

**Translation from Finnish
Legally binding only in Finnish and Swedish
Ministry of the Interior, Finland**

Chapter 7

Precautionary measures and monitoring of aliens (193/2015)

Section 117a (813/2015)

General conditions for imposing precautionary measures

(1) Precautionary measures referred to in sections 118–122 and 122a may be imposed on an alien if this is essential and proportionate for:

- 1) establishing that the alien meets the conditions for entry into or stay in the country; or
- 2) preparing a decision to remove the alien from the country or ensuring the enforcement of such a decision, or otherwise supervising his or her departure from the country.

(49/2017)

(2) The precautionary measures are imposed by the authorities preparing the matter referred to in subsection 1 or the enforcement authorities. The alien who is subject to the precautionary measures shall be notified of the grounds for the precautionary measures.

(3) Unless otherwise provided below, the precautionary measures are in force until it has been established that the alien meets the conditions for entry into or stay in the country, a decision on removal from the country has been enforced or the processing of the matter has ended otherwise. However, the precautionary measures shall be immediately ordered to end when they are no longer essential for ensuring the issue or enforcement of a decision.

Section 118 (813/2015)

Obligation to report

(1) An alien may be obliged to report to police or border control authorities or at a reception centre at regular intervals.

(2) If an alien who is obliged to report at a reception centre does not comply with this obligation, the reception centre shall notify the neglect of this obligation immediately to the authority that imposed the obligation.

(3) The provisions on criminal liability for acts in office apply to the reception centre personnel overseeing compliance with the obligation to report. Provisions on liability for damages are laid down in the Tort Liability Act (412/1974).

Section 119 (813/2015)

Other obligations

An alien may be ordered to hand over his or her travel document and travel ticket to police or border control authorities or to give them the address where he or she may be reached.

Section 120 (813/2015)

Obliging to give a security

(1) An alien may be obliged to give a security to the State for the expenses related to his or her residence and return.

(2) The security shall be released or returned when it is no longer necessary to establish whether the alien meets the conditions for entry into or stay in the country or to prepare a decision to remove the alien from the country or to ensure the enforcement of such a decision. In other cases, the security is used to cover the expenses related to the alien's residence or return. The remainder of the security after such expenses have been paid shall be returned immediately.

Section 120a (49/2017)

Residence obligation

(1) If the precautionary measures referred to in sections 118–120 are insufficient, an alien who has applied for international protection may be ordered to reside in a specified reception centre and report to the centre one to four times a day. When deciding on the number of reporting times, it is essential to ensure on the basis of individual assessment that the rights of the person on whom the residence obligation has been imposed are not restricted any more than necessary and that the purpose of the precautionary measure is achieved.

(2) The residence obligation shall remain in force for a maximum of 14 months from the start of the obligation.

(3) The authority which imposed the precautionary measure may, after consulting the director of the reception centre, grant an alien ordered to reside in the reception centre permission to cease reporting to the centre temporarily for important personal reasons.

(4) If an alien who is ordered to reside in a reception centre does not comply with the residence obligation, the reception centre shall notify the neglect of the obligation immediately to the authority that imposed it.

(5) The provisions on criminal liability for acts in office apply to the reception centre personnel overseeing compliance with the residence obligation. Provisions on liability for damages are laid down in the Tort Liability Act.

Section 120b (49/2017)

A child's residence obligation

(1) An unaccompanied child aged 15 years or more who has applied for international protection and been issued with 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 laid down in section 122(1) are met. When deciding on the number of reporting times, it is essential to ensure on the basis of individual assessment that the rights of the person on whom the residence obligation has been imposed are not restricted any more than necessary and that the purpose of the precautionary measure is achieved. The provisions of section 120a(4–5) apply to the reception centre and its personnel.

(2) A child on whom a child's residence obligation has been imposed 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 important personal reasons.

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

(4) If the child does not comply with the residence obligation, he or she can be detained provided that the conditions laid down in section 122(1) and (3) are still met.

(5) The procedures laid down on decision-making and court proceedings concerning detention apply to imposition of a child's residence obligation.

Section 121 (813/2015)

Conditions for detention

(1) If the precautionary measures referred to in sections 118–120 are insufficient, the alien may be detained on the basis of an individual assessment, if:

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

2) detention is necessary for establishing the alien's identity;

3) the alien has committed or is suspected of having committed an offence and the detention is necessary to secure the preparations for or the enforcement of a decision on removal from the country;

4) the alien has, while in detention, lodged a new application concerning international protection predominantly for delaying or disrupting the enforcement of a decision on removal from the country;

5) the detention is based on Article 28 of the Council Regulation on determining the State responsible for examining an asylum application; or

6) taking account of the alien's personal and other circumstances, there are reasonable grounds to believe that he or she will pose a threat to national security.

(2) Provisions on the conditions for detaining a child are laid down in section 122.

Section 121a (49/2017)

Risk of absconding

The risk of absconding may arise if the precautionary measures referred to in sections 118–120 and 120a have been used but have proved to be insufficient, or if the alien has changed his or her place of residence without notifying the contact details to the authorities. In assessing the risk of absconding, the person's full circumstances shall be taken into consideration.

Section 122 (813/2015)

Detaining a child

(1) For a child to be detained, it is necessary that:

- 1) the condition for detention provided in section 121(1) is met and, on the basis of individual assessment, the precautionary measures referred to in sections 118–120, 120a and 120b have been ascertained to be insufficient and detention declared necessary as a last resort;
- 2) the child has been heard in accordance with section 6(2) before the decision is made; and
- 3) a social worker in a public-service employment relationship who has been appointed by the body responsible for social services has been reserved an opportunity to be heard.

(49/2017)

(2) In the case of a child held in detention with the person who has custody of him or her, a further condition is that the detention is essential for maintaining the family contact between the child and the person who has custody of him or her.

(3) An unaccompanied child under 15 years of age may not be detained. An unaccompanied child aged 15 years or more who is applying for international protection may not be detained before a decision on his or her removal from the country has become enforceable.

(4) A detained unaccompanied child shall be released no later than 72 hours after the start of the detention. For special reasons the detention may be extended by up to 72 hours.

Section 123 (813/2015)

Deciding on detention

(1) A decision to detain an alien, when taken by the police, is made by a commanding police officer at the local police department, the National Bureau of Investigation or the Finnish Security Intelligence Service, and when taken by the Border Guard, by an official of the Border Guard with the power of arrest or a border guard of at least the rank of lieutenant.

(2) The person detained or his or her legal representative shall be notified in writing immediately, in a language that he or she understands or which he or she can reasonably be expected to

understand, of the grounds for detention and shall be given information about the processing of the matter on which the detention is based and of the possibility of obtaining legal aid.

Section 123a (813/2015)

Placement of detained aliens

- (1) A detained alien shall, as soon as possible, be placed in a detention unit referred to in the Act on the Treatment of Detained Aliens and on Detention Units (116/2002).
- (2) An official referred to in section 123(1) may decide on placing a detained alien exceptionally in police custody facilities if:
 - 1) the detention units are temporarily full; or
 - 2) the alien is detained far from the nearest detention unit, in which case the detention in police custody facilities may last for a maximum of four days.
- (3) In a situation referred to in subsection 2(2) the alien may exceptionally be placed in Border Guard custody facilities instead of police custody facilities, however, for a maximum of 48 hours.
- (4) If the detained alien is a child, he or she may not be placed in police or Border Guard custody facilities but shall always be placed in a detention unit.
- (5) A detained applicant for international protection shall ordinarily be placed in a detention unit.
- (6) Provisions on the law applicable to aliens placed in police or Border Guard custody facilities are laid down in section 1(3) of the Act on the Treatment of Detained Aliens and on Detention Units. The provisions of section 6a(2) of the Act on the Treatment of Detained Aliens and on Detention Units apply to the right of the Non-Discrimination Ombudsman to visit police or Border Guard custody facilities and to talk confidentially with detained aliens.

Section 124 (813/2015)

Detention notification and court proceedings

- (1) The official who decided on detention, the exceptional placement referred to in section 123a(2) or a child's residence obligation shall, without delay and no later than the day after the detention or the start of the obligation, give notification of the matter to the district court of the place of detention or, in urgent cases, another district court, as specified by Ministry of Justice decree. The notification may be made by telephone or electronically. A notification made by telephone shall be submitted without delay to the district court in writing. (49/2017)
- (2) The district court shall hear a matter concerning detention, the exceptional placement referred to in section 123a(2)(1) or a child's residence obligation referred to in section 120b without delay and no later than four days after the person was detained or the obligation started. In the case referred to in section 123a(2)(2) and in the case of the detention of an unaccompanied child, the matter shall be heard without delay and no later than 24 hours after notification. (49/2017)

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

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

Section 125 (813/2015)

District court procedure

(1) The official or the person delegated by this who decided on detention or the exceptional placement referred to in section 123a(2–3) shall be present at the hearing of the matter at a district court.

(2) When the matter is heard by a district court, the court shall be presented with a statement on the conditions for detention or the exceptional placement of a detained alien. The detained alien shall be present in the district court session to answer questions concerning the conditions for the detention or exceptional placement.

(3) If the district court deems it appropriate, a matter concerning detention and exceptional placement may, however, be heard without the courtroom presence of the detained alien or the official referred to in subsection 1, by using video conferencing or other suitable technical means of communication in which the hearing participants are in audio and visual contact with each other. If the district court considers it necessary, the detained alien shall be brought to the court.

(4) The hearing of the matter may be deferred only for special reasons. The detention will continue until the next hearing of the matter unless otherwise ordered by the district court.

Section 125a (813/2015)

District court hearing of a matter concerning detention of a child

When a district court hears a matter concerning detention of a child, the public official referred to in section 122(1)(3) shall provide the district court with his or her written statement on the matter. The statement shall be available no later than when the district court deals with the matter in accordance with section 124(2).

Section 126

Decision of a district court

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

(2) If the district court orders that the detention of the alien be continued, the alien shall be ordered to be sent to detention facilities referred to in section 123a(1) or (2). If the grounds for holding the alien in custody facilities for remand prisoners no longer exist, the district court shall order that the alien be returned to the detention facilities for aliens. (49/2017)

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

Section 127

Releasing detained aliens

(1) The authorities handling the matter shall order a detained alien to be released immediately once the grounds for detention cease to exist. A detained alien shall be released no later than six months after the decision on detention was made. The period of detention may be longer than this, however not exceeding 12 months, if the detained alien does not cooperate in enforcing the return or if the third country fails to produce necessary return documents, and the enforcement of the removal is delayed for these reasons. (195/2011)

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

Section 128 (646/2016)

Rehearing at a district court

(1) Where a detained alien has not been ordered to be released, 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(2–3). The matter shall be reheard without delay and no later than four days after the submission of the request. However, a detention matter does not have to be reheard earlier than two weeks after the decision of the district court to continue the detention of the alien at the facility concerned. The provisions of section 5 of the Act on the Calculation of Statutory Time Limits (150/1930) do not apply to the determination of time limits referred to in this section.

(2) At the request of the person detained, the district court shall also rehear the matter earlier than what is provided in subsection 1 where this is deemed necessary due to a circumstance revealed after the previous hearing. The authority **considering** the matter shall notify the person detained and his or her counsel without delay of any essential change in the circumstances that gives rise to a rehearing, unless the person detained has been ordered to be released under section 127(1).

(3) If the district court considers it appropriate, the rehearing of a matter concerning detention or exceptional placement may take place using video conferencing or other technical means of communication referred to in section 125(3). However, if the district court considers it necessary, the detained alien shall be brought to the court.

(4) When a decision concerning the detention of a child held in detention with the person who has custody of the child is reheard by the district court, the court shall reserve the opportunity for a social worker to provide his or her statement. The district court shall release the child, unless there are special reasons for continuing the detention.

Section 129

Request for review of detention

- (1) No review may be requested by appeal on a decision on detention made by the authorities or a district court.
- (2) The person detained may make a complaint about the decision of a district court. There is no deadline for the complaint. The complaint shall be handled with urgency.

Section 129a (193/2015)

Monitoring of aliens

- (1) The monitoring of aliens means the supervision of compliance with this Act and the provisions issued under it, and the prevention of illegal stay in the country. Provisions on border checks are laid down in the Schengen Borders Code.
- (2) Measures taken in the monitoring of aliens shall be justifiable in relation to the aims of the monitoring and the urgency of the task, and in relation to other factors influencing the overall assessment of the situation. The monitoring shall be carried out with respect for the rights of the monitoring subjects as provided in section 5.
- (3) The monitoring of aliens shall be based on the monitoring authority's general information and experience of illegal entry to and stay in the country. The monitoring measures shall be based on observations made and on tip-off information or analysis data received. The monitoring measures may not be based solely or to a decisive extent on the person's actual or assumed ethnic origin.

Section 129b (193/2015)

Right of inspection of the police and Border Guard

- (1) For the purposes of the monitoring of aliens, where this is justifiable for establishing an alien's personal identity, nationality, right to be in the country or right to work, the police and the Border Guard have the right:
 - 1) to obtain information from the monitoring subject and to inspect the necessary documents on his or her personal identity, nationality and right to stay in the country and to work;
 - 2) to gain entry to premises that are protected by the right to privacy of public premises referred to in chapter 24, section 3 of the Criminal Code, or to other places, premises or vehicles to which there is no public access and which do not constitute facilities used for residence of a permanent nature, for the purpose of inspection referred to in paragraph 1;
 - 3) to order a vehicle to stop for the purpose of conducting an inspection, as referred to in paragraph 1, on the persons in the vehicle;
 - 4) to obtain information on aliens in the service of an employer that has hired aliens and on the grounds for their right to work, and information from a contractor referred to in section 86b indicating that the contractor has attended to its obligations under section 86a(1) and (2).

(2) The person performing the inspection made under subsection 1 shall, during the course of the inspection, if possible, tell the party who is immediately affected by the inspection, about the aims of the inspection, the conducting of it and further measures. The inspection shall be carried out without causing undue inconvenience to the monitoring subject or the owner of the premises to be inspected.

(3) The start of an inspection to be made on the basis of subsection 1(2) and the grounds for it shall be notified to the possessor of the premises or the possessor's representative as soon as possible without compromising the performance of the measures. The inspection may be made even if the possessor of the premises or the possessor's representative is not present or cannot be reached. The provisions of section 39 of the Administrative Procedure Act shall be observed in inspections.

Section 130

Establishing identity and providing information on residence

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

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

(3) An alien who is not a Union citizen or similar person shall report to the authorities within three days of his or her entry into the country. Further provisions on reporting may be given by Ministry of the Interior decree.

Section 131

Recording of personal identifying characteristics

(1) For the purpose of identifying aliens or for processing, making decisions on and supervising matters concerning aliens' entry into and departure from the country and their residence and employment, and for protecting national security, the police or the border control authority may take fingerprints and a photograph and record other personal identifying characteristics of aliens:

1) who have applied for asylum or a residence permit on the basis of subsidiary protection or temporary protection; (332/2016);

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

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

4) to whom the authorities have decided to deny admittance or stay or whom they have decided to deport from the country; or

5) whose identity is unclear.

(631/2011)

(2) The personal identifying characteristics referred to in subsection 1 are recorded in a register maintained by the police. The information shall be kept separate from the personal identifying characteristics of criminal suspects and from the fingerprints collected for the purpose of residence permit applications, residence permit card applications or applications for residence cards of family members of Union citizens which are recorded in the Register of Aliens under section 3b of the Act on the Register of Aliens (1270/1997). The information shall be deleted in compliance with the provisions of section 34 of the Act on the Processing of Personal Data by the Police (616/2019). (635/2019)

(3) The fingerprint data referred to in subsection 1 may be compared with the fingerprint data recorded, under this section, for the purpose specified in section 5 of the Act on the Processing of Personal Data by the Police and with the fingerprint data recorded in the sub-register of applications and the sub-register of alien's passports and refugee travel documents associated with the Register of Aliens and referred to in section 3 of the Act on the Register of Aliens. In addition, in order to establish the conditions for entry into the country, the fingerprint data recorded may be compared with the fingerprints included in the personal identifying characteristics referred to in section 6 of the Act on the Processing of Personal Data by the Police and specified in the Coercive Measures Act (806/2019) insofar as the fingerprint data already registered relates to an offence for which the most severe punishment by law is at least one year's imprisonment. (635/2019)

(4) Notwithstanding secrecy provisions, personal data referred to in subsection 1 may be disclosed to foreign authorities for the identification of the alien with due regard to the provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), the Act on the Processing of Personal Data in Criminal Matters and in Connection with Maintaining National Security (1054/2018) and the Act on Processing of Personal Data by the Police. (635/2019)

Section 132

Taking possession of travel documents by the authorities

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

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

(3) False or forged travel documents taken into possession by the police or border control authorities are sent to the Crime Laboratory of the National Bureau of Investigation. Travel documents intended for giving false personal data may be sent to the mission of the State in question. In connection with denial of admittance or stay, the travel documents may also be sent to the authorities of the receiving State.

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

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

(6) No judicial review may be requested separately by appeal on the authorities' decision to take possession of a travel document.

Section 133 (749/2011)

Registration in the event of a mass influx of migrants

(1) If the number of migrants entering the country is exceptionally high, which makes it impossible to establish that the conditions for entry are met and to register the aliens in the normal procedure, the Government may decide in a plenary session that persons whose conditions for entry or identity are unclear may be sent to the registration centre referred to in section 3 of the Act on the Reception of Persons Applying for International Protection for the purposes of registration.

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

(3) Police or border control authorities or, under the supervision of these, a public official assigned to the duty by the Ministry of the Interior may, in conjunction with registration, record the personal identifying characteristics referred to in section 131(1) of the persons entering the country. A person entering the country is obliged to stay at the registration centre for the duration of the registration, unless otherwise required by the state of his or her health or for other important personal reasons.

(4) Registration shall be carried out without delay.