

## Country factsheet Finland

Based on its 2010 Work Programme, the European Union Agency for Fundamental Rights (FRA) carried out a study on access to justice for asylum seekers. This study illustrates the perspective of asylum seekers on two specific issues relating to the asylum procedure, namely information on the procedure itself and access to remedies against a negative decision.

The FRA interviewed almost 900 asylum seekers throughout the European Union. The information received has been analysed taking into account the relevant national legal provisions and the responses to a questionnaire on information received from national asylum authorities. The research has resulted in two comparative reports, the first on the duty to inform and the second on access to effective remedies.

This factsheet complements these two comparative studies by providing some basic background information, including statistics and relevant domestic legal provisions relating to the issues covered in the two reports.

## 1. Statistics

Statistics on asylum applications (Total and top 10 nationalities)

2009 Top 10 Nationalities		2008 Top 10 Nationalities	
Total	5,700	Total	3,770
Somalia	1,150	Iraq	1,195
Iraq	1,130	Somalia	1,125
Bulgaria	735	Afghanistan	230
Russian Federation	585	Russian Federation	190
Afghanistan	405	Iran (Islamic Republic of)	125
Kosovo	240	Unknown	85
Iran (Islamic Republic of)	155	Serbia	80
Turkey	125	Bulgaria	70
Nigeria	120	Nigeria	70
Belarus	90	Belarus	65

Statistics on first instance asylum decisions (Total positive decisions - top five nationalities)

2009							
	Geneva Convention Status	Subsidiary protection status	Humanitarian <sup>1</sup>	Rejected	Total number of decisions	Total positive decisions	Recognition rate <sup>2</sup> %
Total	75	805	80	2,000	2,960	960	32.4
Somalia	0	385	0	580	965	385	39.9
Iraq	35	325	10	345	710	370	52.1
Afghanistan	5	35	20	130	190	65	34.2
Russian Federation	20	15	0	120	160	40	25.0
Iran (Islamic Republic of)	5	10	5	65	90	25	27.8

Statistics on final decisions (Total positive decisions - top five nationalities)

2009							
	Geneva Convention Status	Subsidiary protection status	Humanitarian <sup>1</sup>	Rejected	Total number of decisions	Total positive decisions	Recognition rate <sup>2</sup> %
Total	5	35	10	15	65	50	76.9
Somalia	0	15	0	5	15	15	100.0
Iraq	5	5	0	0	10	10	100.0
Afghanistan	0	5	5	0	5	5	100.0
Russian Federation	0	5	0	0	5	5	100.0
Turkey	0	5	0	0	5	5	100.0

Notes: These tables are based on categories used by Eurostat. The way Eurostat presents its data may not necessarily correspond to categories used at national level. This can particularly be the case with statistics provided under 'humanitarian status'. For more detailed understanding of the data, the reader is invited to consult national statistics at: <http://www.migri.fi/netcomm/content.asp?article=3129>.

Data has been rounded to the nearest 5. Due to the rounding, the sum of individuals may not necessarily match the given total. 0 means less than 3; n.a. = not available. Kosovo (under United Nations Security Council Regulation 1244).

<sup>1</sup> Covering persons granted authorisation to stay for **humanitarian reasons** under national law by administrative or judicial bodies. It includes persons who are not eligible for international protection as currently defined in the first stage legal instruments but are nonetheless protected against removal under the obligations that are imposed on all Member States by international refugee or human rights instruments or on the basis of principles flowing from such instruments.

<sup>2</sup> The **recognition rate** corresponds to the proportion of positive first instance or final on appeal decisions out of the total number of decisions in 2009. Positive decisions include the provision of refugee status, subsidiary protection and humanitarian protection (where data is available).

Source: [Eurostat](http://www.eurostat.eu), Data extracted on 01 September 2010.

## 2. Background Information

Asylum act<sup>1</sup>

[Aliens Act \(2004\)](#)

Asylum authorities

**First instance authority**

[Finnish Immigration Service](#)

**Second instance authority**

[Helsingin Hallinto-Oikeus](#) (Helsinki Administrative Court)

## 3. Duty to inform asylum seekers

Persons applying for international protection are informed about the asylum procedure and of their rights and responsibilities throughout the process. The police or border control authorities shall provide such information to the applicant upon receipt of the application for international protection. This information may also be provided by the Finnish Immigration Service or the reception centre as soon as the application has been submitted. The information is provided in the applicant's native language or in a language which, on reasonable grounds, s/he can be expected to understand (Section 95a Aliens Act).

In August 2010, the Finnish Immigration Service provided the following information to the FRA as regards written information materials.

<b>Written information materials</b>	Information leaflet translated into 8 languages.
<b>Provided when?</b>	At the time of lodging the application as well as at any other phase of the process when necessary.
<b>Provided by whom?</b>	At the time of lodging the application – by the police or the border guard service. The information can also be provided by the Finnish Immigration Service or the reception centre, as soon as possible, after the application has been submitted. Information is also provided by representatives of the applicants such as the Refugee Advice Centre.
<b>Has an evaluation of information tools been carried out?</b>	Yes. There has been an ERF- project (from April 2009 to February 2010) with Pakolaisneuvonta (the Refugee Advice Centre), which provides legal aid and advice to asylum seekers, refugees and other foreigners in Finland. During the project the applicants were provided with further information on the process and for example about the different roles of authorities and other participants in the asylum procedure.

<sup>1</sup> The legal information in this factsheets has been updated to reflect the situation on 1 September 2010.

## 4. Effective Remedy

### Type of procedures

Section 98(1) of the Aliens Act distinguishes between a normal and an accelerated procedure. The examination of an application may be accelerated when an application is considered to be manifestly unfounded (e.g. where the applicant is considered to come from a safe country of asylum including a safe third country; Section 101), and when it is a subsequent application, which does not raise any new issues or evidence (Section 103(2)). In case of safe country of asylum, a decision shall be taken within seven days of the date when the minutes of the asylum interview were completed and the information on their completion was entered in the Register of Aliens (Section 104(1)).

According to Section 103(1)(2), an application may be dismissed and the applicant may be sent to another State which, under the Dublin II Regulation, is responsible for processing the asylum application.

### Duty to state reasons for rejection and procedure to appeal

Section 44(1)(3) of the [Administrative Procedure Act \(434/2003\)](#) requires that a written decision includes a statement of reasons for the decision. A decision open to appeal shall be accompanied with appeal instructions indicating the appellate authority, as well as the appeal period and the date when the appeal period begins. The appeal instructions shall indicate the required contents and annexes of the letter of appeal and how it is to be delivered (Section 47). Section 203 of the Aliens Act 301/2004 states that the person concerned has the right to be notified of a decision concerning him or her in his or her mother tongue or in a language which, on reasonable grounds, s/he can be expected to understand. A decision is notified through interpretation or translation.

### Time limits for appeal

A decision of the Finnish Immigration Service, the police, and a border control authority may be appealed to the Helsinki District Administrative Court as provided in the [Administrative Judicial Procedure Act \(586/1996\)](#) (Section 190, Aliens Act). The time limit for an appeal follows the general rule in the Act on Administrative Judicial Procedure 586/1996, Section 22, which states that an appeal shall be lodged within 30 days of notice of the decision. The time limit is the same for all decisions taken by the determining body.

Type of procedure	Time limits	Right to remain
Regular procedure	30 days	Automatic suspensive effect.
Accelerated procedure	30 days	No automatic suspensive effect, unless otherwise ordered by the court. Removal can be carried out on the eight day from service of the decision, unless by that time the court decides otherwise.

Type of procedure	Time limits	Right to remain
Accelerated procedure for subsequent applications, which do not contain new grounds	30 days	No automatic suspensive effect, unless otherwise ordered by the court. Removal can be carried out immediately after service of the decision, unless by that time the court decides otherwise.
Dublin II cases	30 days	No automatic suspensive effect, unless otherwise ordered by the court. Removal can be carried out immediately after service of the decision, unless by that time the court decides otherwise.

## Right to remain in the country during appeal

If the application is rejected, a decision on refusal of entry or deportation is issued at the same time, unless the applicant can stay on other grounds (Section 98(4)). Such decision may not be enforced until a final decision on the asylum application, unless otherwise provided in the Aliens Act (Section 200). This is the case for Dublin II decisions and decisions on subsequent applications taken in the accelerated procedure. In these two cases, the decision may be enforced after service of the decision, unless otherwise ordered by an administrative court.

A decision on refusal of entry concerning an alien who has arrived from a safe country of origin, or a safe country of asylum, or whose application is considered manifestly unfounded, may be enforced at the earliest on the eighth day from service of the decision on the applicant, unless otherwise ordered by an administrative court (Section 201).

## Legal Aid

Provisions on aliens' right to legal aid are laid down in the Legal Aid Act (257/2002). Legal aid is provided by Legal Aid Offices as well as other law firms and attorneys that are listed with the reception centre as providers of legal aid services for asylum seekers. When an administrative matter is being handled, the counsel assigned to an alien may also be a person with legal training other than a public legal aid attorney (Section 9(2), Aliens Act). When handling an asylum matter, a court may grant legal aid to an alien without requiring a statement on the financial position of the applicant for legal aid. The counsel's fee is paid out of State funds as provided in the Legal Aid Act (Section 9(3)). Refugee Advice Centre is an NGO providing legal advice to asylum seekers.

## Language assistance

Aliens have the right to use an interpreter when an administrative matter or an appeal under the Aliens Act is being handled (Section 10, Aliens Act). The authorities shall provide interpretation or translation if an alien does not understand the Finnish or Swedish language used by the authorities under the Language Act (423/2003), or if s/he, because of his/her disability or illness, cannot be understood in a matter processed in the asylum procedure (Section 203). In addition, aliens may also use an interpreter or translator at their own expense in an administrative matter or an appeal. Similar provisions on the duty of the appellate body to provide for an interpreter are contained in Section 77 of the Administrative Judicial Procedure Act (586/1996).

## Hearing

The procedure before the Helsinki Administrative Court is normally a written procedure. The court shall conduct an oral hearing if it considers it necessary or if a party to the proceedings requests one (Section 37 and 38, [Administrative Judicial Procedure Act \(586/1996\)](#)).