Dublin procedure - Finland

Overview

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Relevant EU legislation

Finland is bound by the Dublin III Regulation and applies its provisions directly.

National legislation

National legislation, including the Aliens Act, covers aspects related to competences, notification of the transfer decision, appeals procedure and implementation of the transfer decision.

Competent authorities and stakeholders

Entity responsible for the Dublin procedure (the application of the criteria and mechanisms for determining the Member State responsible): Dublin Process, Finnish Immigration Service | Dublin-prosessi, Maahanmuuttovirasto (Migri)

Place in the institutional framework: The Dublin Process is within the Department for International Protection and is part of the Finnish Immigration Service.

Competencies of the entity:

Yes	Conducting the Dublin interview
No	Organising Dublin transfers
No	Notifying the transfer decision
No	Accompanying/escorting applicants during a Dublin transfer

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Yes	Sending and replying to take charge and take back requests to/from other Member States
No	Receiving applicants transferred under the Dublin procedure (meeting applicants at the airport/border crossing)
Yes	Sending and replying to information requests to/from other Member States

Stakeholders involved in the procedure:

Handing over the common leaflet on the Dublin procedure	Police | Poliisi Border guard | Rajavartiolaitos
Conducting the Dublin interview (specifically for the Dublin procedure, as part of the registration interview or handing the form to be completed during registration)	Finnish Immigration Service | Maahanmuuttovirasto
Referral of cases to the Dublin unit	Finnish Immigration Service | Maahanmuuttovirasto
Sending and replying to a take charge or take back request	Dublin Process, Finish Immigration Service | Dublin-prosessi, Maahanmuuttovirasto
Sending and replying to information requests to/from another Member State	Dublin Process, Finish Immigration Service | Dublin-prosessi, Maahanmuuttovirasto
Notification of the transfer decision	Police | Poliisi

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Free legal assistance during the appeal of a transfer decision	Legal aid offices and private legal counsels
Representation of the asylum authority in an appeal against a transfer decision	Finnish Immigration Service | Maahanmuuttovirasto
Organising the transfer to the responsible Member State	Police | Poliisi Border guard | Rajavartiolaitos
Providing information on the transfer modalities to the applicant	Police | Poliisi Border guard | Rajavartiolaitos
Accompanying/escorting applicants during a Dublin transfer when necessary	Police | Poliisi
Receiving applicants transferred under the Dublin procedure (meeting applicants at the airport/border crossing)	Police | Poliisi Border guard | Rajavartiolaitos
Court/authority responsible for deciding on an appeal against a transfer decision	Helsinki Administrative Court | Helsingin hallinto-oikeus

Provision of information on the Dublin procedure

The police and the border guard are responsible for providing information on the Dublin procedure. When lodging the application, a foreigner is provided with information on the Dublin procedure, together with general information on the

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asylum procedure, his/her rights and obligations. The information is provided orally if needed (in the main language of applicant) and in writing in every case (through the common leaflets available in 24 languages). Information to children is provided in writing in every case and orally if needed (depending on the age and maturity of the child as well as through the representative).

The Finnish Immigration Service has specific information brochures on the Dublin procedure, for example:

- Dublin hearing for an unaccompanied child at the Finnish Immigration Service
- Dublin interview via video link
- Dublin interview at the Finnish Immigration Service

Right to legal counselling on the Dublin procedure

The Aliens Act, Section 9 provides that applicants for international protection are entitled to legal aid during the entire application process, including for the Dublin procedure. Legal counselling and assistance are available free of charge and funded by the state, upon request by the applicant, under the same conditions as for the regular procedure.

The applicant has the right to have his/her legal counsel present during the Dublin interview, but an absence of legal counsel does not prevent the conduct of the interview.

Personal interview for determining the Member State responsible

Organisation of the interview: The Dublin personal interview is part of the Dublin procedure . It is conducted by the Finnish Immigration Service after an application has been lodged. The Finnish Immigration Serviceàs representative asks a set of Dublin-relevant questions, including on previous applications for

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international protection and issues relevant to the determination of responsibility (visas issued to the applicant, family members present in Dublin countries and method of entry).

The aim is to conduct the interview within 4-5 weeks of lodging the application. The invitation is issued after the interview has been booked and is notified by the reception centre in which the applicant is accommodated.

A written summary/report of the interview (which reflects person's statement as accurately as possible) is made on a standard form. It is made in the IT system and printed out for the record. The printed version is also given to the applicant. There is no transcript made of the interview. However, in all cases, an audio record is made.

The Dublin interview can be organised either at the premises of the Finnish Immigration Service or by video. The applicant has access to detailed instructions about the Dublin interview.

Persons present during interview: People allowed to be present during the Dublin interview are the Dublin interviewer, the applicant, his/her counsel and the interpreter. An interpreter will always be present during the Dublin interview (in person or by video). The interviewer, the counsel and the interpreter are bound by the principle of confidentiality.

Notification of the transfer decision

If another country is found responsible for examining the application, a decision is issued to the applicant on inadmissibility and transfer. The decision includes a final date by which the transfer should be carried out in accordance with the Dublin III Regulation and instructions on means of appeal/challenge. Decisions are written in Finnish and in rare cases in Swedish. They are notified by the Finnish police.

Remedies

Competent authority/court	Helsinki Administrative Court. A further appeal is possible before the Supreme Administrative Court.

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Deadline for review/appeal	30 days, pursuant to Sections 190 and 193 of the Aliens Act.
Deadline for decision on the review/appeal	The court has no time limit to issue a decision on the appeal but both Sections 193 and 196 of the Aliens Act provide that the matter shall be treated as urgent both by the administrative court and the Supreme Administrative Court.
Suspensive effect of the review/appeal	There is no automatic suspensive effect, however the applicant can request a suspensive effect with the appeal within 7 days after notification of the contested decision, pursuant to Section 198b of the Aliens Act. The deadline includes at least 5 working days. A decision to implement the expulsion cannot be implemented before a decision is made on the request for a suspensive effect of an appeal, as provided under Section 198 b (1)–Section 200a (4) of the Aliens Act.

Transfer arrangements

The transfer is arranged and/or enforced by the police. The modalities of a transfer are communicated by the Finnish police or Border Guard, usually discussed at a specific interview to plan how the transfer will be implemented and how the person will comply with the transfer decision. Based on the interview, the police or border guard arranges how to execute the transfer, including whether there is a need for an escort or medical care and whether detention or similar measures are required.

Applicants accommodated in reception centres must then present themselves at the place and date indicated by the police, otherwise they are picked up in person to be transferred. Applicants held in detention centres are brought by the police to the airport/seaport from which they will be transferred to the responsible Member State (the majority of transfers are carried out by airplane). Cases of applicants leaving voluntarily are rare.

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Detention for Dublin cases is applied in a small number of cases. If the person is in detention, the transfer decision, notification of the decision and organising the transfer are prioritised. The Helsinki Detention Unit is located near the airport and the Helsinki Police Department organises the transfer.

The following alternatives to detention are used: obligation to report at specific times and obligation to reside in a specific place. They are however rarely applied in Dublin cases.

The Dublin procedure uses the same steps/mechanisms to identify people with special needs as in other parts of the asylum procedure. The police or Border Guard undertake a first screening, which is then followed up by staff at the reception centre.

Applicants with health problems: If an applicant is sick, a doctor is consulted to approve the ability to travel, while police make sure that the applicant is fit to fly. Applicants who are seriously ill may be admitted to Finland, but each case is decided individually.

Guarantees for minors in the Dublin procedure

Assessment of the best interests of the child: There is a specific procedure for assessing the best interests of an unaccompanied child within the Dublin procedure.

When the minor is in Finland, the process is as follows:

1. Gathering of relevant information for the assessment - this is done through a hearing for the child and receiving a statement from the representative (on the best interests of the child). On a case-by-case basis, also a statement (on health, everyday life and the personal situation of the minor) from the social worker of the child’s reception facility may be requested. Information may also be received from another Member State pursuant to Article 6(5) of the Dublin III Regulation related to information-exchange.
2. An overall assessment based on all available information before a take charge/take back request is made. The actual assessment is based on a free evaluation of all relevant facts and as such it is not rigidly structured. Factors mentioned in Article 6(3) of the Dublin III Regulation are especially taken into account.

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3. After receiving an acceptance, a final overall assessment is made before the transfer decision is issued. Decisions are mainly presented to the Decision-Making Official (always two people) to ensure thorough scrutiny.

Legal guardian: The representative appointed to the unaccompanied minor for the Dublin procedure is the same as the representative within the international protection procedure in general. The representative takes part in the Dublin personal interview, is involved in the assessment of the best interests of the child and assists with all procedures within the Dublin procedure. If the representative notices that the unaccompanied minor does not fully understand the procedure, it is the representative's responsibility (among other stakeholders) to explain the process. The role of the legal representative is to intervene in matters relating to the child’s affairs, assets and to ensure that the best interests of the child are respected throughout the procedure. The legal representative is allowed to take part in the processing of the asylum application, including during the Dublin interview and when the minor has appointments at the Finnish Immigration Service. However, the representative is not responsible for the daily care of the minor, which are tasks of the reception centre or the family with whom the minor lives.

Detection of potential family reunification cases: Finland has rules for early identification and tracing of family members of unaccompanied minors. In view of the principle of best interests of an unaccompanied minor applicant for international protection, Section 105b of the Aliens Act provides that the Finnish Immigration Service has the duty to immediately start the process of tracing the parents of the minor or other people who maybe be responsible for their care. The legal provision mentions also that the tracing may continue, if deemed necessary, after the applicant has been granted international protection. In addition, the tracing of parents/family members/other possible responsible adults must start immediately for unaccompanied minors who are victims of human trafficking, also in line with the assistance system referred to in the Act on the Reception of Applicants for International Protection and the Identification and Assistance of Victims of Human Trafficking. Information concerning the parents or other people responsible for the minor must be treated under the principle of confidentiality.

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