Detention - Finland

Overview

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Relevant EU legislation

Finland is bound by the recast Reception Conditions Directive, the Asylum Procedures Directive and the Dublin III Regulation and has transposed their provisions in the Aliens Act.

National legislation

Finland transposed the recast Reception Conditions Directive in the Aliens Act (30.4.2004/301) | Ulkomaalaislaki and the Act on the Reception of Applicants for International Protection and the Identification and Assistance to Victims of Human Trafficking (17.6.2011/746) | Laki kansainvälistä suojelua hakevan vastaanotosta sekä ihmiskaupan uhrin tunnistamisesta ja auttamisesta.

Detention is provided under Chapter 7 of the Aliens Act on Protective measures and surveillance of foreigners and covers the grounds, procedural aspects as well as safeguards and guarantees for applicants and those with special needs.

The Act on the Treatment of Detained Foreigners and the Detention Unit (15.2.2002/116) | Laki säilöön otettujen ulkomaalaisten kohtelusta ja säilöönottoyksiköstä provides for the rights and obligations of applicants for international protection in detention.

The Finnish Immigration Service is responsible for guiding, planning and monitoring the practical functioning of detention facilities, as provided by the Act on the Treatment of Aliens in Detention and on Detention Unit (116/2002) and Section 2 (2) of the Act on the Finnish Immigration Service (156/1995).

Competent authority and stakeholders

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Area	National authority/ stakeholder	Assistance to competent authority
Detention decision	According to Section 123 (1) of the Aliens Act: The commanding police officer of the local police department, the National Bureau of Investigation or the Finnish Security and Intelligence Service, and when taken by the Border Guard, by a public official of the Border Guard with the power of arrest or a border guard of at least the rank of lieutenant.	n/a
Administration and management of detention facilities	The Finnish Immigration Service is responsible for guiding, planning and monitoring the practical functioning of detention facilities, as provided by the Act on the Treatment of Aliens in Detention and on Detention Unit (116/2002) and the Act on the Finnish Immigration Service (156/1995), Section 2(2).	n/a
Information provision on detention	Staff of the of the detention facility of the police or the Border Guard (Section 123 Aliens Act and Section 5 Act on the Treatment of Aliens Placed in Detention and Detention Units)	n/a

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Area	National authority/ stakeholder	Assistance to competent authority
Interpretation services in detention	Staff of the detention facility, the police or the Border Guard (Section 123 Aliens Act and Section 5 Act on the Treatment of Aliens Placed in Detention and Detention Units)	n/a
Access to the procedure and provision of asylum information in Detention	Staff of the of the detention facility, the police or the Border Guard (Section 5(3) Act on the Treatment of Aliens Placed in Detention and Detention Units)	n/a
Detention pending the Dublin procedure	Police officer or official from the Border Guard	n/a
Processing of asylum applications of applicants who are in detention	Finnish Immigration Service	n/a
Legal assistance and representation in Detention	Legal Aid Office (Section 123(2) Aliens Act)	n/a
Review of detention	District Court (Sections 125, 126. 128 and 129 Aliens Act)	n/a

Grounds for detention during the asylum procedure

Grounds for detention in the national law

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Detention in the context of identification or verification of identity

According to Section 121 (2) of the Aliens Act, asylum seekers may be detained based on an individual assessment when other, less restrictive measures are insufficient (for example, a deposit of a financial guarantee or an obligation to stay in an assigned place) or if detention is necessary to establish the foreigner's identity.

Detention in view of determining those elements on which the application for international protection is based, in particular when there is a risk of absconding

According to Section 121 (1) of the Aliens Act, asylum seekers may be detained based on an individual assessment when other, less restrictive measures are insufficient (for example a deposit of a financial guarantee or an obligation to stay in an assigned place) or if there are grounds to believe that the applicant will try to prevent the issue of a decision or the enforcement of a removal decision by hiding or absconding.

Absconding is most commonly detected when an applicant has not been seen in the reception centre. The possible absconding is recorded into the case management system, the situation is further monitored and a check is done if the applicant's belongings were taken. If the person does not return to the reception centre within a few weeks, the applicant is considered to have absconded and the case management system is updated.

According to Section 121a of the Aliens Act, a risk of absconding is considered when alternative measures provided in Sections 118-120 and 120a are insufficient or when the applicant changes the place of residence without duly informing the authorities. The assessment of the risk of absconding includes an examination of the person's overall situation.

Section 121a of the Aliens Act was amended in April 2025 (4.4.2025/147) and entered into force on 6 May 2025. The changes provide clarity in the assessment of the risk of absconding and stipulate that the overall individual assessment must "take into account the age, health and social circumstances of the foreign national, as well as other relevant factors that may have a direct impact on the risk of absconding". The new provision mentions factors that may lead to assuming that there is a risk of absconding, unless the person proves the contrary, such as:

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- the foreigner has presented forged documents or destroyed existing documents;
- the foreigner has refused to have his/her fingerprints taken;
- the foreigner has failed to comply with a valid entry ban imposed on him/her;
- the alien refuses the obligation laid down in Section 145a to cooperate with the competent authorities during the removal proceedings;
- the foreigner violently resists the deportation procedure;
- the precautionary measure referred to in sections 118–120 and 120a has been used, but has proven to be insufficient;
- the foreigner has expressly stated that he or she does not intend to comply with the measures related to removal from the country.

Also, there is an indication of a risk of absconding if any of the following circumstances occur:

- the foreigner has changed their place of residence without notifying the authority of their new contact details;
- the foreigner lacks documents proving his/her identity;
- the foreigner has failed to comply with the deportation decision within the period granted for voluntary return;
- the foreigner has not moved to another Member State despite the requirement under Section 149b;
- the alien has entered the territory of the Member States illegally;
- the foreigner has moved illegally to the territory of another Member State;
- another Member State has made a decision to remove the foreigner from the country.

The law explicitly mentions that the presumption of a risk of absconding can be rebutted by the third-country national.

Detention in the context of a procedure decide on the applicant's right to enter the territory

According to the amended Section 121 of the Aliens Act, a new ground for detention (para 7) entered into force on 1 September 2024: "(7) detention is necessary for the application of the border procedure stipulated in Section 104a, so that a decision can be made in connection with the procedure regarding the applicant's right to enter the territory of Finland" (28.6.2024/426).

Detention in the context of a return procedure

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According to Section 121 (3 and 4) of the Aliens Act, asylum seekers may be detained based on an individual assessment when other, less restrictive measures are insufficient (for example a deposit of a financial guarantee or an obligation to stay in an assigned place) and when the applicant has committed or is suspected of having committed an offence and detention is necessary to ensure the preparation or implementation of a removal decision; or the applicant, while in detention, has made a new application for international protection, mainly to delay or interfere with the implementation of the removal decision.

Detention in the context of national security and public order

Section 121 of the Aliens Act was amended by Law No 426/2024, which entered into force on 1 September 2024, and the new provision envisages that an applicant may be detained if there are reasonable grounds to assume that he poses a threat to national security, after taking into account the foreigner's personal and other circumstances.

Detention for the purpose of a Dublin transfer

Section 121 of the Aliens Act was amended by Law No 426/2024, which entered into force on 1 September 2024, and provides that the detention is based on Article 28 of the Council Regulation (Dublin) on determining the responsible state.

Other grounds

Section 120 of the Aliens Act was amended by Law 147/2025 which entered into force on 6 May 2025 and a new Item 8 was added. This ground of detention applies when an applicant for international protection has, through his/her behaviour, “caused a significant or repeated disturbance of public order in the reception centre or its immediate vicinity or has shown that he/she is a danger to the safety of others, and the measures taken pursuant to Chapter 2, Section 10 of the Police Act have proven to be insufficient”.

Less coercive measures (alternatives to detention)

The alternatives to detention are provided in the Aliens Act, Articles 118–120a: the obligation to be registered and report to the police or the border authority or at a reception centre (Article 118), the obligation to hand over travel documents and ticket to the police or border

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authority of the place of residence (Article 119), provision of a financial guarantee for the stay and return costs (Article 120), the residence obligation (Article 120a) and the residence obligation for a child (Article 120b).

Alternatives to detention are primarily and systematically considered when making an assessment and they are applied on a case-by-case basis.

The most frequently used alternatives are the obligation to report and the handover of travel documents to the police or border control authorities. The obligation to report is a precautionary measure when the individual is cooperating with a return, has a valid travel document and home address, is not subject to an entry ban to the Schengen area, and has a low risk of absconding, hiding and committing a criminal offence. The obligation to report is used to secure a removal when a person does not need to be escorted out of the country.

The handover of travel documents is used, but it is not an effective means of preventing absconding or hiding within the Schengen area. Furthermore, many applicants for international protection do not necessarily have a travel document. However, the precautionary measure may be effective when a return decision is expected soon from the Finnish Immigration Service or the return is carried out at the border immediately after establishing that a foreigner does not meet the conditions for entry into the country. If the third-country national does not have a travel document or refuses to hand it over, the use of other precautionary measures is taken into consideration.

On the measure of securing a financial deposit, if the individual does not have sufficient funds available, the use of other precautionary measures are considered.

There are no evaluations, studies or statistics available on the degree of cooperation of third-country nationals in detention facilities or under precautionary measures or on their rate of absconding. The decision on international protection and a possible return decision are made simultaneously and it is not known if detention or alternatives to detention have a greater impact on migration procedures.

Regular reporting to the authorities

Section 118 of the Aliens Act stipulates that a third-country national can be obliged to report periodically to a police or border inspection authority office or at a reception centre. In case of non-compliance with the obligation to report at a

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reception centre, the authority that took the precautionary measure must be notified immediately.

Obligation to surrender a passport, travel document or identity document

Section 119 of the Aliens Act provides for the obligation to hand over travel documents and ticket to the police or border authority, or to inform the police or border authority of the place of residence.

Deposit of a financial guarantee

Section 120 of the Aliens Act provides that a third-country national can be obliged to deposit a financial a guarantee to the state to cover the cost of the stay and return.

The financial deposit must be released or returned when the security measure is no longer necessary. Any unused part of the financial deposit must be returned.

Obligation to stay at an assigned place

Section 120a of the Aliens Act – Residence obligation

This alternative can be applied when the measures provided under Section 118-120 (regular reporting, surrender of passport or identity document, or deposit of a financial guarantee) are not sufficient. A third-country national who has applied for international protection can be ordered to live in a designated reception centre, reporting in one to four times a day. The number of registration times is based on an individual assessment, after having ensured that the rights of the person assigned to the residence obligation are not restricted more than necessary and that the purpose of the security measure is fulfilled.

The measure of residence obligation can be taken for a maximum of 14 months from the start of the residence obligation.

The authority that ordered the security measure may, after consulting the director of the reception centre, grant permission to temporarily not register due to a compelling personal reason.

If the foreigner does not comply with the residence obligation, the reception centre must immediately notify the non-compliance to the authority that imposed the obligation.

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Section 120b of the Aliens Act – Child residence obligation

An unaccompanied child aged 15 years or older who is an applicant for international protection and subject to a removal decision that has become enforceable may be ordered to reside in a specified reception centre and report to the centre one to four times a day instead of being detained, provided that the conditions for detaining a child are met.

The number of reporting times is based on an individual assessment to ensure that the child's rights are not restricted any more than necessary and that the purpose of the precautionary measure is achieved.

A child subject to a residence obligation must stay within the grounds of the reception centre. The authority which imposed the precautionary measure may, after consulting the director of the reception centre, grant the child permission to leave the grounds of the centre temporarily for an important personal reason.

The child must be released after 1 week from the start of the residence obligation at the latest. The child's residence obligation can be extended by no more than 1 week if this is necessary to ensure enforcement of the removal from the country.

In the case of non-compliance with the residence obligation, the child can be detained, provided that the conditions laid down in Section 122(1) and (3) are still met.

The procedures on decision-making and court proceedings on detention apply to the measure of a child's residence obligation mutatis mutandis.

Entrusting the guardianship of an unaccompanied minor to a relevant social agency

According to Section 120b of the Aliens Act, an unaccompanied child aged 16 years or older may be placed in a group home, pursuant to Section 17 of the Act on the Reception of Persons Applying for International Protection.

When the unaccompanied child is aged 15 years or older and has passed the detention threshold, child welfare measures must be taken in conjunction with or instead of the alternative detention measures laid down in the Aliens Act.

An alternative to the unaccompanied child's detention could be, at least in some cases, emergency placement referred to in Chapter 8 of the Child Welfare Act.

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When the criteria laid down in the Child Welfare Act are met, the child may be placed in family care or institutional care, or care and custody may be arranged in some other way.

Reasons for emergency placement in the Aliens Act include the child's use of intoxicants or the likelihood of behaviour leading to a criminal offence. However, child welfare measures are not intended to be used systematically as alternatives to detention, but the appropriateness of their use must be analysed in each case concerning an unaccompanied minor.

Application for international protection and processing while in detention/impact on the asylum procedure

The processing of the application for asylum is prioritised in the Finnish Immigration Service for detained applicants. Being in detention does not influence the outcome of the asylum application, but the examination is prioritised so that detention does not last longer than necessary.

Procedural safeguards

Access to information and interpretation

Section 5 of the Act on the Treatment of Aliens Placed in Detention and Detention Units specifies the provision of information on rights and obligations, and stipulates that a detained foreigner must, without delay, be notified of the detention arrangements, rights and obligations as well as the rules of the detention unit.

Section 5(3) of the Act on the Treatment of Aliens Placed in Detention and Detention Units also provides for the obligation of the detention unit to give the detained foreigner the necessary information and to ensure interpretation, if needed, if the detainee wants to lodge an application for international protection.

As a procedural safeguard and as possible, this information should be given in writing in the detainee's mother tongue or in a language that the person can reasonably be expected to understand. If necessary, this information may also be given orally. The detainee must confirm by signature that this information has been received.

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Legal assistance and representation

According to Section 123(2) of the Aliens Act, a person in detention or a legal representative must be immediately informed in writing in a language which the person understands or can reasonably be expected to understand, the grounds for detention, the handling of the detention case and the possibility of obtaining legal aid.

In an appeal of the detention measure and its review, the detained applicant has the right to legal aid. The district court reviews the detention order, pursuant to Section 128 of the Aliens Act (as amended by 4.4.2025/147)

The Act on the Treatment of Aliens Placed in Detention and Detention Units (116/2002), Section 6 provides the right to receive visits and communicate with lawyers and legal representatives. The law provides that the director of the detention unit must ensure that the detained applicant has an opportunity to draw up an appeal document and has a practical opportunity to participate in the processing of the appeal in court, when the appeal concerns matter under this law (Sections 26 and 28 Act on the Treatment of Aliens Placed in Detention and Detention Units (mostly elated to conditions of detention)). A foreign national has the right to use a counsel and interpreter in matters related to the application of this act (Section 30 Act on the Treatment of Aliens Placed in Detention and Detention Units).

As a safeguard, Section 208 of the Aliens Act provides that the Non-Discrimination Ombudsman must be notified without delay of any decision on the detention of a foreigner or a child's residence obligation.

Length of detention

Until 6 May 2025, Section 127 of the Aliens Act provided that an applicant held in detention must be freed as soon as the criteria for the detention no longer apply. Detention must not last longer than 6 months and may be extended for no longer than 12 months if preparations for the applicant's return are delayed due to his/her unwillingness to cooperate or if the return documents have not been received and the implementation of the return is delayed due to these reasons.

A draft legislative amendment, which was submitted for comments on 28 June 2024, would tighten the provisions on detention.

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By amendment 4.4.2025/147, which entered into force on 6 May 2025, Section 127 provides the following on the length of detention:

- Immediate release when the grounds for detention cease to exist.
- Initial detention for up to 6 months on grounds of investigation of the conditions for entry or residence in the country or on the determination of the grounds for the application for international protection. Such detention may be extended for a maximum of 6 months if the continuation of detention is necessary to safeguard public order, public security or national security.
- Initial detention for up to 6 months on grounds related to the preparation or enforcement of a removal order or for the supervision of a departure from Finland. Such detention may be extended for *"a maximum of 12 months if the detained person does not cooperate in implementing the return or if the necessary return documents are not obtained from the third country and the implementation of the removal is delayed for these reasons. In such cases, the continuation of detention requires that there is still a reasonable possibility of implementing the removal".*

Judicial review of detention

Judicial review of detention

According to Section 124 of the Aliens Act, each detention measure must be immediately notified to the district court of the place of detention, without delay and at the latest on the day following the detention. The review of the detention measure is automatic once it has been adopted by the police or other competent authority.

The district court must decide on the measure without delay and no later than 4 days after the detention or the beginning of the residence obligation. There is no time limit to request the review of the detention measure, and the case must be dealt with as urgent.

Section 125 of the Aliens Act provides that the district court organises a hearing where the official who took the decision must present the reasons for it. The hearing can take place without the presence of the detained applicant or the above-mentioned official by using videoconference. If the district court considers it necessary, the detained applicant can be brought to the court or join by videoconference. According to Section 126 of the Aliens Act, if the district court

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finds no grounds for detention, it must order the immediate release of the applicant.

For appeals concerning the detention of a child, Section 125a of the Aliens Act provides an obligation for the court to have a written statement on the matter from the official mentioned in Section 122 (1)(3) (official and social worker). The written statement must be available no later than when the district court takes up the matter, without delay and not later than one day after notification, pursuant to Section 124(2).

Section 126 of the Aliens Act provides that the district court may decide the following:

- Immediate release of the applicant when the grounds for detention cease to exist. The decision must be notified immediately after the hearing.
- The decision must state the grounds for detention or transfer.
- If the court decides on the validity of the detention measure, the court orders that the detained must be transferred to a detention facility referred to in Section 123a (1 or 2 – specialised or police facilities).
- The district court must order the return of the foreigner to a detention facility for foreigners if the conditions for keeping him/her in a detention facility for remand prisoners no longer exist.

When the decision on the validity of detention is made by a court other than the district court of the place of detention, the latter must be immediately notified by the court which took the decision.

According to Section 128 of the Aliens Act, if the district court finds no reason for the release of the applicant and confirms the detention measure, the district court with jurisdiction over the place of detention shall, at the request of the person detained, rehear the matter concerning the detention or exceptional placement referred to in Section 123a (2) and (3). The re-examination must be processed without delay and no later than 4 days after the request was made. However, Section 128 provides that the matter of detention does not need to be reheard earlier than 2 weeks after the decision by which the district court ordered the detainee to continue with detention. Same procedural guarantees apply to the presence of the applicant by use of videoconference in the re-examination procedure (Section 128, para 3).

Section 128(2) of the Aliens Act was amended by Law No 4.4.2025/147, which entered into force on 6 May 2025, and provides that, upon the request of the

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detainee, the district court can review the detention measure and take the case for retrial earlier than 2 weeks if there are circumstances and reasons which came to light since the previous hearing. The competent court must immediately notify the detainee and his/her counsel of any material change in circumstances that gives rise to a retrial, unless the detainee has been ordered to be released pursuant to Section 127(1).

The district court must rehear ex officio the case no later than 3 months after the decision by which it has ordered the detainee to continue to be detained in the relevant place of detention, if the case has not been taken for retrial at the request of the detainee before that.

As a procedural safeguard for minors, Section 128, para 4 of the Aliens Act stipulates an obligation for the district court to allow the opportunity for the social worker to give a statement when the district court reviews the decision to detain a child who has been detained with his/her guardian. The child must be released by the district court unless there are special reasons for continuing to detain him/her.

According to Section 129 of the Aliens Act, a judicial review cannot be requested through an appeal of a decision on detention made by the authorities or a district court. The detained person can make a complaint about the decision of a district court. There is no deadline for the complaint. The complaint shall be handled with urgency.

Other remedies

The Act on the Treatment of Detained Foreigners and the Detention Unit, Sections 26-29 and 32 provide for a review of the detention measure and the rights of detained foreigners. Certain aspects are excluded from being subject to a judicial review by the district court, such as: i) separate storage referred to in Section 8; ii) placement in a police detention facility referred to in Section 9; iii) inspection of shipments referred to in Section 16; iv) inspection of objects and substances referred to in Section 20 in connection with the supervision of accommodation facilities; v) the security inspection referred to in Section 21; xi) personal inspection referred to in Section 22; and vii) special inspection referred to in Section 22a.

An appeal concerning reception allowances while in detention are managed according to the Act on the Reception of Applicants for International Protection and the Identification and Assistance of Victims of Trafficking in Human Beings

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and the Act on Subsistence Allowance.

An appeal or a judicial review which is lodged based on the Act on the Treatment of Detained Foreigners and the Detention Unit do not have a suspensive effect unless the court orders it expressly (Section 31).

The decision of the district court cannot be further appealed (Section 32 Act on the Treatment of Detained Foreigners and the Detention Unit).

On procedural safeguards, the Act on the Treatment of Aliens Placed in Detention and Detention Units (116/2002), Section 30 stipulates that the director of the detention unit must ensure access to legal remedies by checking if the detained foreigner has an opportunity to draw up an appeal document and a practical opportunity to participate in the processing of the appeal in court. It also mentions that a foreign national has the right to use a counsel and interpreter in matters related to this act.

Emergency situation under the Return Directive

Law No 4.4.2025/147 which entered into force on 6 May 2025 added a new Section 123b in the Aliens Act, which stipulates that in the event of an emergency within the definition of Article 18 of the Return Directive, namely where an exceptionally large number of returnees causes unexpected difficulties for the detention facilities or the competent authorities, the following rights may be waived:

- The processing time of hearings for appeals pursuant to Section 124 (2).
- The provisions of Section 123a (1) on the placement of a detained foreigner in a designated detention facility.
- The obligation to provide separate accommodation for detained families, as laid down in Section 11(3) of the Act on the Treatment of Detained Aliens and the Detention Unit.

The government is the competent authority which must decide in plenary session on the exceptions referred to above.

The following measure must be adopted in an emergency:

- The district court must consider a detention case no later than 7 days after detention. A case concerning the detention of an unaccompanied child must be considered no later than 2 days after the detention.
- A detained foreigner may be placed in another suitable place instead of a detention unit. The Ministry of the Interior decides on the place, but if the

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detained foreigner is a child, he/she must always be placed in a detention unit.

Specific conditions relating to detention

Conditions of detention

Access to outdoor space

Detainees must be guaranteed 1 hour of outdoor time per day, as provided by Section 14 of the Act on the Treatment of Aliens Placed in Detention and Detention Units. In practice, in the summer the detention unit offers the opportunity of several hours of outdoor time per day.

Visitors/access to external communications

A detainee has the right to receive visitors and use a telephone. They also have the right to maintain contact with close relatives or other loved ones, their home country representative of the diplomatic mission or consular post, the authority supervising detention unit operations, the Ombudsman for Minorities, general legal counsel or other LL.M. graduates, human rights monitoring bodies and the UNHCR Office or a representative of the Agency, as well as a non-profit association that provides professional legal assistance and advice to asylum seekers, refugees and other foreigners (Sections 6 and 6a Act on the Treatment of Aliens Placed in Detention and Detention Units).

Access to the Internet and instant messaging

Detainees have access to the Internet with their own devices or through a computer for general use, using the detention centre’s open wifi. There are no restrictions or sites or apps that have been blocked. Some risks of this openness are seen, but there is no legal basis to restrict the use of the Internet in Finland. Private instant messaging is allowed with the personal mobile device. In common spaces, video calls are not allowed, and messaging apps are not available on the public computers. Access to the Internet has contributed to less tensions since detainees can communicate with other people (Section 7 Act on the Treatment of Aliens Placed in Detention and Detention Units).

Access to education (school for minors, language courses, etc.)

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Education is not provided to detained foreigners. However, Section 14 of the Act on the Treatment of Aliens Placed in Detention and Detention Units on supporting functional capacity provides that the detention unit must ensure leisure activities and study (including play and recreation) for detained children and allow external stakeholders to organise such activities in the detention units. The detention unit must allow detainees to follow media and have access to library services.

Opportunity to leave the detention facility

Detainees may not leave the detention unit freely. If a person requires hospital care, they are transported under police supervision. A detainee can apply for a permit to leave the unit in exceptional cases (e.g. the funeral of a close relative).

Freedom of movement within the detention centre

Detainees may move freely within the premises of the detention unit with the exception of the facilities reserved for women. Women may move freely in the common premises used also by men.

Language support (translation and interpretation services)

Guidelines on detention have been translated into several languages, and they are given to each detainee. A detainee may get interpretation services for handling various tasks. The service is free.

Medical care

A public health nurse is available at the detention unit daily to assess the need for medical treatment by a physician. If a detainee needs specialised healthcare, they are transported outside of the unit to receive it, as provided by Section 13 of the Act on the Treatment of Aliens Placed in Detention and Detention Units.

In the Joutseno detention unit, there are five nurses on call who visit detainees. A medical check is done in the first 24 hours after arrival.

Detention of applicants with special needs

Legislative overview

Section 121 of the Aliens Act provides for the detention of third-country nationals only when other restrictive measures have been ascertained as insufficient.

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Section 122 of the Aliens Act provides that unaccompanied minors under the age of 15 cannot be detained. It further provides the conditions under which minors can be detained and stipulates that it is a measure of last resort. The detention of minors under the age of 15 is strictly forbidden (Section 122(3)). An unaccompanied minor who has reached the age of 15 can be detained after a return decision has become enforceable.

As an additional safeguard, a child needs to be heard and have a social worker assigned.

The Aliens Act further stipulates in Section 122(2) that, if a child is held in detention with the person who has custody, a further condition is that the detention is essential for the family contact between the child and the guardian.

According to Section 11 (2) of the Act on the Treatment of Aliens Placed in Detention and Detention Units, the accommodation and care of detained applicants is made by taking into account the special needs arising for vulnerable applicants, such as minors or victims of torture, rape, other physical or sexual violence, or those in an otherwise vulnerable position, and includes also a regular monitoring of their situation to ensure adequate support measures.

Section 11 (3) of the Act on the Treatment of Aliens Placed in Detention and Detention Units stipulates that family members are offered the opportunity to stay together and provided with separate facilities that ensure sufficient privacy. Persons of different sexes are accommodated separately, unless they are family members who wish to stay together.

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