



# **Legal Migration Fitness Check**

Evidence base for practical  
implementation

Member State summary

**Finland**

*Annex 2 FI*

Written by ICF Consulting Services  
Limited

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## **LEGAL NOTICE**

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## Introduction

This document provides an overview of the legal and practical implementation of EU legal migration acquis in **Finland**. The legal and practical implementation study is structured according to the eight steps – ‘phases’ of the migration process from the perspective of the migrant<sup>1</sup> for the following Directives:

Directive	FRD (Family Reunification Directive 2003/86/EC)	LTR (Long Term Residency Directive 2003/109/EC)	SD (Students Directive 2004/114/EC)	RD (Researchers Directive 2005/71/EC)	BCD (Blue Card Directive 2009/50/EC)	SPD (Single Permit Directive 2011/98/EU)
National parallel scheme	There are family reunification regulations for Finnish, Nordic and EU citizens.  In addition, the following laws legislate TCN's family reunification if:  they have Finnish ancestry  are certain type of ex-Soviet citizens	'Permanent residence permit'		'Researcher's permit' (section 77(1) (4) of the Aliens Act) /  (uses the same application form as the Directive-based researcher)	Other work permits' (section 77(1) (1) of the Aliens Act) /  "Highly-skilled worker" or "Specialist"  (uses the same application form as the Blue Card)	

<sup>1</sup> . See ref document (EU summary) Under each phase, the following aspects are examined : :  
**Legal transposition of the EU legal migration acquis:** including whether the MS has overall complied with the transposition of the relevant EU acquis in the respective phase and whether these non-compliance issues affect the practical application of the Directive;  
**Practical application of the EU legal migration acquis:** overview of the main application issues/problems arising in the MS per each of the migration phases;  
**Differences between national statuses and the EU legal migration acquis:** substantial differences at the level of legislation and practical implementation between the EU legal migration Directives and their national equivalents (where these exist).

Options implemented?	Pupil Trainee Volunteer
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## **Main differences between EU statuses and the respective national parallel schemes**

### **1. Parallel national scheme to FRD**

- Section 47 of the Aliens Act: Family reunification for those of Finnish ancestry. There are family reunification regulations for Finnish, Nordic and EU citizens. In addition, the following laws legislate TCN's family reunification if:
  - they have Finnish ancestry
  - are certain type of ex-Soviet citizens
  - No income requirements apply for either category and their family members (vs. rather high income requirements for TCNs under the normal family reunification scheme.
  - Finnish ancestry: First permit is given for 4 years (i.e. gives access to benefits)
- Section 48 of the Aliens Act: Family reunification for ex-Soviet citizen (who either served in the Finnish army or was an evacuee in Finland during WWII) and their family members. Ex-Soviet citizen: The only category for which certain entry conditions apply (such as obtaining housing and proving language skills before permits are granted). First permit is continuous, i.e. it gives access to benefits. The provision is being phased (in force since 1991 and tightened in 2011).

### **2. Parallel nation scheme to RD - 'Researcher's permit' (section 77(1) (4) of the Aliens Act)**

- The Aliens Act section 77(1)(4) allows those working professionally in the field of science, culture or arts to apply for a residence based on work without labour market consideration.
- Section 77(1)(9) also grants researchers a permission to work for no more than a year based on invitation or contract. The same application process applies.
- In addition, the national scheme for highly-skilled labour (i.e. the one equivalent to Blue Card) also covers those working as researchers (but regular income requirements apply).
- That is, anybody with a master's degree and preparing a licentiate, doctoral or post-doctoral research or working professionally as a researcher can apply for a researcher's permit (unless they are self-financing, in which case they are considered students).
- The conditions of granting a researcher's permit are the same as for the Directive-based permit minus the hosting agreement.
- However, the benefits granted to the Directive-based researchers can be better, as such applicants are always granted a continuous permit (section 47(1)(4)), which includes access to social benefits and national health care.

- There are no guidelines as to what type of permit, temporary or continuous, is granted to regular researchers. However, if the researcher has a longer than four-month contract with a Finnish university, the university is required to provide occupational health care services and the TCN gains residency-based social security rights.

### **3. Parallel nation scheme to LTR: 'Permanent residence permit'**

- Section 56 of the Aliens Act states that permanent residence permits are granted after 4 years of continuous residence on a continuous permit, provided that the grounds for granting a continuous permit are still fulfilled and no other objections (such as security issues) prevent this.
- The first obvious difference is the length of stay: four instead of five years required for the long-term EU permit.
- Secondly, the residency conditions are also more lenient in the sense that the person needs to have resided in Finland only half of the four years the permit was valid. Also normal holidays or other trips are not considered (no time limit is cited) and working abroad as a sent employee of a Finnish employer does not affect the length of residency.
- In this sense, the residency requirement is considerably less than the 10 months of absence allowed in the case of the long-term EU permit or the requirement of having continuously stayed in Finland the 5 years immediately prior to the application.
- The conditions of granting the permit, the rights conveyed inside Finland and the TNCs categories covered are the same. However, in the case of those under (secondary) international protection the date of continuous stay is calculated from the date of entry and not from the date that the asylum application was made, as in the case of the Directive.

### **4. Parallel nation scheme to Blue Card: 'Other work permits' (section 77(1) (1) of the Aliens Act) / "Highly-skilled worker" or "Specialist" (uses the same application form as the Blue Card)**

- The Aliens Act section 77(1)(1) allows those working as a special expert, a consultant, a trainer, a teacher, researcher or a member of corporate middle or senior management to be granted work permit without labour-market considerations.
- The educational level has been specified as a university degree.
- Income level requirements apply (section 77(3) of AA); the law does not place higher than normal requirements on the income level, but the salary is taken into account when assessing the fulfilment of the expertise criterion.<sup>2</sup>
- Normal family reunification provisions apply (dependent children under 18, cohabitant and registered relationships included (section 37 of AA), income level increases per spouse and every child (section 39 of AA).
- Covers all qualifying TCNs.
- Lower income-level requirement in national provision.

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<sup>2</sup> Finnish Immigration Services (4.6.2014). Residence Permit for Employment, MIG/2014/155. The text implementation guidelines asserts that when assessing the expertise one must take into account e.g. the special education or acquired experience required in the job, the quality of tasks requiring special knowledge and the salary paid for the job. Mere requirement of a university degree does not fulfil the expertise criterion.

- Higher educational-level requirement in national provision than in Blue Card.

## **1 Pre-application phase**

### **1.1 Legal transposition of the EU legal migration acquis**

No significant transposition issues have been identified. Most issues discovered relate to the Single Permit Directive (SPD) that requires that Member States provide adequate information on the conditions of obtaining a residence permit, on the documents needed for the application and on the rights and duties of immigrants. The transposition of the procedural issues related to the application phase is done mainly through the Administrative Procedure Act (Fin. Hallintolaki 434/2003) and in practice through the information that the government provides on the documentation needed on the Finnish Immigration Services webpages ([www.migri.fi](http://www.migri.fi)). However, it must be noted at this juncture that Finland does not identify, at the level of law, the documents that are required for different types of permit applications, as Art. 15(4) of the LTR Directive requires.

### **1.2 Practical application of the EU legal migration acquis**

The overall pre-application phase information requirements of the SPD have been fulfilled well. The experience of finding information on how to immigrate to Finland was generally very easy. The exceptions to this rule were finding information on the Long Term Residency Directive (LTR) and on the documentation needed for applications under the Family Reunification Directive (FRD). The practical application problems relate to partial inaccuracies or incompleteness of the information provided. In general, more detailed discussion of the documentation required is needed and this is the case particularly with the aforementioned Directives. As it stands, when arriving at the last page of the application form which contains the list of documents required, the applicant may be faced with a number of questions for which it is difficult to find clarification online. Here, it must be noted that the in-person advice for the application process is available quite easily from the Finnish authorities, but the need for advice and prolongation of the application process because of missing documentation could be reduced by a better discussion of the documentation required for the various types of applications.

Overall, better information on the rights and responsibilities of those eventually holding residence permits should be provided or at least links to such sources should be made available. The benefits provided by the LTR or its national equivalent (permanent residence permits) are not outlined well. Also a comparison of the rights conveyed by the Blue Card vs. the national equivalent (specialist) should be outlined to help applicants decide which type of permit to apply for. In addition, it must be noted that incorrect information is provided on the application form regarding the residency requirements for LTR.

In general, the organisation of the Finnish Immigration Services website into multiple subcategories makes the experience of finding information somewhat incoherent, as it is difficult to come to a conclusion that one has read and found all the information necessary. When it comes to the advisory services provided by the Finnish authorities, these have been organised very well and are easily accessible. There is an internet 'info-chat' service provided by a combination of authorities (which offers services in multiple languages also) as well as a possibility to email the Immigration Services. The service these two contact points provided was particularly helpful, knowledgeable and relatively quick (response time 5 min and 4 days respectively). In addition, there are the regular telephone and face-to-face advice services, but access to these is much more restricted due to limited hours and long-waiting periods for appointments.

Directive	FRD (Family)	LTR (Long Term)	SD (Students)	RD (Research)	BCD (Blue Card)	SPD (Single)
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	Reunification Directive 2003/86/EC	Residency Directive 2003/109/EC	Directive 2004/114/EC	Directives 2005/71/EC	Directive 2009/50/EC	Permit Directive 2011/98/EU
Languages	National language(s) English French (if not national) Spanish (if not national) Russian Turkish Other					
The information is easy to find*	4	5	1	2	2	2

\* 1: Strongly agree; 2: Agree; 3: Neither agree/nor disagree; 4: Disagree; 5: Strongly disagree

Information can be found on the following aspects of the application procedure

Application procedure	Conditions for admission	Entry requirements (e.g. visa etc.)	Cost of application	Applicable deadlines	Rights upon admission	Any differences between the Directives
Yes	Yes	Yes	Yes	Yes	Yes	No information for LTR on: Application deadlines; Rights upon admission, i.e. entering the MS based on this permit (and a valid travel document).  No information for RD on: Application deadlines.

### 1.2.1.1 Information upon request

Information upon request was provided through various sources:

(i) In third countries: by local embassies (all permits) (note: info provided also through online chat/email from Finland)



(ii) National administration in Finland:

- Information desks of the *Immigration Services* (in 9 cities). Appointments can be booked (as recommended) or one can hazard queueing upon an unscheduled visit to the information centre. (Information is provided on all types of permits.)
- *The Centres for Economic Development, Transport and the Environment* (ELY Centres) and *Finnish Enterprise Agencies* (EnterpriseFinland) provide information on the business- and self-employment-based applications for which the ELY Centres need to make an assessment on the sustainability/likely successfulness of the business/self-employment plan. (Thus, not directly covered by the Directives studied here, except when the basis of long-term EU permits or indirectly family reunification applications.)
- *Employment and Economic Development Office* (TE Service Offices) provide information mostly to employers of foreign workers as well as information on the employer to the foreign applicant (such as known problems of reliability or the appropriateness of terms and conditions of employment vis-à-vis employment legislation/collective agreements). This is mostly in relation to employment-based contracts that require the labour market needs assessment (single permit).
- *The Finnish Patent and Registration Office* provide information on business registration processes and are, therefore, involved in business or self-employment based application as well as potentially in specialist applications in case such a permit is applied based on managerial skills, as they authorise the functioning of foreign nationals in e.g. corporate boards.

(ii) in the country of destination: *Immigration Advice Centre* in Helsinki provide advice upon request through telephone and online services (Immigration Services & The City of Helsinki; all permits).

### **1.3 Differences between national statuses and the EU legal migration acquis**

Overall, the need to provide information required by the various Directives is applied well: there are no clear omissions of information, rather the problems identified can be characterised as minor issues of clarity aside from the need to provide better guidance on the documents required for the applications. There are multiple avenues arranged by state agencies, aside from the Immigration Services webpages, to obtain information on how to immigrate to Finland.

## **2 Preparation phase**

### **2.1 Legal transposition of the EU legal migration acquis**

For the preparation phase, the single transposition issue relates to the family members' right to apply for an independent permit after no later than five years (Art. 15(1) of the FRD). Finnish legislation is deemed to be partially compliant, because the five year limit may be exceeded in cases in which the family has stayed in the country on temporary permits prior to gaining 'continuous' permits that are counted towards the valid residence period. However, family members are free to apply for independent permits as soon as they qualify for such.

### **2.2 Practical application of the EU legal migration acquis**

The main issues related to preparation for the application phase are, as mentioned, the number of documents required for FRD and LTR applications and the need for a better explanation of them. A number of declarations are required about assets needed for these applications in cases where the regular income already satisfies the income requirements. It remains altogether unclear what is meant by assets and to

what extent any assets need to be documented. The extensive documentation requested makes the application process needlessly cumbersome and possibly expensive. Further, information on the FDR income requirements is currently expressed as net income, which is confusing for foreigners who are assumed to be able to estimate the impact of Finnish taxation and social security legislation on their actual end-of-the month income levels. Estimated ranges of income before taxes etc. should be provided. In general, the FDR application process could be streamlined. Also, where obtaining special permissions or certificates is needed, such as in the case of health care professionals and food industry workers (e.g. in case of permits based on BCD and SDP), better instructions should be provided.

The single permit application procedure applies: the single application will eventually allow entry, residence and work and visa-free movement inside Schengen, if granted. The Finnish Immigration Services make the final decision regarding all applications since 2017. The applicant may submit the application either abroad to Finnish consulate (who then inform the applicant of the decision) or in Finland to the Immigration Services service points. The Immigration Services then liaise with the employer, the university or the relevant regional Employment and Business services depending on each case.

Ease of the application procedure:

Step	FRD	LTR	SD	RD	BCD	SPD
The information that applicants need to complete is not extensive	5	4	2	4	2	3
The application form is user-friendly	5	4	2	1	1	2

\* 1: Strongly agree; 2: Agree; 3: Neither agree/nor disagree; 4. Disagree; 5. Strongly disagree

Key information/ documents required:

Type of information	FRD	LTR	SD	RD	BCD
Family ties	Yes, T, C				
Continuous legal residence		No			
Sufficient resources	Yes, T, Certified Not Indicated, R	Yes, T, C	Not applicable (students, trainees)	Yes, T, C	
Accommodation/Address in territory	No				No
Sickness insurance	No	No	Yes, T, C	No	No
Work contract (for RD host agreement)				Yes, T not applicable, C	Yes, T, C

Minimum salary threshold					
Professional qualifications				No, T, C	
(Pre-) Integration measures	No	No			
Pre-departure conditions				Not applicable (students, trainees, volunteers)	
Proof no threat to public	No	No	No	No	No
Medical examination certificate	No		No	No	No
Valid travel document			Yes, T, C	Yes, T, C	Yes, T, C
Entry visa					Yes, T not applicable, C
Other	Yes, T, Certified Not Indicated	Yes, T, C	Yes, T, C, R	Yes, T, C	Yes, T, C

*Note: T = Translation; C = Certified, R = Requirement, i.e. without this proof the application cannot be lodged.*

### **2.3 Differences between national statuses and the EU legal migration acquis**

No legal non-conformity issues were identified aside from the partial conformity issue related to Article 15(1) of the FDR. This article requires that family members be granted a right to apply or be granted an autonomous residence permit independent of the sponsor after maximum five years of residence. The Finnish Immigration Act does not prevent any family member from applying for an autonomous residence permit should they fulfil the conditions of any other permit than family reunification permit at any point before the five years. However, the limit of five years may be exceeded in a situation in which the applicant is attempting to apply for a permanent residence permit after five years, but does not fulfil the condition of having resided in Finland for four years on a continuous residence permit, i.e. in a situation in which the applicant has resided in the country on a temporary residence permit.

However, in light of the practical experience of filling FDR and LTR applications, it can be questioned whether the aforementioned documentation requirements violate the spirit of the Directives. The FDR and LTR Directives require that the application procedures set out are fair and transparent. In addition, the LTR Directive requires that such procedures do not constitute a hindrance to the exercise of the right to residence. In addition, these Directives specify that stable and regular income can be required from the applicants. In light of this, it can be questioned whether the asset

related documentation requirements for permits based on FDR and LTR and its national equivalent, particularly in combination with the high income requirements that Finland imposes on family reunification already, together constitute an infringement of the spirit of the Directives and are aimed at hindering the exercise of the right of residence. The Directives mention the requirement for applicants to demonstrate adequate 'stable and regular resources'; therefore the necessity of requiring applicants to document assets beyond that needed to meet the income requirement or to evidence stable and regular resources seems to serve no valid purpose. It is not transparent or clear what is the purpose of this level of asset documentation and what role it performs in the decision-making process. In contrast, however, it must be said that the preparation phase for permits based on SD, RD, BCD, SPD and their national equivalents are on the whole very simple and reasonable and Finland does not impose any of the extra-conditions allowed by the Directives (except the rather lenient insurance requirement for students).

### **3 Application phase**

#### **3.1 Legal transposition of the EU legal migration acquis**

There are no compliance issues regarding the application phase. In Finland, only the applicant him/herself can apply for the permit. From the applicant's perspective, the single permit process (SDP) applies as the applicant only deals with the authority they have submitted the application to, although behind the scenes more authorities may handle the decisions and information requests related to the application. Partial decisions are required from the regional Public Employment and Business Services (TE Offices) for employment-based permits that required the assessment of labour market needs (SDP) (these are obtained by the Immigration Services if the employer has not requested a pre-decision from the relevant regional authorities). Also the viability of business plans related to entrepreneurial permits (business and/or self-employed) need to be obtained from the same authority to ascertain income security. For these purposes various authorities and the TE Offices provide a lot of information and facilitate the process before the application is made.

#### **3.2 Practical application of the EU legal migration acquis**

As a general principle, residence permit applications should be made whilst abroad, but the Finnish Aliens Act does provide for the possibility of applying in Finland, if reasonable grounds to do so exist, and applicants are allowed to wait for the decision in Finland and travel to and from Finland as per the normal visa regulations that apply to them. The permit/residence card is delivered where the application has been made.

The application process is explained reasonably well on the Immigration Services webpages. Finland operates an internet based application system through which applications can be submitted (including uploading electronic copies of various documents) before the actual appointment during which biodata is obtained and original documents are shown (either at the embassy or at the office of the Immigration Services). Alternatively, applications can be submitted in paper format. The electronic application platform is very easy and convenient. The cost of various first-time application ranged from €300-520 in 2017.

Often the law sets a limit on how long the Immigration Services can take to process permit applications, but no repercussions are identified in the law in case the authority does not abide by these time limits. The Immigration Services also publish the average time it takes to process the various types of applications in reality. In case of the BCD (and national equivalent), the legal time limit is 90 days, and in fact the average processing time is only 36 days. For employment-based permits falling under the SPD, the legal timeline is four months, and the average real processing times are 100 days for permits not requiring labour market needs assessment and 119 days for those that do. Permits based on self-employment take on average 237 days and no

legal time limit is set for such applications. For families (FRD) the legal processing time is 9 months, except for the BCD where the time is set at 6 months in the law. Real average times are spouse 118 days/child 93 days, and other relative 165 days. For students (SD) and researchers (RD) there are no legally set time limits, but in reality applications are processed for both categories inside some 30 days. The LTR (and the national equivalent) the legal processing time is set at 4 months in case of intra-EU mobility and 6 months in case of long-term EU permit, however, no real processing times are published. As long as the application was made before the prior residence permit relapsed, the immigrant is allowed to continue working and residing in Finland as normal.

In light of the rather long average waiting periods for family reunification and employment-based permits (FRD and SPD) it can be questioned whether in practice all such permits are decided inside the time frames spelled out by the legislation. As said, no provisions are made for situations in which the Immigration Services do not process applications inside the legal time frames and such cases are known to happen.

The permit decision (including information on the grounds and sections of law applied) and information on the appeals processes, as required by the Administrative Act, are generally communicated through the agreed methods (email/internet service, via mail or in person). There is no concept of administrative silence in law. Similarly, the Administrative Act requires that the authorities inform the applicant, if additional information is needed, whilst providing reasonable time to fulfil such requests (the application process is suspended during this time). A decision can be made on the application, if the information has not been provided, although the applicant can ask for additional time to comply with the request. No penalties apply for failing to submit further information, but new application costs must be made, if the application is resubmitted.

The appeals process is relatively informal and good instructions are provided on the internet. The cost involved (€250) is reasonable and is not payable in case the appeal is successful. However, in practice the long waiting times for administrative appeals decisions (at the moment 7 months for decisions relating to the Aliens Act in the Helsinki Administrative Court) are an issue, as this makes the practical relevance of the right of appeal irrelevant in the case of employment-based permits.

Aside from these points, the most significant discrepancy between practice and legislation arise from the wrong residency requirements identified in the application form for the permit based on the LTR Directive. Also, no information regarding the shorter family reunification time lines related to BCD-based permits is provided publicly.

The applications can be lodged at:

- **Finnish embassy or consulate** when abroad (one needs to reside legally in the country in which the application is submitted)
- **Immigration Services service points** in Finland (9 offices)

The application can be submitted and paid for also online with required documentation attached electronically.<sup>3</sup> However, in case of first permits, this still requires a visit with either one of the above mentioned places in order to submit finger prints and to show originals of the documentation required.

Alternatively, the application forms (available online) can also be printed out and mailed with the copies of the relevant documentation (also in advance) or presented

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<sup>3</sup> This has not been the case for long-term EU permits and still permanent residence permit applications for children are under development, but the intention is to extend the possibility to log applications online to all applicants. See: [http://www.migri.fi/our\\_services/customer\\_bulletins/bulletins\\_residence\\_permit/1/0/you\\_can\\_apply\\_for\\_a\\_permanent\\_residence\\_permit\\_online\\_in\\_enter\\_finland\\_73428](http://www.migri.fi/our_services/customer_bulletins/bulletins_residence_permit/1/0/you_can_apply_for_a_permanent_residence_permit_online_in_enter_finland_73428)

during the face-to-face appointment with the embassy/consulate or Immigration Services.

The same process applies to all types of first-permits. The application for the long-term EU resident's permit can only be submitted in Finland and in person (biometric data 5 year expiration limit). Otherwise, the acceptable reasons for logging the application in Finland (vs. in another country) vary depending on the type of permit applied for.

The authorities involved include:

- **Foreign ministry** (embassies and consular offices) if the application and the permit are submitted abroad (in charge of gathering biometric data, sending application forms to the Immigration Services and informing applicants abroad)
- **Immigration Services** (all applications are processed and decided on by the Immigration Services (note: the police does not grant permits as of the beginning of 2017 anymore))
- **Regional Public Employment and Business Services (TE offices)** in case employment-based permits are under labour-market consideration (i.e. mostly when not a question of 'special' or 'highly-skilled' labour; employers can request a preliminary decision from the TE offices that can be attached to the clarification that employers need to submit to the Immigration Services regarding the employee they want to employ for a job that is under labour market consideration. Alternatively, the Immigration Services will seek a decision from the TE offices if the employer has not done this.

Directive	General	FRD	LTR	SD	RD	BCD	SPD
Application from third country (Q3a)	Yes / No	Add if different					
Permit received in third country	Yes		No				
Number of authorities involved in the application	3	Add if different					
Number of authorities involved in the issuance of the residence permit	3						
Application modalities	Online submission In person	Add if different					
Existence of a standard application form for all statuses	Separate	Add if different					
Language of the application form	National language(s)	Add if different					

	English					
	French (if not national)					
	Spanish (if not national)					
	Mandarin					
	Russian					
	Arabic					
	Hindi					
	Turkish					
	Other					
Fees charged		680.00€	187.00€	330.00 €	485.00 €	485.00 €
Other fees charged?	Yes					
Fees charged for permit issuance	No					
Fees charged for renewal / replacement of the permit		187€	187€	168€	187€	187€

The processing times are as follows:

Directive	FRD	LTR	SD	RD	BCD	SPD
Processing time /deadlines (according to law)	229 days	NI	30.5 days	NI	90 days	122 days
Processing time (in practice)	118 days	NI	27 days	27 days	36 days	119 days

### **3.3 Differences between national statuses and the EU legal migration acquis**

Finland applies a rather flexible policy as it has transposed the possibility of accepting permit applications lodged in Finland in certain situations. In this sense the mobility provisions regarding applications (the possibility to apply from abroad and within the Member State) by certain Directives, such as the LTR, RD and the BCD, are more restrictive than those allowed by Finland in general. This practice reduces the de facto

barriers to legal migration and improves the implementation of family reunification rights for those migrating for employment purposes with established families.

## **4 Entry and travel phase**

### **4.1 Legal transposition of the EU legal migration acquis**

There are no compliance issues related to the entry and travel phase that arouse from the questions posed for this phase. Finland fully applies the Single Permit Directive and Schengen rules.

### **4.2 Practical application of the EU legal migration acquis**

No practical application problems were identified by the fitness check at the entry and travel phase. Finland sends successful applicants a residence permit card, if they have applied from a third country, which the applicants can then use as a proof of the right to enter Schengen/Finland. The only advice in terms of improving the clarity of the entry regulations was to better explain the rights of entry and travel rules related to residence permits and Schengen. This applies also to the effect that the waiting periods linked to permit renewals has on the right to travel to/from and inside Schengen. Upon entering Finland and establishing residence, all immigrants (like all residents in Finland) are required to register their address with the National Population Information System inside two weeks of a move. Registration into the system establishes municipality rights, which grant access to health, social and other municipal services.

### **4.3 Differences between national statuses and the EU legal migration acquis**

No legislative or practical differences were identified. No entry visas are in use as residence permit cards with biodata are summarily delivered to the applicant in the third-country or in Finland.

## **5 Post-application phase**

### **5.1 Legal transposition of the EU legal migration acquis**

No compliance issues were identified in this section. Finland abides by the Directives although the regulations on the length of various types of permits are not specified case by case in the Aliens Act (aside from BCD), but rather, where contradicting rules are not specified, according to a general rule that first continuous permit is to be granted for one year and the extended permit for four years unless reasons exist to alter the regular length of the permits (such as the length of the employment contract).

### **5.2 Practical application of the EU legal migration acquis**

There are no practical infringement issues identified in this study. No additional costs are applied aside from the initial application or permit renewal charges. Permits are generally delivered inside two weeks after a positive decision (plus possible more extensive mailing time), although no legally binding timeframe is set. Finland applies SDP in the sense that the applicant only deals with one authority (the Immigration Services) for renewal since 2017 (earlier renewals could be handled by the Police). The application must always be made by the applicant him/herself (biodata requirement for residence cards), although the employer may facilitate the employment permits that are under labour market need consideration by asking for a pre-decision from the Business and Employment Services on the labour market need (SPD). Third-country nationals who are family members of EU citizens do not need to apply for a residence permit, but they can register their residence according to the same principles as EU nationals do.



<b>Directive</b>	<b>FRD</b>	<b>LTR</b>	<b>SD</b>	<b>RD</b>	<b>BCD</b>	<b>SPD</b>
Minimum validity of the first permit	12 months	12 months	12 months	12 months	The length of the employment contract if shorter than 2 years + 3 months	NI
Maximum validity of first permit	48 months	12 months	Duration of the study, less than 2 years	12 months	24 months	NI
Minimum validity of permit renewal	NI	NI	NI	NI	NI	NI
Maximum validity of permit renewal	SPD: different cases (Investor: 5 years)	NA	12 months	As per general provisions	24 months	As per provisions

The Member State does not have a set timeframe to deliver the permit following the notification of the decision.

### **5.3 Differences between national statuses and the EU legal migration acquis**

No legal differences between the national statutes and EU Directives were identified during the fitness check regarding the post-application phase.

## **6 Residency phase**

### **6.1 Legal transposition of the EU legal migration acquis**

Finland is generally compliant with the equal treatment requirements of the Directives in terms of working conditions, freedom of association, access to social security and education, in terms of recognition of diplomas, access to goods and services and employment office services.

However, Art. 12(4) of the SPD has not been fully transposed, as the Finnish legislation does not regulate that TCNs receive statutory pensions under the same conditions and at the same rate as Finnish nationals. When it comes to equal access to education, Finland has recently chosen to transpose the possibility of charging foreign students tuition fees, but these fees apply only to those coming directly to the country (without possessing a prior continuous residence permit based on another grounds than study) and register into English language degree courses.

The most significant concern related to the residency phase arises around Art. 16(2) of the FRD. Finland has not rectified the discrepancy related to the Directive's (Art. 16(2)(a) insistence that family reunification permits may be refused or withdrawn, if it has been shown that misleading information, false documentation or fraudulent means were used in order to obtain a permit. The Finnish Aliens Act still allows the refusal or

withdrawal of permits based on grounded suspicion that such means were utilised. Whilst concerns related to Art. 16(1) and 16(2)(b) are partially related to the Finnish Aliens Act regulating issues at a general instead of the specific level required by the Directive, the Finnish law still grants wider authority for the Immigration Services to deny or withdraw family reunification permits based on a suspicion of sham marriages/partnerships or guardianships than the FDR allows.

## **6.2 Practical application of the EU legal migration acquis**

No major practical application discrepancies have arisen based on the fitness check questionnaire related to the residency phase.

### **a. Use of the permit:**

Finland applies the Council regulation (1030/2002) on the uniform format of residence permits and the permit includes biometric data. The residence permit is constitutive of the right of residence and is valid until the expiration date. It gives third-country nationals the right to move freely on the Member State's territory.

The Member State allows third-country nationals holding residence permits from other Member States applying the Schengen acquis (together with a valid travel document) to enter and move freely within its territory. There are no restrictions on movement inside Finland or Schengen for the permit types discussed here.

The permit is required as a legal document for the following other administrative procedures:

<b>Access to education</b>	<b>Access to healthcare</b>	<b>Registration with PES</b>	<b>Fixed telephone subscription</b>	<b>Utility subscription</b>	<b>Open a bank account</b>	<b>Social security registration</b>
X			X		X	

A valid residence permit is required when a person's details are entered into the Population Registration System, which assigns a social security number for each individual. This is normally done upon the granting of the permit by the Immigration Services, if the applicant has granted permission to do this on the application form. After arrival, and once the immigrant has registered his/her address into the population registry system (establishing municipality rights), the relevant authorities can access the residency status through this system and grant health, educational and social services etc. as per law.

When it comes to obtaining bank accounts, which can at times be problematic in practice as recognised by the state, it has been advised that the residence permit card helps in the process. The Finnish state largely operates through various electronic identification systems (such as using bank accounts or mobile phones to prove identity on internet-based government platforms) and the social security number is needed when dealing with any authorities or even with many non-official entities such as banks, insurance companies and various service providers. Many such non-official entities automatically receive address updates from the population registry. Registration of address provides the proof of residence to the Immigration Services (landlords are required by law to provide information on residence to the authorities, if discrepancies arise).

Changes of address and temporary absences from Finland (typically stays abroad that last for one year or less) must be recorded in the system as are permanent moves abroad (new addresses required). These registrations automatically impact on the right to services in Finland (temporary stays allow one to remain under the residency-based social security system). Immigrants need to obtain a so-called KELA-card that functions as a proof of being included in the health and social security regime. These rules equally apply to Finnish citizens.

**b. Renewals of the permit:**

National or EU law imposes a direct or indirect requirement to renew a valid residence document.

The applications for renewing residence permits must be submitted in Finland and in person (biometric data and original documentation needs to be shown), although the application itself can be done online. The conditions for renewing permits are the same as for the first permits. The renewal process follows a single procedure, involving one or more authorities (normally 1, but 2 in case of certain permit). The same authorities are involved as in the first application procedure.

Renewed permits are normally granted for four years (the first permit being one year), except in the case of the Blue Card (BCD) and students (SD) whose permits are renewed as one-year temporary permits (renewals are subject to progress in studies). Permit extension applications cost €187 per adult and €168 per child in 2017. Permanent permits (LTR) do not need to be renewed, although the residence permit card needs to be renewed upon expiration (normally every five years, cost involved €100).

**c. Change of status**

The procedures and conditions applied for status changes are not different from those applied to first time applicants as the same conditions need to be fulfilled and most of the same documents need to be provided. In terms of procedure:

- 1) Continued permits cannot be applied for from abroad: those with residence permits can apply for another type of permit in Finland (section 54 of the Aliens Act) and can wait for the decision in Finland (including those with family reunification, Blue Card or any other permits in question)
- 2) a change from a student permit or a temporary graduate's permit, which allows one to look for a job in Finland after graduation, to an employment-based permit does not require that the application for a residence permit based on employment is decided on before the TNC can start work.

**d. Employment rights on the basis of the permit**

Employment rights are identified on the residence card (no other documentation is needed). The employer is required by law to verify the foreigner's right to work in Finland. An indirect need to reapply for a new permit is created in situations in which the initial employment-based permit is either employer specific or restricted to a certain sector, and the immigrant intends to change jobs to a position that does not correspond to the current permit. Also the salary limit attached to the Blue Card (BCD) and the hosting agreement for researchers (RD) creates a need to renew the permit, which neither of the national equivalent permits do (as long as the new job is in the same sector and similar position). In addition, an indirect renewal requirement is

created upon divorce or death of the sponsor in case of permits under FRD. Immigrants can freely apply for a status change, i.e. change the grounds of their residence permit applications from one type to another. Family members are granted full employment rights (FRD) and students (SD) have restricted right to employment.

Finnish law requires that foreigners be treated equally at the workplace. Finland has multiple methods of assessing labour market exploitation and the Immigration Services examine the employment contract vis-à-vis sectoral collective bargaining agreements and check payslips and tax returns upon permit renewals. Employers are required to inform the regional Public Employment and Business Services of all the foreigners they employ as well as the company's own shop stewards and occupational health and safety representatives. The Occupational Health and Safety Authority monitors, supervises and investigates issues related to the employment of foreigners (including labour exploitation and the black economy) and performs sectoral investigations of known problem areas in the labour market. Human trafficking, labour exploitation workplace discrimination are investigated by the Police. Repercussions for employers violating the general terms employment or the Aliens Act range from fines to imprisonment.

**e. Equal treatment**

No restrictions to access of equal treatment. Access to student benefits and post-secondary education in English in Finland are the benefits/situations in which foreigners are treated differently (as allowed by the Directives).

**f. Integration:**

Finland does not apply integration measures that would be required by law, except to immigrants who register as unemployed during the first three years of their residency. In such cases so-called integration plans are drawn up for the person, including possibly his/her family members. The integration measures include general information courses as well as language courses and vocational and other employment related training courses. Failure to abide by the integration plan and to attend the courses agreed will result in the withdrawal of unemployment benefits for specified number of days.

Naturalisation is granted to those who fulfil the residence condition (generally five years of continuous residence prior to application), the stable income requirement, who can speak and write either national language (competency in Finnish or Swedish at certain levels), who fulfil the integrity requirement (no unpaid public law payments, restraining orders or excessive criminal offences) and whose identity has been established beyond doubt (methods of re-establishing identity specified in law). Clear information on the application procedures is easily available.

### **6.3 Differences between national statuses and the EU legal migration acquis**

Finland generally has not transposed the possibilities offered by the Directive to deviate from equal treatment, except in the case of students (SD). However, as outlined above an indirect need to renew a valid permit is created by permits restricted to specific employers (SPD), which are mainly in use for posted employees or employees not residing in Finland according to the authorities, and in certain sense for RD- and BCD-based permits, and permits restricted to specific sectors (SPD), which create an indirect requirement to renew valid permits in case of job changes.

## **7 Intra-EU mobility phase**

### **7.1 Legal transposition of the EU legal migration acquis**

Finnish law is in conformity with the provisions of the Directive in terms of intra-EU mobility, as the Aliens Act allows for the submission of residence permits in Finland and enables foreigners to wait for the decision in Finland, although the basic principle is that first permits should be applied for from abroad, particularly as waiting times for standard employment and family reunification permits can last for several months. The particular arrangements for Blue Card holders (BCD) are specified in the law, but generally the Finnish law grants better rights in terms of intra-EU mobility (in cases where Finland is the first and in those where it is the second Member State) than the EU Directives require. Residence permit applications can also be submitted in any other country, as long as the applicant is legally present in that country.

However, a conformity issue arises from the regulations relating to the intra-mobility phase (Art. 15(4) of the LTR Directive) that specifies the documentary evidence that may be required for the long-term residence permit applicant, which relates to the general lack of legislative specification of what documents are needed for residence permit applications in Finnish law. As mentioned, such issues are decided by the Immigration Services and outlined only by the different application forms. In terms of the above mentioned Directive, the Finnish Immigration Services do require the specified documentation in practice, although they are not specified at the level of the law.

Secondly, the equal treatment and intra-EU mobility rights of self-employed people are not secured by Finnish legislation (Art. 14(3) of the LTR Directive) as the Aliens Act assesses the likely profitability of any self-employed activity—a requirement which is not imposed on Finnish entrepreneurs.

### **7.2 Practical application of the EU legal migration acquis**

No additional practical application discrepancies have arisen besides the profitability examination related to self-employed persons mentioned above, because the non-conformity issue related to required documentation (LTR intra-EU mobility) does not extend to practice.

The criteria for acquiring residence permits are the same as any other applicant regardless of whether the third-country national has had a prior permit in another EU member state. The treatment of EU citizens (and their family members whether EU nationals or third-country nationals) is wholly different from third-country nationals in the sense that EU citizens can register their residence (as long as they have a job or other regular income irrespective of how much their salary is). The difference is particularly marked when it comes to the way that family members of third-country nationals are treated in comparison to family members of EU (or Finnish) citizens. Mobile researchers (RD) and Blue Card holders (BCD) come closest to being treated equally to EU citizens, as they can essentially apply based on a binding job offer and a university degree and their applications are normally processed inside a month. This is particularly stark in contrast to EU long-term residence permit holders, who face much tighter criteria of entry despite the attempts to render their status equal to EU citizens inside the EU.

For short-term mobility, the Member State:

- Does not require the third-country national to notify
- Does not require the third-country national to ask for authorisation.

### **7.3 Differences between national statuses and the EU legal migration acquis**

As explained under section 7.1, the allowance provided by the Directives for intra-EU mobility and the right to apply for permits in Finland are generally less than those enabled inside Finnish legislation, as the Aliens Act allows for the application of a residence permit from Finland in certain situations (section 49 of the Aliens Act), although the basic principle is that first permits should be applied from outside Finland.

## **8 End of legal stay / leaving the EU phase**

### **8.1 Legal transposition of the EU legal migration acquis**

The conformity issues that had arisen during prior assessments have been rectified and there are no current conformity issues from those Directives covered by the study.

### **8.2 Practical application of the EU legal migration acquis**

No discrepancies between the law and its application have arisen inside the parameters of the fitness check. As has been indicated above, all residents in Finland are required to notify the Population Registry of their move abroad (whether permanent or temporary) including the new address. The cancellation of rights and permits follow from that notification as dictated by the law. Generally, the residence permits remain valid until they expire and the person is free to enter Finland again whilst the permit is valid. In case of a permanent residence permit, an application can be made to extend the period before the permit will be cancelled.

The Finnish social security system is residence based, but temporary (shorter than one year) residence abroad does not cut the right to social security (as certain benefits for all residents are tied to a certain period of continuous residence, such as student benefits). In practice, the only relevant social security benefit that a person can take with them abroad for a longer period is the earnings-related pension payment. The information provided at the The Social Insurance Institution's (KELA) webpages are clear and easily accessible and available also in English.

There are specific procedures in place for third-country nationals who choose to leave the Member State. These include:

- De-registration from national / local registers
- Leaving responsible authorities with an address in the next country of residence

Information on the portability of social security benefits is easy to find and clear.

A third-country national residing in the Member State is allowed to be absent from the territory for a maximum of 730 days (no rules for SD) before s/he loses the residence permit and/or right to stay. The absence of third-country nationals is monitored by the Member State.

The Member State does not have measures or a scheme in place to allow circular migration.

### **8.3 Differences between national statuses and the EU legal migration acquis**

Finland has opted to utilise the exception allowed by Art. 9(2) of the LTR Directive and does not withdraw the long-term EU permit after 12 months, but rather after an absence of two years from the EU or six years from Finland. In this sense, the rights granted by the Finnish law are more lenient than those required by the Directive.

## **9 Main findings and conclusions – state of practical implementation of EU legal migration legislation in the Member State**

In general Finland has transposed the Directives well and the national legislation is largely in conformity with EU law. From the point of view of practical implementation and of the TCN applicants, information and advice on the migration process is readily available and it is kept up to date. The multi-level structuring of the Immigration Service's webpages make it sometimes difficult to find the information and fewer sub-categories would make the pre-application phase user-friendlier. There is scope for improvements in relation to :

the documents that family reunification (FRD) and long-term permit applicants (LTR) need to attach to the residence applications – as a minimum, separate pages for providing more detailed explanation and signposting about the documents needed in each particular case should be constructed to support applicants to comply with the various Directives;

the expression of the family reunification income requirements as net income, which makes it difficult for third-country national applicants to estimate the actual income levels required – this should be improved and estimated ranges provided for applicants;

the entry phase when information should be made available on the rights and duties of new residents – packages of information on the rights and duties or at least on where to find such information should be included in the residence permit decision and linked to the Immigration Services webpages to comply with the various Directives;

The smaller discrepancies discovered, related to the application phase, deal with **a)** the false information on the residency requirements for the long-term EU residence permit (LTR) on the application forms and **b)** the omission of the shorter processing deadlines for the Blue Card holder's family reunification permits (BCD) and **c)** of the Blue Card holders' (BCD) possibility to count the years spent in another EU member state towards the residency requirement when applying for the long-term EU permit (LTR) from Finnish Immigration Service the webpages.

In terms of the fulfilment of rights, **i)** the most significant problem relates to the ability of Finnish authorities to deny or withdraw permits (explained in relation to FRD) based on grounded suspicion and not based on demonstrated fraud. This right to refuse and withdraw permits applies not only to the applicant, but potentially also to the sponsor. In addition, **ii)** attention should be paid to the requirement to document all assets for FRD and LTR and to whether this is in contradiction with the Directive's delineation of providing information on 'stable and regular income' and with its principle of not making the application process so complicated that it constitutes a hindrance to exercising residency rights stipulated by the Directives. Further, **iii)** the lack of enforcement related to processing deadlines provided by the law and the long waiting times for appeals decisions should be considered when assessing the conformity of Finnish legislation with the EU Directives. In addition, **iv)** the fact that the intra-EU mobility rights of self-employed TCNs are limited by the Finnish requirement that the economic activity be judged profitable by the Finnish authorities should be noted.

## **Annex 1 References**

Application forms:

[http://www.migri.fi/our\\_services/application\\_forms/residence\\_permit\\_application\\_forms](http://www.migri.fi/our_services/application_forms/residence_permit_application_forms)

Employer's certificate in case of residence permits for employed persons (labour market need assessment): <http://lomake.fi/forms/word/ELY/TEM054/en>

First-residence permit instructions: [http://www.migri.fi/residence\\_permits](http://www.migri.fi/residence_permits)

Travel and residence permit:

[http://www.migri.fi/working\\_in\\_finland/travelling\\_when\\_in\\_possession\\_of\\_a\\_residence\\_permit](http://www.migri.fi/working_in_finland/travelling_when_in_possession_of_a_residence_permit)

Border Guard instructions: <http://www.raja.fi/guidelines/faq>

Info on changing jobs: [http://www.migri.fi/working\\_in\\_finland/changing\\_jobs](http://www.migri.fi/working_in_finland/changing_jobs)

Instructions when employment terminated:

[http://www.migri.fi/working\\_in\\_finland/termination\\_of\\_employment\\_relationship](http://www.migri.fi/working_in_finland/termination_of_employment_relationship)

Residence permit application forms:

[http://www.migri.fi/our\\_services/application\\_forms/residence\\_permit\\_application\\_forms](http://www.migri.fi/our_services/application_forms/residence_permit_application_forms)

EnterFinland e-service for applications: <https://enterfinland.fi/eServices>

Info on supplementing an application:

[http://www.migri.fi/our\\_services/supplementing\\_your\\_application](http://www.migri.fi/our_services/supplementing_your_application)

Extending applications & right to work:

[http://www.migri.fi/extended\\_permit/right\\_to\\_work/right\\_to\\_work\\_while\\_an\\_extended\\_permit\\_is\\_being\\_processed](http://www.migri.fi/extended_permit/right_to_work/right_to_work_while_an_extended_permit_is_being_processed)

Finnish citizenship: [http://www.migri.fi/finnish\\_citizenship](http://www.migri.fi/finnish_citizenship)

Occupational Safety Authority: <http://www.tyosuojelu.fi/web/en/employment-relationship/foreign-employee>



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