

Translation from Finnish

Legally binding only in Finnish and Swedish

Ministry for Foreign Affairs, Finland

Consular Services Act

(498/1999; amendments up to 896/2015 included)

By decision of Parliament, the following is enacted:

Chapter 1

General provisions

Section 1 (970/2014)

Scope of application

This Act lays down provisions on the consular functions referred to in Article 5 of the Vienna Convention on Consular Relations (Finnish Treaty Series 50/1980) which may be exercised by diplomatic and consular missions that are part of the Finnish foreign service (*missions*) for the purpose of providing assistance to persons or entities or overseeing their interests and rights, and the exercise of which falls within the competence of the foreign affairs administration under this Act or other legislation (*consular services*).

Section 2 (970/2014)

Recipients of consular services

Consular services under this Act may be provided for Finnish entities or persons who are Finnish citizens, or for foreign citizens residing permanently in Finland who have the right or have been granted a permit to reside or work permanently, or in a comparable manner, in Finland.

Provisions on services provided for citizens of Nordic countries are laid down in Article 34 of the Treaty of Cooperation between Denmark, Finland, Iceland, Norway and Sweden (Finnish Treaty Series 28/1962). Provisions on the right of the citizens of the European Union to obtain services from the diplomatic or consular authorities of another Member State are laid down in Article 20(2)(c) of the Treaty on the Functioning of the European Union.

Consular services referred to in chapters 4 and 10 below may also be provided for other foreign citizens on special grounds. Consular services referred to in chapter 10 may be provided for foreign entities on special grounds.

Where provisions on consular services by missions are issued in other legislation, these services shall be provided in the manner laid down separately for them.

Section 3 (204/2000)

Section 3 is repealed by Act 204/2000.

Section 4

General monitoring of interests and rights

The Ministry for Foreign Affairs and the missions shall in general monitor the implementation abroad of the interests and rights of persons and entities 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 shall give general advice to persons and entities referred to in section 2, subsection 1 concerning any special circumstances prevailing within the consular district of a mission and in cases concerning the consideration by an authority of a foreign State of a matter involving rights and interests.

Section 6

General constraints on consular services

When providing consular services, the Ministry for Foreign Affairs and the missions shall take account of the laws and regulations applicable within the consular districts of the missions and the rules of public international law and international agreements binding on Finland.

Neither the Ministry for Foreign Affairs, nor any mission, nor any person belonging to the staff of these may act as a counsel, legal representative or legal adviser for a party 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, parties applying for a consular service shall be advised and given guidance on how to proceed with their matter.

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

The applicant shall provide the Ministry for Foreign Affairs and the mission with the information and evidence necessary for provision of the consular service and shall otherwise facilitate provision of the service in the matter in question.

Chapter 2

Administration

Section 8 (970/2014)

Planning, control and supervision of consular services

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

Where necessary, the Ministry for Foreign Affairs shall advise, guide and assist the missions in the provision of consular services.

The head of mission shall oversee the management of the mission's consular services and is responsible for the provision of these services.

Section 9 (970/2014)

Arranging consular services in the foreign affairs administration

Consular services under this Act and other legislation shall be provided by embassies, legations, consulates-general, consulates, vice-consulates and consular agencies. The provision of all or part of the consular services of a particular mission by a mission other than that which would otherwise be competent to provide the services may be provided by presidential decree. Services for persons in distress and other similar consular services shall, however, be provided by the relevant mission at the time in question in regard to the seriousness and urgency of the situation.

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 determine the provision of those services.

The Ministry for Foreign Affairs may provide consular services that do not require service provision within the State concerned and that are otherwise suitable for provision by the Ministry. Further provisions on the consular services provided by the Ministry for Foreign Affairs may be given by presidential decree.

Section 10 (970/2014)

Honorary consuls

Honorary consuls may provide general advice and guidance to persons in distress and other similar consular services. They also provide notarial services if the Ministry for Foreign Affairs has authorised them to do so. The duties of honorary consuls may also include consular services which they may provide under other legislation.

Chapter 3

Services 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 the consular district of a mission 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

Missions shall advise and assist persons in distress as necessary in contacting their next of kin or another person, obtaining hospital treatment, arranging repatriation to Finland, obtaining legal assistance, reporting an offence and obtaining any other necessary help required by the situation.

Should the person's distress be caused by being subjected to illegal deprivation of liberty, the mission shall also inform the competent authority of the State in question and the relevant Finnish authority, provide assistance as necessary in the transmission of information between the authorities handling the matter and the person subjected to illegal deprivation of liberty, assist in necessary contacts between the person 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, a mission may transfer funds against an advance deposit made in a bank account of the Ministry for Foreign Affairs or provide financial assistance within the limits of appropriations reserved for this purpose to a distressed person whom the mission has ascertained to be unable, without its help, 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 the journey home, against an undertaking to repay the sum, if it is not possible to obtain an advance deposit; or
- 3) financial assistance for the journey home 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 provide an undertaking to repay because of a serious illness or other comparable special 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 any undertaking to repay.

Section 14

Refusal of financial assistance

A mission may refuse to provide financial assistance if:

- 1) the applicant, when applying for assistance, has 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 unjustifiably received financial assistance from the mission by knowingly giving incorrect information on his or her identity or other incorrect information that has affected the decision, or by concealing facts affecting the contents of the decision;
- 3) the applicant has used financial assistance provided to him or her earlier for purposes other than those for which the assistance was granted; or
- 4) the applicant has not repaid financial assistance that was provided to him or her earlier.

Chapter 4

Services provided in a crisis

Section 15

Personal safety

Missions shall assist persons referred to in section 2, subsection 1 who are residing within their consular district, in order to ensure their 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.

Section 16

Evacuation and repatriation

A mission may provide assistance 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.

The evacuation or repatriation of a person shall only be arranged with his or her consent.

Section 17

Factors to be taken into account in the provision of assistance

In considering the nature and extent of assistance measures referred to in sections 15 and 16 above and in implementing such measures, account shall be taken of the particular 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.

Section 18

Contacts and transmission of information

In a crisis situation or where there is a threat of such a situation, a mission shall, wherever possible, provide assistance in maintaining necessary contacts between the person in question and his or her next of kin residing in the person's home country.

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

The Ministry for Foreign Affairs or the mission may, at its discretion, provide information on conditions concerning travel to, presence in or departure from a specific area.

Chapter 5

Services 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

A mission shall, without delay, contact a person referred to in section 2, subsection 1 who has been arrested, detained or otherwise deprived of his or her liberty as a suspect within the mission's consular district or is serving a custodial sentence there (*person deprived of his or her liberty*), if the person so requests.

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

Section 20

Assistance during deprivation of liberty

During the deprivation of the person's liberty, the mission shall maintain contacts with the person as necessary and in accordance with the local conditions.

The mission shall monitor the treatment of the person deprived of his or her liberty and the handling of the matter by the authority of the foreign State.

The mission may, at its discretion, assist the person deprived of his or her liberty, if he or she so requests, in applying for a pardon or early release or for a postponement to the start of a custodial sentence.

Section 21

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

The mission may transmit funds to the 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 for 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, in obtaining, as necessary, a counsel and other legal assistance under local legislation, and in obtaining an interpreter, and shall be in contact with the accused as necessary.

Chapter 6

Services in the case of death

Section 23

Reporting a death

If a mission has been informed of the death of a person referred to in section 2, subsection 1 which has occurred within its consular district, the mission shall report the death to the Ministry for Foreign

Affairs. The next of kin or other close person whose identity and whereabouts can reasonably be ascertained shall also be informed of the death.

Section 24

Burial, cremation and repatriation of the body of a deceased person

A mission may take measures for arranging the burial or cremation of a deceased person or the repatriation of the deceased's body to Finland on the request of the next of kin.

If the deceased's next of kin does not arrange for the burial or cremation of the deceased or the repatriation of the deceased's body 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

Obtaining information on the cause of death

On the request of the next of kin, the mission shall assist in obtaining the deceased's death certificate or other information on the cause of death if it is not otherwise possible to obtain such information.

Chapter 7

Services in matters concerning a deceased's estate

Section 26

Informing the heirs about an estate

If a mission receives information from an authority or in some other way about an estate to which a person referred to in section 2, subsection 1 may have a right of inheritance, the mission shall notify the Ministry for Foreign Affairs of this. The Ministry for Foreign Affairs shall transmit the information on the estate to heirs residing in Finland or other parties involved whose identity and whereabouts can reasonably be ascertained.

However, the mission shall not provide notification of the estate if an heir or other person having a right to the estate has taken custody of it at the place where it is located or has begun to administer the estate.

Section 27

Other functions relating to estates

If a person referred to in section 2, subsection 1 who is residing in Finland evidently has a right of inheritance in an estate located abroad, the mission may, on the request of the person, ask the authorities of its consular district to confirm whether the estate is located within the mission's consular district and who is administering the estate.

Where the estate is located within the mission's consular district, the mission shall, where necessary, assist the heirs in obtaining an administrator to administer the estate.

Chapter 8

Services for obtaining information on an individual person

Section 28

Persons presumed to be missing and presumed victims of crime

Where the parent or other guardian or next of kin of a person referred to in section 2, subsection 1 above residing temporarily abroad suspects that the person is missing or has become a victim of crime within the consular district of a mission, the mission may, on reasonable grounds, enquire into the circumstances and whereabouts of the person. The mission shall make the enquiry on the request of the parent or other guardian or next of kin, and in the first instance through the mediation of the authorities within its consular district.

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

Section 29

Enquiry concerning the circumstances of a child

A mission may make an enquiry concerning the circumstances of a child referred to in section 2, subsection 1 who is residing temporarily abroad, on the request of his or her parent or other guardian, where there are reasonable grounds to suspect that the child's circumstances endanger or threaten to endanger his or her health. The mission shall make the enquiry in the first instance through the mediation of the authorities within its consular district.

Section 30

Obtaining a document or address information concerning a person

A mission may, upon receipt of a written application to it or the Ministry for Foreign Affairs, obtain from its consular district extracts from the Population Information System or other documents concerning a person or address information where this is justified in order to implement the interests, rights or obligations of the person or entity referred to in section 2, subsection 1 that submitted the application.

Chapter 9

Services for returning a child

Section 31

Preconditions for measures to return a child

A mission shall assist in the return of a child to Finland when the removal of the child from Finland to a foreign State or the non-return of the child from a foreign State to Finland is unlawful under the Act on Child Custody and Right of Access (361/1983) and when measures concerning the return of the child do not fall within the competence of another authority by virtue of an act, decree or international agreement binding on Finland.

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

- 1) if the child or his or her parent or other guardian requesting the return is a Finnish citizen;
- 2) if the removal or non-return of the child is considered unlawful under the legal order of the State from which the child was 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 for returning a child

Where the preconditions provided in section 31 above are met, the mission may, where necessary, take measures provided in subsections 2–5 below for the return of the child.

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

On the request of the parent or other guardian of the child or other person having the right of custody, the mission shall in the first instance provide assistance by submitting a request for executive assistance to the competent authority of its consular district:

- 1) to investigate the whereabouts and circumstances of the child, and to return the child;
- 2) to obtain a counsel or other legal assistance under local legislation for the person who has requested the return of the child; and
- 3) to obtain general information on the legislation of the State in question to the extent necessary.

The mission shall assist in the contacts between the parties and shall transmit information and documents concerning the return of the child to the 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 serving a mission

Functions provided in section 34 below may be exercised within the consular district of a mission by an attaché or administrative assistant or a public servant of higher rank serving the mission, or another Finnish citizen serving the mission who is authorized to do so by the Ministry for Foreign Affairs on special grounds.

The right of the person referred to in subsection 1 to exercise certain 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 for which he or she has received authorisation from the Ministry for Foreign Affairs.

Section 34

Functions of notary public serving a mission (421/2014)

The functions referred to in the Act on Notaries Public (420/2014) that can be exercised by a mission on the request of a person or entity referred to in section 2, subsection 1 of this Act are:

- 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 person or entity, the mission may also:

1) issue a statement that a person is alive or a declaration of facts on the basis of information presented;

2) attest, unless otherwise provided in an international agreement binding on Finland, a signature in a document or certificate issued by an authority within the mission's consular district, and the official status of the signatory, where the mission has a relevant sample of the signature, knowledge of the official status of the signatory and a sample of the stamp 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 6 of the Act on Notaries Public has the official status indicated in the document and that he or she has the legal right to issue such a certificate; and

4) take any other measures falling abroad within the competence of the mission or of a public servant of the mission under an act, 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 suspect that the document, signature of an authority or certificate issued by an authority is a forgery, or that the document has been prepared for an illegal purpose.

Chapter 11

Processing of personal data in a crisis situation

Section 36

Maintenance of a personal data file and its use

A mission may maintain a personal data file 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 the data file.

The mission's personal data file shall be covered by the personal data protection legislation, unless otherwise provided in this Act.

Section 37

Processing and storage of personal data

Missions shall have the right to process information necessary for performance of the functions referred to in chapter 4 and to receive information from another authority, entity or person that is necessary for the performance of the functions, notwithstanding provisions on the obligation of secrecy.

Consent for the processing of the information shall be obtained from the data subjects, unless it is impossible to obtain such consent or it would cause unreasonable inconvenience.

The data subject has the right to prohibit the processing of information concerning him or her.

Where the personal data file is no longer necessary for the purpose of performing the functions referred to in chapter 4, relating to personal safety, the data file shall be destroyed, unless there are separate provisions on the storage or filing of the recorded information in accordance with the provisions concerning the filing of documents of the foreign affairs administration. The grounds and the need for processing the information shall be assessed at least every five years.

Section 38

Disclosure of information abroad

A mission may disclose information from a personal data file to an authority of a foreign State on the consent of the data subject or where it is necessary for protecting a vital interest of the data subject.

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 by law, the foreign affairs administration shall not assume responsibility for costs arising from, for example, medical treatment, evacuation, repatriation, the burial or cremation of a deceased person or the repatriation of the deceased's body, court proceedings, the appointment of a counsel or legal adviser, interpretation or obtaining and translating documents necessary for attending to a matter.

Section 40

Mission's obligation to inform

Missions shall inform the Ministry for Foreign Affairs of consular services matters referred to in chapters 3–9 which become pending within their respective consular district, where this is required by the nature of the matter. Where the urgent nature of a 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

In addition to the provisions in sections 37 and 38 concerning the reception and disclosure of information, the Ministry for Foreign Affairs and the missions have the right, notwithstanding provisions on the obligation of secrecy, to receive information from another authority, entity or person and to disclose information to a Finnish authority or an authority of a foreign State for the purpose of providing consular services referred to in this Act, where this is necessary in regard to the life, health or physical or mental well-being of the person in question.

Section 42

Recovery of payments

Where the repayment of assistance and fees referred to in this Act has been neglected, these 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). However, it is possible not to pursue recovery of assistance paid from State funds if the person from whom the repayment is due is without means or there are other special grounds for not pursuing recovery.

The Act on the Recovery of Taxes and Fees by Means of Execution (367/1961) was repealed by the Act on the Enforcement of Taxes and Fees (706/2007).

Section 43 (896/2015)

Appeal

A decision made by the Ministry for Foreign Affairs or a mission by virtue of this Act may be appealed against to an administrative court in accordance with the provisions of the Administrative Judicial Procedure Act (586/1996). The decision of an administrative court may be appealed against only if the Supreme Administrative Court grants leave to appeal.

Section 43 as amended by Act 896/2015 enters into force on 1 January 2016. The previous wording reads as follows:

Section 43

Appeal

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

Section 44

Further provisions

Further provisions on the implementation of this Act shall, where necessary, be issued by decree.

Section 45

Entry into force

This Act enters into force on 1 December 1999.

Section 46

Transitional provision

Where a matter relating to a deceased's estate was pending at a mission or the Ministry for Foreign Affairs prior to 1 January 2002, the mission or the Ministry may assist the heirs in obtaining the necessary documents for winding up the estate and in rendering an account of the estate assets for the heirs.