

No 498

Consular Services Act

adopted at Helsinki on 22 April 1999

In accordance with the decision of Parliament, be it enacted as follows:

Chapter 1 **General provisions**

Section 1 Scope of application

For the purposes of this Act, consular services mean such consular functions set forth in Article 5 of the Vienna Convention on Consular Relations (FTS 50/1980) as may be exercised by a diplomatic mission or consular post that is part of the Finnish foreign service (hereafter referred to as *mission*), for the purpose of providing assistance to individual persons or legal persons or to protect their interests, and the provision of which under this Act fall within the functions of the foreign affairs administration, unless the service in question is subject to other provisions or orders.

Section 2 Persons entitled to consular services

Unless a consular service is subject to other provisions, consular services referred to in Chapters 3 to 10 of this Act may be provided for a Finnish legal person or a Finnish citizen or for a foreign citizen residing permanently in Finland, who is in possession of or has been granted a permit to reside or work in Finland either permanently or in a comparable manner.

Provisions concerning services provided for citizens of Nordic Countries are contained in Article 34 of the Treaty of Cooperation signed by Denmark, Finland, Iceland, Norway and Sweden (FTS 28/1962). Provisions concerning the right of the citizens of the European Union to obtain services from the diplomatic or consular authorities of any Member State are contained in Article 8c of the Treaty establishing the European Community.

Under special circumstances consular services referred to in Chapters 4 and 10 of this Act may also be provided for other foreign citizens. In special cases consular services referred to in Chapter 10 may be provided for a foreign legal person.

[Section 3 Assistance

Upon request, the Ministry for Foreign Affairs and Finnish missions may afford assistance to Finnish authorities, if this is expressly provided for or if the assistance may otherwise be considered justified.] (Repealed by Act No 204/2000.)

Section 4 General monitoring of the observance of interests and rights

The Ministry for Foreign Affairs and the missions shall in general monitor the observance abroad of the interests and rights of natural and legal persons referred to in section 2, subsection 1, taking into account internationally recognised human rights and other international obligations.

Section 5 General advice

Where possible, the Ministry for Foreign Affairs and the missions give general advice to natural and legal persons referred to in section 2, subsection 1, on any special conditions prevalent in their respective consular districts and on questions relating to the consideration, by an authority of a foreign State, of a matter concerning rights and interests.

Section 6 General constraints on consular services

When providing consular services, the Ministry for Foreign Affairs and the missions shall conform to the laws and regulations of the consular district where the mission is located and to the rules of public international law and international agreements binding on Finland.

The Ministry for Foreign Affairs, the mission or a person belonging to the staff of either may not act as a counsel or legal representative or as a legal adviser for a person applying for a consular service.

Section 7 Primacy of advice and the applicant's obligation to provide information

Before any other measures referred to in this Act are taken, a person applying for a consular service shall be advised and given guidance on how to proceed with his or her matter.

Measures referred to in Chapters 3 to 10 of this Act may be taken when there are no other means available to the applicant for proceeding with his or her matter.

The applicant shall provide the Ministry for Foreign Affairs and the mission with such information and documents as are necessary for the provision of consular services and shall in any other manner contribute to the provision of services in his or her matter.

Chapter 2 Administration

Section 8 Functions of the Ministry for Foreign Affairs

The general planning, management and supervision of consular services fall within the competence of the Ministry for Foreign Affairs.

Where necessary, the Ministry for Foreign Affairs advises, guides and assists the missions in the management of an individual consular service.

Section 9 Management of consular services by the missions

The missions providing consular services include embassies, diplomatic missions and offices of career consuls-general, consuls and vice-consuls.

The head of mission shall be responsible for supervising the management and provision of consular services within the area to which the mission is accredited.

Where consular services are needed in a country which is not part of the consular district of any mission, the Ministry for Foreign Affairs shall decide on the management of those services.

Section 10 Honorary consuls

An honorary consul may provide consular services that fall within his or her competence or are assigned to him or her by the Ministry for Foreign Affairs.

Chapter 3 Services provided for persons in distress

Section 11 Persons in distress

Consular services provided for in this Chapter may be afforded to a person referred to in section 2, subsection 1, who is temporarily residing abroad within a consular district and whom the mission has found to be in distress because of illness, injury, accident, crime or other comparable reason.

Section 12 Assistance provided for persons in distress

The mission shall advise and assist a person in distress, where necessary, to contact the next of kin or other person, to receive hospital treatment, to arrange repatriation to Finland, to obtain legal assistance, to report an offence and to obtain any other necessary help required by the situation.

Should the distress be caused by the fact that the person in question has been subjected to illegal deprivation of liberty, the mission shall also inform the competent authority of the State in question and the competent Finnish authority, provide necessary assistance in the transmission of information between the competent authorities and the person subjected to illegal deprivation of liberty, assist in necessary contacts between the person in question and his or her next of kin and observe how the matter proceeds before the authority of the State in question.

Section 13 Transmission of funds and financial assistance

Upon application, the foreign mission may transfer funds against an advance deposit made in a bank account of the Ministry for Foreign Affairs or provide financial assistance to a distressed person within the limits of funds reserved for this purpose, when the mission has found that the person in question is, without the help of the mission, unable to obtain sufficient funds to alleviate immediate distress.

The mission may provide the following kinds of financial assistance:

- 1) a small amount of financial assistance to alleviate immediate distress;
- 2) financial assistance for repatriation, against a signed undertaking to repay the sum, if it is not possible to obtain an advance deposit; or
- 3) financial assistance for repatriation or necessary and temporary treatment of an illness, if it is not possible to obtain an advance deposit and it is not possible for the distressed person to sign an undertaking to repay because of a serious illness or other comparable reason.

The value of the small amount of financial assistance shall be deducted from any further funds that the mission may transmit, or it shall be added to a possible undertaking to repay.

Section 14 Refusal of financial assistance

The mission may refuse financial assistance, if:

- 1) the applicant has, when applying for assistance, knowingly given incorrect information on his or her identity or other incorrect information affecting the decision, or has concealed a fact that might have affected the contents of the decision;
- 2) the applicant has earlier received financial assistance from the mission unjustifiably, by having knowingly given incorrect information on his or her identity or other incorrect information that has affected the decision, or has concealed facts that have affected the contents of the decision;

3) the applicant has used earlier financial assistance for purposes other than those for which the assistance has been granted; or

4) the applicant has not repaid earlier granted assistance.

Chapter 4 **Services provided in crises**

Section 15 Personal safety

In the case of a major accident, natural disaster, environmental accident, war, civil war or other crisis situation or under the threat of such a situation the mission shall assist persons referred to in section 2, subsection 1, residing within the consular district of the mission, in order to ensure their personal safety.

Section 16 Evacuation and repatriation

The mission may assist in arranging the evacuation of a person from a crisis area to the closest safe area or to his or her home country, when this is necessary to ensure the personal safety of the person in question.

The evacuation or repatriation of a person shall only be arranged on the consent of the person in question.

Section 17 Factors to be taken into account in the provision of assistance

The crisis situation, other circumstances, any measures taken by other Nordic Countries or Member States of the European Union and the actual capability of the mission to provide assistance shall be taken into account in the consideration of measures of assistance referred to in sections 15 and 16 above, including the extent and the implementation of such measures.

Section 18 Contacts and transmission of information

The mission shall, wherever possible, provide assistance in a crisis situation or under the threat of such a situation for the purpose of maintaining contacts between the person in question and his or her next of kin residing in his or her home country.

The mission shall transmit information to the Ministry for Foreign Affairs on persons referred to in section 2, subsection 1, residing in the crisis area, and on the development of the crisis situation.

The Ministry for Foreign Affairs or the mission may, if considered necessary, provide information on conditions relating to journeys to, presence in or departure from a specific area.

Chapter 5

Services provided for persons deprived of their liberty and for persons accused of an offence

Section 19

Immediate assistance to a person deprived of his or her liberty

If, in the consular district of the mission, a person referred to in section 2, subsection 1, who has been arrested, detained or in some other way deprived of his or her liberty (*person deprived of his or her liberty*) so requests, the mission shall contact him or her without delay.

On the request of the person deprived of his or her liberty, his or her next of kin or other named person shall be informed of the deprivation of liberty, he or she shall be visited to the extent possible and, where necessary, assisted to obtain a counsel and other legal assistance based on the local legislation and to obtain an interpreter.

Section 20

Assistance during the deprivation of liberty

During the deprivation of liberty the mission shall be in contact with the person deprived of his or her liberty as necessary and in accordance with the local conditions.

The mission shall observe the treatment of the person deprived of his or her liberty and how the matter proceeds before the authority of the foreign State.

The mission may, if considered necessary, assist the person deprived of his or her liberty on his or her request, to apply for pardon or early release or for a postponement in the enforcement of a prison sentence.

Section 21

Transmission of funds to a person deprived of his or her liberty

The mission may transmit funds to a person deprived of his or her liberty, against advance deposit in a bank account of the Ministry for Foreign Affairs, for the payment of a fine or bail ordered as a condition for release.

Section 22

Assistance to a person accused of an offence

If a person accused of an offence has not been deprived of his or her liberty, the mission shall assist the accused on his or her request, when necessary, in obtaining a counsel and other legal assistance based on the local legislation and in obtaining an interpreter, and shall be in contact with the accused when necessary.

Chapter 6

Services in the case of death

Section 23

Reporting a case of death

If the mission has been informed of the death of a person referred to in section 2, subsection 1, having occurred within the consular district of the mission, the mission shall report the case of death to the Ministry for Foreign Affairs. The next of kin or other close person, whose identity and whereabouts can without unreasonable difficulties be ascertained, shall also be informed of the case of death.

Section 24

Burial, cremation and transport of the remains to Finland

The mission may take measures for the purpose of arranging the burial or cremation of the deceased or the transport of the remains of the deceased to Finland on the request of the next of kin.

If the next of kin does not assume responsibility for the burial or cremation of the deceased or for the transport of the remains of the deceased to Finland, the mission shall contact the local authorities for the purpose of arranging the burial or cremation of the deceased in accordance with local practice.

Section 25

Information on the cause of death

On the request of the next of kin, the mission shall assist in requesting information on the cause of death of the deceased, if it is in no other way possible to obtain such information.

Chapter 7

Estates

Section 26

Informing the heirs of an estate

If an estate, to which a person referred to in section 2, subsection 1, may have the right to inherit, is brought to the attention of the mission by an authority or in some other way, the mission shall inform the Ministry for Foreign Affairs of this. The Ministry for Foreign Affairs shall transmit the information to the heir residing in Finland or to another party whose identity and whereabouts can without unreasonable difficulties be ascertained.

The mission shall not give any information regarding the estate if an heir or other person having a right to the estate has assumed responsibility for it or has undertaken to administer the estate.

Section 27
Other functions relating to estates

If a person referred to in section 2, subsection 1, residing in Finland, apparently has a right to inherit an estate located abroad, the mission may, on the request of the person in question, ask the authorities of its consular district whether the estate is located within the consular district of the mission and who is responsible for the administration of the estate.

The mission shall, where necessary, assist the heirs to obtain an administrator for an estate located within its consular district, for the purpose of administering the estate.

Chapter 8
Assistance for the purpose of obtaining information on an individual person

Section 28
Persons presumed to be missing and presumed victims of crime

The mission may on reasonable grounds enquire into the condition and whereabouts of a person referred to in section 2, subsection 1 above, residing temporarily abroad, whose custodian or next of kin suspects to be missing or to have become a victim of crime within the consular district of the mission. The mission shall make an enquiry on the request of the custodian or next of kin, and in the first instance through the intermediation of the authorities in its consular district.

The mission may give information concerning an adult to an enquirer only with the consent of the adult in question. In the absence of consent the mission may give the information where it is very likely that the adult in question would give his or her consent.

Section 29
Enquiries concerning children

The mission may make an enquiry concerning the conditions of a child referred to in section 2, subsection 1, residing temporarily abroad, on the request of his or her custodian, where there are reasonable grounds to believe that the child's conditions endanger or threaten to endanger the health of the child. The mission shall make the enquiry in the first instance through the intermediation of the authorities in its consular district.

Section 30
Search for a document concerning a person or for an address

Upon submission of a written application to the mission or to the Ministry for Foreign Affairs, the mission may request extracts from the population register or other documents concerning a person or an address in its consular district, where this is justified for the implementation of the interests, rights or duties of a person referred to in section 2, subsection 1, who has submitted the application.

Chapter 9

Assistance in the return of children

Section 31

Preconditions for measures aiming at the return of a child

The mission shall assist in the return of a child to Finland when the removal of the child from Finland to another country or the non-return of the child from another country to Finland has been unauthorised by virtue of the [Finnish] Child Custody and Right of Access Act (361/1983), and where the measures concerning the return of the child do not fall within the competence of another authority by virtue of an Act of Parliament, Decree or international agreement binding on Finland.

Where a child under the age of 16, residing permanently in the consular district of the mission, has been removed to the consular district of another mission or has not been returned from such a consular district, the mission shall assist in the return of the child:

- 1) if the child or his or her custodian, requesting the return of the child, is a Finnish citizen;
- 2) if the removal or non-return of the child is considered unauthorised under the legal order of the State from which the child has been removed or to which the child has not been returned; and
- 3) if the measures concerning the return of the child do not fall within the competence of another authority.

Section 32

Measures aiming at the return of the child

Where the preconditions provided in section 31 above are met, the mission may, where necessary, take measures provided in subsections 2 to 5 below.

The mission shall contribute to the voluntary return of the child and to the achievement of an amicable agreement for the return of the child.

On the request of the custodian of the child or other person having the right of custody, the mission shall in the first place provide help by submitting a request for assistance to the competent authority of its consular district, for the purpose of:

- 1) investigating the whereabouts and conditions of the child, and for the purpose of returning the child;
- 2) obtaining a counsel or other legal assistance based on the local law, for the person who has requested the return of the child; and
- 3) seeking general information on the necessary parts of the laws of the State in question.

The mission shall assist in the contacts between the parties and shall transmit information and documents concerning the return of the child to authorities and to the person who has requested the return of the child.

The mission shall assist in the arrangements for the repatriation of the child.

Chapter 10 **Notarial services**

Section 33 Notary public in the mission

Functions provided in section 34 below may be exercised, within the consular district of the mission, by an attaché or a public official of higher rank or another Finnish citizen authorised thereto by the Ministry for Foreign Affairs for a special reason.

The right of the person referred to in subsection 1 to exercise functions provided in section 34 may be restricted by a decision of the Ministry for Foreign Affairs.

An honorary consul may, within his or her consular district, exercise those functions provided in section 34 to which he or she has been authorised by the Ministry for Foreign Affairs.

Section 34 Functions of the notary public in the mission

The functions referred to in the Act on Notaries Public (287/1960), which can be exercised by the mission on the request of a natural or legal person referred to in section 2, subsection 1, include the following:

- 1) attestation of a signature;
- 2) certification of a copy of a document; and
- 3) issue of a certificate on the contents of a document presented.

On the request of the natural or legal person the mission may also:

- 1) issue a certificate that a person is alive or a declaration of facts on the basis of evidence adduced;
- 2) attest, unless otherwise provided in an international agreement binding on Finland, a signature in a document or certificate issued by an authority in the consular district of the mission, and the official status of the signatory, where the mission abroad has an appropriate model of the signature, knowledge of the official status of the signatory and a model of the seal of the authority in question;
- 3) attest on reasonable grounds that the signatory of a certificate, issued by the Ministry for Foreign Affairs by virtue of section 7, subsection 1 of the Act on Notaries Public, has the official status indicated in the certificate; and
- 4) take any other measures falling within the competence of the mission or of a public official of the mission under an Act of Parliament, Decree or international agreement binding on Finland.

Section 35
Right to refuse to take action

A measure referred to in section 34 above may be refused, if the contents of a document or other evidence do not correspond to the facts known by the Ministry for Foreign Affairs or the mission, or where there are reasonable grounds to believe that the document, signature of an authority or certificate issued by the authority is a forgery, or that the document has been elaborated for an illegal purpose.

Chapter 11
Management of personal data in crisis situations

Section 36
Maintenance of a register and its use

The mission may maintain a personal data register if this is necessary for the purpose of performing the functions referred to in Chapter 4, relating to personal safety. The mission shall decide on the establishment of a register.

The personal data register maintained by the mission shall be covered by the personal data protection legislation, unless otherwise provided in this Act.

Section 37
Management and preservation of personal data

The mission shall have the right to manage information necessary for the performance of functions referred to in Chapter 4 and to receive information necessary for the performance of functions from another authority, legal or natural person, irrespective of any provisions on confidentiality.

The consent of the person registered shall be requested for the management of information, unless it is impossible to obtain such a consent or it would cause unreasonable inconvenience.

The person registered has the right to prohibit the management of information concerning him or her.

Where the register of a person is no longer necessary for the purpose of performing functions referred to in Chapter 4, relating to personal safety, the register shall be destroyed, unless there are separate provisions on the preservation or filing of the registered information in accordance with the provisions concerning the filing of documents relating to foreign affairs administration. The grounds and the need for the management of information shall be assessed at least every five years.

Section 38
Disclosure of information abroad

The mission may disclose information from the personal data register to an authority of a foreign State on the consent of the person registered or where it is necessary for protecting a vital interest of the person registered.

Chapter 12
Miscellaneous provisions

Section 39
Fees charged for consular services and other expenses

The fees charged for consular services shall be determined by the Ministry for Foreign Affairs.

Unless otherwise provided in the law, the foreign affairs administration shall not assume responsibility for the costs of administration of the matter, which have been caused, for example, by hospital treatment, evacuation, repatriation or burial of a deceased person, the cremation or transport of the remains of the deceased, court proceedings, the appointment of a counsel or legal advisor, language interpretation or the request for or translation of documents necessary for the administration of the matter.

Section 40
Obligation to inform

The mission shall inform the Ministry for Foreign Affairs of a consular matter referred to in Chapters 3 to 9, which becomes pending within its consular district, where this is required by the nature of the matter. Where the urgent nature of the matter makes it impossible to inform the Ministry immediately, the Ministry shall be informed of the matter as soon as possible after the necessary and urgent measures required by the matter have been taken.

Section 41
Reception and disclosure of information

Notwithstanding the provisions in sections 37 and 38, concerning the reception and disclosure of information, the Ministry for Foreign Affairs and the mission have the right, irrespective of any provisions on confidentiality, to receive information from another authority, legal person or natural person and to disclose information to a Finnish or foreign authority for the purpose of providing consular services referred to in this Act, where this is necessary for the protection of the life, health or physical or mental well-being of the person in question.

Section 42
Recovery of payments

Financial assistance and payments referred to in this Act, the repayment of which has been neglected, shall be recovered without a separate judgement or decision, as provided in the Act on the Recovery of Taxes and Fees by Means of Execution (367/1961). It is nevertheless possible to abstain from the

recovery of financial assistance paid from State funds, when the person from whom the repayment is due is insolvent, or when there are other special reasons for not recovering the financial assistance.

Section 43 Appeal

A decision made by the Ministry for Foreign Affairs or the mission by virtue of this Act may be appealed against in accordance with the provisions of the Administrative Judicial Procedure Act (586/1996).

Section 44 More detailed provisions

More detailed provisions on the implementation of this Act shall, where necessary, be given by Decree.

Section 45 Entry into force

This Act shall enter into force on 1 December 1999.

Section 46 Transitional provision

Where a matter relating to the estate of a deceased person has become pending before the mission or the Ministry for Foreign Affairs prior to 1 January 2002, the mission or the Ministry may assist the heir or heirs to obtain the necessary documents for the administration of the estate and to receive a settlement of the account of the estate.