representative. In this case, a written certificate of service shall be drawn up, indicating the effecter and the addressee of service and the date of service.

(3) If the authorities deem it necessary, service may be effected by a process server. The provisions of Chapter 11 of the Code of Judicial Procedure apply, where applicable, to service by a process server. Service by a process server is effected by police or border control authorities. In a matter relating to international protection, however, service shall always be effected by a process server.

(4) If the addressee is hiding or otherwise avoiding service or his or her whereabouts are otherwise unknown, the provisions of section 61 of the Administrative Procedure Act on proxy service apply.

Section 206

Service of decisions abroad

(1) Abroad, service is effected under this Act or the legislation of the foreign State in question, unless otherwise provided by international agreements and obligations binding on Finland.

(2) Service may be effected abroad by sending a decision by post to the address given by the alien. Service may be effected as an ordinary letter if the decision was issued in favour of the applicant. The applicant is deemed to have received service of the decision no later than on the thirtieth day after the date of posting the document, unless it is otherwise proven. Otherwise, service by post shall be effected through the international service of notice procedure against a postal receipt or through another corresponding verifiable service that can be used in the State concerned.

(3) If the alien has not given his or her address abroad, service may be effected by sending the decision via the Ministry for Foreign Affairs to the Finnish mission in the State of which the alien is a citizen or where he or she resides. An official of the mission shall draw up a written certificate indicating the effecter and the addressee of service and the date of service. If the decision cannot be handed out to the alien or his or her representative, the authorities who issued the decision shall be notified of the fact that the decision has not been served.

(4) If service of a decision cannot be effected abroad, service is effected in Finland by public notice as provided in section 62 of the Administrative Procedure Act. However, service by public notice is not used in a matter pertaining to international protection.

Section 207

Providing contact information

A person whose case is being processed by the authorities is obliged to provide them with his or her contact information and any changes in such information.

Section 208

Notifying the Ombudsman for Minorities

(1) The Ombudsman for Minorities shall be notified of any decision under this Act on issuing a residence permit on the basis of international or temporary protection or on refusing an alien entry or deporting an alien. The Ombudsman for Minorities shall also be notified without delay of any decisions on placing an alien in detention. At the request

of the Ombudsman for Minorities, the Ombudsman shall also be notified of any other decisions under this Act.

(2) Provisions on the right of the Ombudsman for Minorities to be notified are laid down in section 7 of the Act on the Ombudsman for Minorities and the Discrimination Board (660/2001).

Section 209

Providing the Ombudsman for Minorities with an opportunity to be heard

At the request of the Ombudsman for Minorities, the Ombudsman has the right to be heard in an individual matter concerning an asylum applicant or deportation of an alien. The authorities deciding on the matter may, on a case-by-case basis, set a reasonable deadline for the issue of an opinion by the Ombudsman for Minorities.

Section 210 (973/2007)

Right of the Finnish Immigration Service to decide on matters falling under the jurisdiction of the District Police

(1) The Finnish Immigration Service may take up a matter which, under this Act, is to be decided by the District Police.

(2) The District Police may refer a matter falling under its jurisdiction to the Finnish Immigration Service for decision if the investigation of the matter and any decisions on the matter require the expertise of the Finnish Immigration Service because of the nature of the matter, or if the matter is important for the application of the Act to other similar cases.

Section 211 (973/2007)

Advisory Board for Matters related to Aliens' Employment and Residence Permits

(1) An Advisory Board for Matters related to Aliens' Employment and Residence Permits may be appointed within the Ministry of the Interior to supervise the terms of employment of foreign labour. The task of the board is to promote cooperation and communication between the authorities in matters pertaining to the supervision of the terms of employment and residence permits of foreign labour, to monitor trends in the supervision of the terms of employment and residence permits of foreign labour and to give opinions on these matters.

(2) The members of the board are appointed by the Ministry of the Interior. The authorities and administrative sectors involved in the supervision shall be represented in the board. The advisory board cooperates with the main labour market organizations. Further provisions on the board's composition, duties, work procedures and term of office are given by Government decree.

Section 212

Supervision

(1) The Finnish Immigration Service, police and the Border Guard supervise compliance with the provisions of this Act and any provisions issued under it. (973/2007)

(2) Border control authorities supervise compliance with the provisions on aliens' entry into and departure from the country.

Section 213

Further provisions

Further provisions on the implementation of this Act may be given by Government decree.

Chapter 15

Entry into force and transitional provisions

Section 214

Entry into force

(1) This Act comes into force on 1 May 2004.

(2) This Act repeals the Aliens Act adopted on 22 February 1991 (378/1991) as

amended.

Section 215

Transitional provisions

(1) The provisions in force upon entry into force of this Act apply to matters pending at the time of this Act's entry into force. However, the provisions of this Act apply to matters pending for rehearing.

(2) Matters relating to a residence permit pending upon the entry into force of this Act will be dropped if no residence permit is needed under this Act in the cases concerned.

(3) The requirement concerning a photograph of the child in an alien's passport laid down in section 13 is only applied to passports issued after this Act's entry into force.

(4) The requirement concerning a period of residence of four years laid down in section 56 is applied to residence of continuous nature that has begun after this Act's entry into force. If residence of continuous nature has begun before this Act's entry into force, the provisions in force upon this Act's entry into force apply.

Entry into force and application of the amending Acts

An alien who, upon the entry into force of this Act, has a temporary residence permit under section 51 of the Act in force before the entry into force of this Act is issued with an extended permit under section 51a or 88a, if the previous residence permit was issued on the grounds that the person could not actually be removed from the country. A requirement for issuing a permit is that it is still impossible to remove the person from the country. Under section 210(2), the District Police refer such applications for an extended permit to the Finnish Immigration Service for decision. (323/2009)