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| Study on children's involvement in judicial proceedings – contextual overview for administrative justice - Finland    July 2014 (Research carried out between July 2013 and January 2014) |



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Abbreviations

CA Competent Authority

CoE Council of Europe

EC European Commission

EU European Union

MACR Minimum Age of Criminal Responsibility

# Introduction

Introduction and context

The promotion and protection of the rights of the child is one of the objectives of the EU on which the Treaty of Lisbon has put further emphasis. This report is part of a study ‘to collect data on children’s involvement in judicial proceedings in the EU’ which supports the implementation of the Commission Communication of 15 February 2011 ‘[An EU Agenda for the rights of the child’](http://ec.europa.eu/justice/fundamental-rights/rights-child/eu-agenda/index_en.htm), which identified the lack of reliable, comparable and official data on the situation of children in the Member States (MS). This deficiency is a serious obstacle to the development and implementation of evidence-based policies and is particularly evident in the context of child friendly justice and the protection of children in vulnerable situations. Making the justice system more child friendly in Europe is a key action of the EU Agenda. It is an area of high practical relevance where the EU has, under the Treaties, competences to turn the rights of the child into reality by means of EU legislation. Improved data is crucial to the framing of such legislation.

The objective of this study is:

* to establish statistics and collect data based on structural, process and outcome indicators on children involved in administrative judicial proceedings for the years 2008-2010 (and 2011 if available) for all 28 EU Member States;
* to provide a narrative overview of children's involvement in administrative judicial proceedings in the EU. The report describes the situation in each Member State as at 1 June 2012.

This report examines the safeguards in place for children involved in **administrative judicial proceedings**. The [Council of Europe Guidelines on child-friendly justice](http://www.coe.int/t/dghl/standardsetting/childjustice/publicationsavailable_en.asp) serve as a basis for the analysis of the provisions affecting children in civil judicial proceedings in each Member State.

Structure and scope

This report describes the national administrative justice system insofar as children’s involvement is concerned. The scope of this report is **limited to judicial proceedings**, which include proceedings before judicial or other authorities competent to judicially decide on the matter. The rules applicable to proceedings before administrative authorities do not fall within the scope of this study. In addition to general administrative judicial proceedings, this report reviews the safeguards in place for children in seven specific sectors:

* General rules applying to administrative judicial proceedings including judicial proceedings reviewing administrative authorities’ decisions;
* Judicial proceedings in the sector of asylum;
* Judicial proceedings in the sector of migration;
* Judicial proceedings in the sector of education;
* Judicial proceedings in the sector of health;
* Judicial proceedings in the sector of placement into care;
* Judicial proceedings in the sector of administrative sanctions;
* Judicial proceedings regarding offences committed by children below the age of criminal responsibility (MACR).

Depending on the Member State, judicial proceedings in those seven sectors may be dealt with by different courts through administrative, civil or criminal judicial proceedings. For example, in one Member State, decisions in the health sector may be dealt with by juvenile courts through civil judicial proceedings while in another Member State such decisions may be dealt with by administrative courts through administrative judicial proceedings. However, for the sake of clarity and completeness, and consistency from one country report to another, the rules applying to the judicial proceedings falling within the sectors mentioned above will be described in this administrative justice overview no matter whether they are dealt with through civil or administrative judicial proceedings.

**Chapter 1** provides an overview of the Member State’s approach to children in administrative judicial proceedings and judicial proceedings in the above sectors. It includes a description of the competent authorities and services.

**Chapter 2** of this report is divided into sections (2.1, 2.2, etc.) according to the different safeguards examined (e.g. the right to be heard, the right to information, etc.). Each of these sections is divided into subsections describing the different rules applying to children involved in those judicial proceedings. The first subsection describes the general rules applying to judicial proceedings (including judicial proceedings reviewing administrative authorities’ decisions).

**NOTE:**

**If specific rules exist for children involved in judicial proceedings in one of the seven specific sectors, e.g. asylum, migration, education, those rules will be described in further separate subsections. On the contrary, if no specific rules exist in those sectors, the general rules described in the first subsection will be the only rules described.**

According to each Member State’s legislation, there might be **cross references between civil procedural rules and administrative procedural rules**. Therefore it should be noted that:

* General rules and principles codified in a substantive or procedural law code (e.g. Civil Code, Civil Procedural Code, Judicial Code) may apply to any proceeding before any court (e.g. rules concerning procedural capacity are likely to be described in the Civil Procedural Code, however those rules also apply to administrative judicial proceedings). These general rules and principles may be supplemented by sector specific procedural or substantive rules.
* Specific sections of Civil, Civil Procedural and Judicial Code may include rules specifically regulating administrative judicial proceedings or proceedings before other authorities competent to judicially decide on the matter (e.g. Chapter X of Civil Procedural Code laying down provisions on judicial review of administrative decisions).
* Specific Administrative Code, Administrative Procedural Code or administrative procedurals laws may apply to administrative judicial proceedings or proceedings before other authorities competent to judicially decide on the matter.

The table below summarises the relevant proceedings and competent court in the sectors mentioned above. For the sake of completeness, the table includes the relevant judicial proceedings and the competent court in the field of family law and employment law, which are described in the [**overview for civil justice**](http://bookshop.europa.eu/children-in-civil-judicial-proceedings).

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| **Type of judicial proceedings and court competence per sector[[1]](#footnote-1)** | | | | | | | | | |
|  | **Contextual overview for civil justice[[2]](#footnote-2)** | **Contextual overview for civil justice** | **Contextual overview for administrative justice** | **Contextual overview for administrative justice** | **Contextual overview for administrative justice** | **Contextual overview for administrative justice** | **Contextual overview for administrative justice** | **Contextual overview for administrative justice** | **Contextual overview for administrative justice** |
| **Sectors:** | **Family** | **Employment** | **Asylum** | **Migration** | **Education** | **Health** | **Placement in care** | **Administrative sanctions** | **Offences < MACR[[3]](#footnote-3)** |
| **Type of proceeding applying in the sector** | Civil judicial proceedings | Civil judicial proceedings | Administrative judicial proceedings | Administrative judicial proceedings | Administrative judicial proceedings | Administrative judicial proceedings | Administrative judicial proceedings | Administrative judicial proceedings | Administrative judicial proceedings |
| **Competent Court(s)** | General district courts | General district courts | Administrative courts | Administrative courts | Administrative courts/insurance court | Administrative courts | Administrative courts | Administrative courts | Administrative courts |

Overview of Member State’s approach to children in administrative Judicial proceedings and specialised services dealing with such children

## Brief description of judicial system and institutions

The Finnish administrative legal system

[The Constitution of Finland](http://www.finlex.fi/en/laki/kaannokset/1999/en19990731?search%5btype%5d=pika&search%5bpika%5d=perustuslaki) provides that everyone has the right to have his/her case dealt with appropriately and without undue delay by a legally competent court of law or other authority, as well as to have a decision pertaining his/her rights or obligations reviewed by a court of law or other independent organ for the administration of justice[[4]](#footnote-4). The **Supreme Administrative Court** and the **regional administrative courts** are the courts of judicial administrative law[[5]](#footnote-5). The **Supreme Administrative Court** is the final instance in administrative matters[[6]](#footnote-6).

The [Administrative Procedure Act](http://www.finlex.fi/en/laki/kaannokset/2003/en20030434.pdf) is the general act on administrative law[[7]](#footnote-7). [Administrative Judicial Procedure Act](http://www.finlex.fi/en/laki/kaannokset/1996/en19960586.pdf) applies when administrative decisions are appealed to general administrative courts[[8]](#footnote-8). Both Acts are general but include child specific provisions on the right to be heard[[9]](#footnote-9).

Specific provisions on child welfare, measures such as placement into care, are included in the [Child Welfare Act](http://www.finlex.fi/en/laki/kaannokset/2007/en20070417.pdf)[[10]](#footnote-10). The [Aliens Act](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf)[[11]](#footnote-11) applies to visas, asylum and residence permits - generally with some provisions on children. The [Act on Reception of a Person Applying for international Protection](http://www.finlex.fi/fi/laki/ajantasa/2011/20110746?search%5btype%5d=pika&search%5bpika%5d=laki%20vastaanotosta#L5P39)[[12]](#footnote-12) also includes provisions for unaccompanied children, ordering for them a legal representative and providing special services for a person with particular conditions, such as being a victim of human trafficking or due to their health or age[[13]](#footnote-13). The [Mental Health Act](http://www.finlex.fi/en/laki/kaannokset/1990/en19901116.pdf)[[14]](#footnote-14) includes both general and child specific provisions. The [Act on Special Care for the Mentally Handicapped](http://www.finlex.fi/fi/laki/ajantasa/1977/19770519?search%5btype%5d=pika&search%5bpika%5d=laki%20kehitysvammaisten#L3)[[15]](#footnote-15) is general but refers specifically to the Child Welfare Act in connection to involuntary special care.

Administrativive authorities’ decisions involving children in the fields of **asylum and migration** are taken by the Finnish Immigration Service. Such decisions can be appealed to an administrative court.

Administrative decisions taken in the field of **education** are appealed before an administrative court Administrative decisions on financial aid for students can be appealed to an appeals body whose decisions can be appealed to the [Insurance Court](http://www.vakuutusoikeus.fi/en/index/theincurancecourt-aspecialcourtoflaw.html). The Administrative Judicial Procedure Act also applies to the Insurance Court.

Administrative decisions adopted in the field of **health** are appealed to administrative courts. However with regard to **mental health,** in principle, a person can be ordered for treatment in a psychiatric hospital against his/ her will only if:

* the person is diagnosed as mentally ill;
* the person needs treatment for a mental illness which, if not treated, would become considerably worse or severely endanger the person’s health or safety, or the health and safety of others;
* all other mental health services are inapplicable or inadequate.

A child can also be ordered for treatment in a psychiatric hospital against his/her will if the child needs treatment for a serious mental disorder which, if not treated, would become considerably worse or severely endanger the child’s health or safety, or the health and safety of others, and if all other mental health services are inapplicable.

The treatment of a child must be arranged in a hospital unit which has the facilities required for the treatment. A child must be treated separately from adults unless it is considered that it is in the interests of the child to act otherwise[[16]](#footnote-16).The decision to impose a mental health treatment on a child must be immediately submitted for the approval of an administrative court[[17]](#footnote-17).

Decisions taken by administrative authorities in the field of **child protection/care** –including treatment of **children below** the minimum age of criminal responsibility **(MACR) who have committed offences** can be appealed before an administrative authority.

Children can also be subject to **administrative sanctions**. For example, a child who is at least 15 years of age can be subject to a public transport fine. He/she can launch an appeal against the imposition of the fine to the administrative body that issued it. If he/she is not satisfied with the outcome of the appeal before the administrative authority the decision may be appealed to an administrative court. However the decision adopted by the administrative court cannot be appealed to the Supreme Administrative Court[[18]](#footnote-18).

Regarding other forms of administrative sanctions, e.g. parking, a decision of an administrative court may be further appealed to the Supreme Administrative Court. Other road traffic offences, e.g. speeding, are dealt with through criminal proceedings and handled in the district courts. In administrative court cases concerning child welfare, the parties to a case are the municipal social welfare authorities, the guardian of the child and the child[[19]](#footnote-19).

The [Child Welfare Act](http://www.finlex.fi/en/laki/kaannokset/2007/en20070417.pdf) includes provisions on child welfare in general, such as the placement of children into care, and also applies to children below the minimum age of criminal responsibility (MACR) – which is 15 years in Finland.

One basis for taking a child into care and providing substitute care is if a child seriously endangers his/her health by committing an illegal act other than a minor offence[[20]](#footnote-20). The commitment of several minor crimes could also constitute the basis for a child to be placed into care. However, the commitment of a crime which cannot be considered as minor cannot constitute the sole basis for placing a child into care – the child’s need for welfare measures is required to be assessed as well[[21]](#footnote-21). Another basis for taking a child into care and providing substitute care is if they seriously endanger their health or development by abuse of intoxicants, committing an illegal act other than a minor offence, or by any other comparable behaviour. Taking a child into care and the provision of substitute care may, however, only be resorted to if any other measures would not be suitable or possible for providing care in the interests of the child concerned, or if other measures have proved to be insufficient and substitute care is estimated to be in the child's interests.

Placement of children in care/institutions can be decided by municipal officeholders in charge, after the social worker responsible for the child’s affairs has prepared the case, and if the guardian or the child him/herself, when over 12 years old, does not oppose the placement into care and related substitute care.

If the child’s guardian or a child of 12 years old or more opposes the taking into care or related placement into substitute care[[22]](#footnote-22), the case is decided by an administrative court on application by the municipal office holder in charge, and after the social worker responsible for the child’s affairs has prepared the case[[23]](#footnote-23).

The municipal office holder in charge may also decide on emergency placement into care if the child is in immediate danger due to lack of care or other circumstances in which they are being brought up, or if they seriously endanger their health or development by abuse of intoxicants, or by committing an illegal act other than a minor offence, or by any other comparable behaviour, or if the child is otherwise in need of urgent placement and substitute care[[24]](#footnote-24).

When a case concerning taking into care and/or substitute care of a child is pending at an administrative court or the Supreme Administrative Court, the court handling the matter may at its own initiative or at the child’s or the child’s parent’s/guardian’s request, issue an interlocutory order concerning the child’s whereabouts and the arrangement of the care and upbringing of the child during the court proceedings[[25]](#footnote-25).

There are no **special family or youth courts** in Finland.

As noted above, social welfare officials initiate proceedings in child welfare cases when it concerns taking a child involuntarily into care. In asylum/migration cases concerning unaccompanied children the child is appointed a legal representative and the [Finnish Refugee Advice Centre](http://www.pakolaisneuvonta.fi/?lang=eng) provides legal assistance to the asylum seeker before the hearing in the administrative proceedings providing general information and personal consultations; with assistance in asylum interviews if needed, and also assisting with appeals to administrative courts. General legal aid is available for those who need legal assistance but do not have the means to pay for it.

## General approach towards children under administrative law: evolving capacities; best interests of the child; principle of non-discrimination

Main principles/objectives

The starting point for the treatment of children in all judicial proceedings, including administrative proceedings, is Section 6 of the [Constitution](http://www.finlex.fi/en/laki/kaannokset/1999/en19990731.pdf), according to which children must be treated equally and as individuals with individual personalities and characteristics, and they must be allowed to influence matters relating to them to a degree which corresponds with their level of maturity.

In general, it has been noted that civil and administrative proceedings concerning children are rather similar – in that children must be heard, their opinion must be taken into account and the cases must be decided in accordance with the child’s best interest[[26]](#footnote-26).

The **best interests of the child** are understood as ‘the ideal conditions for a child’[[27]](#footnote-27).

The [Child Welfare Act](http://www.finlex.fi/fi/laki/kaannokset/2007/en20070417?search%5Btype%5D=pika&search%5Bpika%5D=lastensuojelulaki)**[[28]](#footnote-28)** includes a list of core principles of child welfare. The most important principle is the best interest of the child, which should be assessed by taking into consideration the following factors:

1. balanced development and wellbeing, and close continuous human relationships;
2. understanding and affection, as well as supervision and care that correspond with his/her age and level of development;
3. education consistent with her/his abilities and wishes;
4. safe environment for the upbringing of the child and an environment where the physical and emotional freedom of the child is guaranteed;
5. sense of responsibility in becoming independent and grown up;
6. opportunity to become involved in matters affecting him/her and to influence them;
7. taking account of his/her linguistic, cultural and religious background.

The [Act on Rights and Position of a Customer of Social Welfare Services](http://www.finlehttp/www.finlex.fi/fi/laki/ajantasa/2000/20000812x.fi/fi/laki/ajantasa/2000/20000812) provides that in all measures of public or private social welfare services concerning a child, the best interests of the child must be the primary consideration[[29]](#footnote-29).

In all decisions under the [Aliens Act](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf), including those concerning asylum, residence permits and visas that concern a child under 18 years, special attention must be paid to the best interests of the child and to circumstances related to the child’s development and health[[30]](#footnote-30).

In scholarly writing concerning child welfare, it is stressed that the best interests of the child do not mean following the will of the child, and that children cannot be held responsible for the outcome of child welfare cases[[31]](#footnote-31). The final assessment on the best interests of the child remains with the decision maker. In scholarly writing, it has been noted that assessments of the best interests of the child are not always clear or written out in the reasoning of decisions[[32]](#footnote-32).

In addition to the most important principle concerning best interests of a child, another **core principle of child welfare** includes promoting the favourable development and wellbeing of the child. Child welfare must also provide support in child upbringing and care for parents, guardians and other persons responsible for the child. Child welfare must also be aimed at preventing child and family problems and intervening sufficiently early if problems are found. In child welfare, action must be taken with as much sensitivity as possible and assistance in open care must be given precedence, unless the interest of the child demands otherwise. If substitute care is needed in view of the interests of the child, this must be arranged without delay. When providing substitute care, the aim of reuniting the family must be taken into account in accordance with the child’s interests[[33]](#footnote-33).

The **evolving capacity** of children is reflected in Section 6 of the [Constitution](http://www.finlex.fi/en/laki/kaannokset/1999/en19990731.pdf), according to which, children must be treated equally and as individuals with individual personalities and characteristics, and as such, must be allowed to influence matters relating to them to a degree which corresponds with their level of maturity. The children’s right to obtain information in a child welfare case affecting them, and the opportunity for them to present a view on the case, must be safeguarded for the child in a manner in keeping with their age and level of development[[34]](#footnote-34). In practice, this means that the child’s self-determination is given more weight if the child is older and/or more mature[[35]](#footnote-35).

In Finnish legislation there is a separation between ascertaining a child’s view and hearing a child. For example, hearing a child in child welfare matters comes into question only with children who are at least 12 years old. Younger children’s views and wishes can only be ascertained. The child’s wishes and views must be ascertained and taken into account in a way that is appropriate for the child’s age and level of development. For instance, ascertaining a very young child’s views can happen by observing interaction between the child and his/her parents. See [Section 2.5.](#_Toc338234115)

The human dignity and the freedom and rights of the individual are guaranteed by the [Constitution of Finland](http://www.finlex.fi/en/laki/kaannokset/1999/en19990731.pdf). The Constitution provides that ‘children shall be treated equally and as individuals’. It could also be noted that the understanding of the best interests of the child, as explained above and especially in relation to the [Child Welfare Act](http://www.finlex.fi/fi/laki/kaannokset/2007/en20070417?search%5Btype%5D=pika&search%5Bpika%5D=lastensuojelulaki), contain elements relevant for treating the child with **dignity and respect,** with care, sensitivity, fairness and taking into account the child’s personal situation, well-being and special needs.

The [Non-Discrimination Act](http://www.finlex.fi/en/laki/kaannokset/haku/?search%5btype%5d=pika&search%5bpika%5d=yhdenvertaisuuslaki&submit=Search) includes the prohibition of discrimination based on age, ethnic or national origin, nationality, language, religion, belief, opinion, health, disability, sexual orientation or other personal characteristics. The Act is applicable on these bases in cases concerning employment and education[[36]](#footnote-36). In cases concerning ethnic discrimination, the Ombudsman for Minorities provides services such as guidance, promoting reconciliation, requesting clarification, and can issue a notice of a conditional fine should clarification not be provided. The Ombudsman can also take individual cases to the National Discrimination Tribunal of Finland or courts, for both adult and child immigrants, Finland-based foreigners and ethnic minorities including the Roma[[37]](#footnote-37). It has been noted, in academic writing, that there could be problems with court proceedings involving the taking into care children of immigrant families[[38]](#footnote-38). According to the literature, those problems concern the lack of adequate interpretation services in court proceedings. Another problem is that the cultural background of the child is not adequately taken into account when choosing a foster family for the child.

The [Act on Equality between Women and Men](http://www.finlex.fi/en/laki/kaannokset/1986/en19860609?search%5btype%5d=pika&search%5bpika%5d=laki%20naisten%20ja%20miesten%20v%C3%A4lisest%C3%A4) applies to discrimination based on gender, and the Finnish Ombudsman for Equality provides assistance related to it[[39]](#footnote-39). If a child feels that she or he has been discriminated against in the context of judicial proceedings, he or she can bring a claim to the Parliamentary Ombudsman (see [Section 1c](#_Overview_of_Member_State’s approach)).

## Monitoring mechanisms, multidisciplinary approach and training

Monitoring mechanisms

In Finland, the Ombudsman for Children promotes the interest of children and implementation of children’s rights on a general level but does not handle individual cases[[40]](#footnote-40). The Parliamentary Ombudsman and Chancellor of Justice oversee public authorities and officials and handle individual complaints. Their sphere of action with regards to matters handled in general courts could come into question mainly with regards to procedural factors of cases[[41]](#footnote-41). Children’s rights have been central in the work of the Parliamentary Ombudsman’s work, and the Ombudsman has carried out investigations on his/her own initiative as well as on-site inspections[[42]](#footnote-42). Officials at the Office of the Parliamentary Ombudsman are also in contact with the Ombudsman for Children and NGOs related to children’s rights[[43]](#footnote-43). Anyone can file a complaint if they suspect that a public official has not acted in accordance with the law and also children can file a complaint both to the Parliamentary Ombudsman and Chancellor of Justice. Complaints can also be filed on their behalf.

In matters concerning general healthcare, patient ombudsmen working in health care units can also help children, although resources allocated for the system have not been considered sufficient[[44]](#footnote-44). The patient ombudsman can help the child, who is not satisfied with his/her health care or medical care or similar treatment, with submitting an objection to the director responsible for health care in the health care unit in question. The patient Ombudsman can also assist with filing a complaint to the National Supervisory Authority for Welfare or Health or to the Regional State Administrative Agency, or seek compensation from the Finnish Patient Insurance centre or assist in civil proceedings from a district court[[45]](#footnote-45). Municipalities must also appoint an ombudsman for social affairs that provides services to customers of social services, adults and children. They assist by providing information and when making an objection[[46]](#footnote-46).

In matters concerning social services, the Social Ombudsman – working in every municipality, can also help children. Citizens can consult the Social Ombudsman when they feel that they have been treated improperly by social services, or if they need advice about their rights.

Children who are suspected of committing a criminal act but who are younger than 15, and thus not liable under criminal law, can be subject to child welfare measures. The Police must inform officials from social services of hearings for a suspected offender younger than 18.

No formal qualifications are required for judges or lawyers working with children[[47]](#footnote-47). When administrative courts handle child welfare cases, a child welfare specialist participates at the proceedings as a member of the court. The educational requirement is a higher academic degree (master’s degree) and expertise in child welfare issues[[48]](#footnote-48). Most specialists are psychologists or social workers[[49]](#footnote-49).

The Guardianship in Child Protection Project (*Lastensuojelun edunvalvontahanke*) and Palmenia, Centre of Continuing Education at the University of Helsinki, organise training on legal guardianship in child welfare[[50]](#footnote-50).

A recent study concludes that legal representatives ordered for unaccompanied children, based on the [Act on Reception of a Person Applying for international Protection](http://www.finlex.fi/fi/laki/ajantasa/2011/20110746?search%5btype%5d=pika&search%5bpika%5d=laki%20vastaanotosta" \l "L5P39)[[51]](#footnote-51), might lack training since it is not a requirement. There are also problems related to the independence of the representatives from State migration officials due to the recruitment procedure[[52]](#footnote-52).

According to the [Act on Checking the Criminal Background of Persons Working with Children](http://www.finlex.fi/en/laki/kaannokset/2002/en20020504.pdf), in cases concerning work contracts of more than three months, the employer must ask the person for an extract of any existing criminal record if the work involves significantly raising, teaching, caring or looking after a child, or other personal contact with a child in the guardians’ absence[[53]](#footnote-53). When appointing a person as the legal representative of a child who is applying for a residence permit based on international protection, or receives temporary protection, or is victim of human trafficking, and who is in Finland without a guardian or other legal representative, courts require the person to be appointed to submit an extract from the criminal record[[54]](#footnote-54). In these cases concerning residence permits, the court must inform the appointment to the Finnish Immigration Service and population register services[[55]](#footnote-55). Finnish Immigration Service is the administrative decision maker in matters concerning residence permits.

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To ensure multidisciplinarity, when administrative courts handle child welfare cases, a child welfare specialist participates in the proceedings as a member of the court.

Child-friendly justice in administrative judicial proceedings

## The child as an actor in administrative judicial proceedings

### General procedural rules applicable to children involved in administrative judicial proceedings including proceedings reviewing administrative authorities’ decisions in the sectors of asylum, migration, education, health, placement into care administrative sanctions and children below the MACR who have committed offences

The general rules described below apply to administrative judicial proceedings in the sectors listed above. However, if sector-specific rules exist they are described in a separate subheading.

The child as a plaintiff/defendant/subject of proceedings

The starting point for administrative judicial proceedings is that the right of action, including making an appeal to a court, is exercised by the guardian or other legal representative. Exceptionally, a child alone has the capacity of action when the matter concerns property or income that he/she administers, and is parallel to the legal representative, most often a guardian, if the child is 15-17 years of age and the matter concerns his/her person or personal benefit or interest[[56]](#footnote-56). In certain matters, which will be discussed below, a child who is at least 12 can exercise his/her rights parallel to the legal representative. There are no provisions in Finnish legislation concerning discretionary power of a judge or a court to grant dispensation as to the minimum age. When the child attains 18 years old during the proceedings, he/she has, in principle, the sole right of action. Although in theory, children could be defendants in administrative disputes concerning, for instance, benefits, However, in practice this happens rarely if ever. Children are never considered as ‘subjects’ of administrative judicial proceedings – rather they are considered as a “party” to the proceedings even when they do not initiate the proceedings.

The child as a witness

Administrative courts can arrange oral hearings in which witnesses can be heard. Children under 15 years old can be heard as witnesses or for probative purposes only, if the court deems this appropriate and if hearing him/her personally is of central significance to the clarification of the matter and hearing the person would probably not cause the child suffering or other harm that can injure him/her or his/her development[[57]](#footnote-57). A child who is younger than 15 cannot give oath.

### Procedural rules applicable to children involved in proceedings for placement of children into care and children below the MACR who have committed offences

The child as a plaintiff/defendant/subject of proceedings

In matters concerning child welfare, such as taking a child into care, a child who is at least 12 years old exercises his/her right of action parallel to the legal representative[[58]](#footnote-58).

A child must be taken into care and be provided with substitute care if his/her health or development is seriously endangered because of lack of care or other circumstances in which he/she is being brought up, or if he/she seriously endangers his/her health or development by abuse of intoxicants, by committing an illegal act other than a minor offence, or some other comparable behaviour. In addition, taking into care and providing substitute care is possible only if other child welfare measures are not suitable and substitute care is in the best interests of the child[[59]](#footnote-59).

An application for taking a child into care is filed to an administrative court by the leading municipal social official or a municipal social official ordered by him/her. Before the application is filed, the social worker responsible for the child’s affairs prepares the case. Taking a child into care cannot be decided by the leading municipal social official or a municipal social official ordered by him/her alone if the guardian or a child who is at least of 12 years old opposes[[60]](#footnote-60).

In child care matters, the child is considered a party to the proceedings even if he/she doesn’t initiate the proceedings. As explained above, the child care proceedings could be initiated, for example, by social welfare officials or the guardian of the child.

The child as a witness

The general procedural rules applicable to children involved in administrative judicial proceedings described above apply.

### Procedural rules applicable to children involved in mental health proceedings

The child as a plaintiff/defendant/subject of proceedings

A child can be issued with a psychiatric treatment order only in the situations described in [Section 1](#_Overview_of_Member). Appeals against a decision to order a child to mental health treatment or to continue mental health treatment may be lodged by a child who has reached the age of 12 years him/herself, the child’s parents, the guardians or a person who was in charge of the care and upbringing of the child immediately before the child was ordered to treatment. Appeal against a decision to limit the contacts of a child may be lodged by a child who has reached the age of 12 years him/herself, as well as a by the child’s guardian or another legal representative or by another interested party whose contacts with the child have been limited by the decision[[61]](#footnote-61).

The child as a witness

The general procedural rules applicable to children involved in administrative judicial proceedings described above apply.

### Procedural rules applicable to children involved in asylum and migration proceedings

The child as a plaintiff/defendant/subject of proceedings

The [Aliens Act](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf) does not include specific provisions on the right to act but only on the right to be heard, for children who are at least 12 years old. The general procedural rules applicable to children involved in administrative judicial proceedings described above therefore apply.

The child as a witness

The general procedural rules applicable to children involved in administrative judicial proceedings described above apply.

### Procedural rules applicable to children involved in education proceedings

The child as a plaintiff/defendant/subject of proceedings

A child who is at least 15 years old has the right, in addition to the guardian, to appeal on a decision to an administrative court on matters concerning education, such as decisions on religious education and ethics, provision of translation and assistance services, a reprimand, temporary expulsion, student care benefits, school transport, accommodation and care in cases of accidents[[62]](#footnote-62).

The child as a witness

The general procedural rules applicable to children involved in administrative judicial proceedings described above apply.

## Provision of information

### General procedural rules applicable to children involved in administrative judicial proceedings including proceedings reviewing administrative authorities’ decisions in the sectors of asylum, migration, education, health, placement into care administrative sanctions and children below the MACR who have committed offences

The general rules described below apply to administrative judicial proceedings in the sectors listed above. However, if sector-specific rules exist they are described in a separate subheading.

The child as a plaintiff/complainant/defendant/subject of proceedings

According to the general rules of administrative law and applicable to adults and children who are parties, the public administration authority that has issued an administrative decision must enclose appeal instructions[[63]](#footnote-63) to the decision. If the decision cannot be directly appealed but could be rectified, instructions for seeking rectification must be enclosed. In cases where an appeal was not foreseen, this must be notified with the decision[[64]](#footnote-64).

During the judicial administrative proceedings the court must, where necessary, inform the party or the public administration authority if additional evidence needs to be presented[[65]](#footnote-65). Parties must also be reserved an opportunity to comment on the demands of other parties and on the relevant evidence[[66]](#footnote-66). If the court arranges an oral hearing, it must summon the parties, the representative of the public administration authority that made the decision and any other person whose presence the court considers necessary. When serving documents such as the decision, the court must – if there is an appeal period or some other set period – serve the decision verifiably to the recipients[[67]](#footnote-67).

Legal representatives (parents or guardians) have a general duty to discuss with, and explain to children all aspects of matters/decisions affecting them.

No information was found on the existence of guidance for court authorities, law enforcement agents or defence counsels, to ensure that children receive information regarding the proceedings and the availability of support services.

There are no specific statutory provisions on the right of children to receive information in a child-friendly format about their rights and procedures in administrative judicial proceedings. However, as a general rule, Finnish authorities must guarantee and respect fundamental and human rights that are protected under the Constitution, and under the UN Convention on the Rights of the Child that is in force in Finland.

Similarly, there are no provisions to ensure children receive information on the special arrangements available in order to protect their best interests if they are resident in a different Member State.

The child as a witness

In general, the court summons the witnesses if an oral hearing is arranged. If a person who is present in a hearing is ordered to testify, he/she must testify. When a person is being heard, the judge will also ask the witness about possible reasons that would allow him/her not to testify, and inform of compensation.

### Procedural rules applicable to children involved in proceedings for placement of children into careand children below the MACR who have committed offences

The child as a plaintiff/complainant/defendant/subject of proceedings

In child welfare cases, children’s opinions must always be retraced and the necessasary information needs to be given to child according to Child Welfare Act Section 5. The children’s right to obtain information in a child welfare case affecting them, and the opportunity for them to present their views on the case, must be protected. However, in ensuring such protection, the age and level of development of the child must always be taken into account.

The social worker responsible for a child’s affairs must ensure that it has been explained to the child in substitute care, in a manner suited to the child’s age and development level, as to why the child has been taken into care and the measures which have been or will be taken in the child’s caseA child must be provided, in a manner to be recorded in detail in the client plan, with adequate opportunity to meet the social worker responsible for that child’s affairs or some other child welfare employee in person without the presence of other people and to discuss matters concerning the child and the provision of substitute care[[68]](#footnote-68).

Even though a child who is at least 12 years old is considered a fully-fledged party in a child welfare case concerning taking into care, there are some restrictions in order to protect him/her. The child’s right to obtain information in a case affecting him/her, and the opportunity to present a view on the case, must be safeguarded for the child in a manner in keeping with their age and level of development. When ascertaining the views of the child, the child must not be given any information that would endanger his/her development or which would be contrary to some very important interests of the child. Also, when hearing the child in person in an administrative court or the Supreme Administrative Court, he/she must not be given information that could seriously endanger his/her development.[[69]](#footnote-69)

The child as a witness

The general procedural rules applicable to children involved in administrative judicial proceedings described above apply.

## Protection of the child’s private and family life

### General procedural rules applicable to children involved in administrative judicial proceedings including proceedings reviewing administrative authorities’ decisions in the sectors of asylum, migration, education, health, placement into care administrative sanctions and children below the MACR who have committed offences

The general rules described below apply to administrative judicial proceedings in the sectors listed above. However, if sector-specific rules exist they are described in a separate subheading.

The child as a plaintiff/complainant/defendant/witness/subject of proceedings

In principle, court proceedings are public[[70]](#footnote-70). This concerns both oral hearings and documentation.

Information necessary to identify a party or other participants in a case must be kept secret if there is an Act that requires it, for instance, in order to protect privacy or safety. Also this information could be given to a person in order to take care of his/her rights/duties or for another acceptable reason, or to the legal representative such as a guardian or a close relative if the provision of the information is justifiably necessary in order for the party to protect his/her rights and interests [[71]](#footnote-71).

Official documents that are to be kept secret include for instance: documents concerning a refugee or a person seeking asylum, residence permit or visa, unless it is obvious that access will not compromise the safety of the refugee, the applicant or a person closely involved with them; documents containing information on a recipient of welfare or information on the state of health or handicap of a person, the medical care or treatment given him/her; documents containing sensitive information on the private life of a person involved in a criminal matter; documents containing information on a person’s family life or other comparable personal circumstances[[72]](#footnote-72). The administrative court may, notwithstanding the provisions on secrecy, provide information on a trial document to the extent that is needed in order to ensure due process or to protect an important public or private interest connected with the case. The parties to an administrative court case have wider rights to information[[73]](#footnote-73). In principle, they also have the right to obtain information on documents that are not public if those documents can affect handling of their case. There are some exceptions to this - for instance, contact information of a witness, a party or person otherwise involved or who has reported the need for child welfare measures, cannot be given if it would endanger the safety, interests or rights of that person[[74]](#footnote-74).

Oral proceedings must be held without the presence of the public if secret information or a document is presented. However, the administrative court may nonetheless decide in a case that the oral proceedings are to be public if this is necessary in order to ensure due process. In addition, and unless an important public or private interest requires public proceedings, the administrative court may on the request of a private party who is a participant in the case, hold oral proceedings without the presence of the public, if public proceedings would cause the party particular detriment and the closed proceedings would promote provision of information for the case to the administrative court[[75]](#footnote-75). In addition to the parties in the court proceedings and their representatives – in general, guardians and legal counsel(s), as well as the representatives of the public administration authority that had made the decision and their legal counsel(s), those persons whose presence the court deems necessary may be present at closed proceedings[[76]](#footnote-76).

The administrative court may restrict the presence of the public during open proceedings if this is necessary to protect a witness, another person to be heard or a party or a person related to such a person, against a threat to his or her life or health. The administrative court may restrict the presence of the public in open proceedings also due to reasons related to the subject of the judicial view. The court may prohibit the presence of a person below the age of 15 in open proceedings if his/her presence may be detrimental to him/her[[77]](#footnote-77).

If the decision of an administrative court or the Supreme Administrative Court contains information which is kept secret, the trial document containing the decision must be kept secret to the extent necessary in order to ensure the interest to be kept secret[[78]](#footnote-78).

The social welfare officials are required to keep information on clients confidential. Information could only be disclosed with the client’s consent. In cases related to children this means either consent of the guardian, or consent of the child if the child can understand the meaning of giving his/her consent[[79]](#footnote-79).

According to the [Instructions of the Council of Mass Media](http://www.jsn.fi/en/guidelines_for_journalists/) in Finland, even in cases of public information, the right to privacy must be taken into consideration, and special caution is due when the information concerns a child[[80]](#footnote-80).

[The Finnish Criminal Code](http://www.finlex.fi/en/laki/kaannokset/1889/en18890039.pdf) contains two relevant offence provisions, i.e. the so-called Secrecy Offence, and Secrecy Violation for petty acts[[81]](#footnote-81). If the disclosure of information results in damages, compensation could be claimed under the regime of the [Tort Liability Act](http://www.finlex.fi/en/laki/kaannokset/1974/en19740412?search%5btype%5d=pika&search%5bpika%5d=vahingonkorvauslaki)[[82]](#footnote-82). Children whose rights have been breached can initiate a criminal judicial proceeding in their own right, reporting the crime to the police.

### Procedural rules applicable to children involved in proceedings for placement into care and children below the MACR who have committed offences

The child as a plaintiff/complainant/defendant/subject of proceedings

Provision of information to the child can in some cases be restricted in order to protect the child and his/her family life. When ascertaining the views of the child, he/she must not be given any information that would endanger his/her development or which would be contrary to some very important interests of the child. When hearing the child in person in an administrative court or the Supreme Administrative Court, he/she must not be given information that could seriously endanger his/her development. In cases concerning child welfare, children may be heard in person so that only one or more members of the court and the child concerned are present if that is necessary to protect the child or to ascertain the child’s independent views. Additionally, the parties concerned and the authority making the application or decision, must in principle, be reserved the right/opportunity to see the case material drawn up or recorded about the content of the hearing and to give an opinion on its content. The right may be limited if information is withheld to protect the child or to safeguard some other extremely important interests of the child[[83]](#footnote-83).

The starting point of the [Child Welfare Act](http://www.finlex.fi/fi/laki/kaannokset/2007/en20070417?search%5Btype%5D=pika&search%5Bpika%5D=lastensuojelulaki) is that parents have the primary responsibility for the child’s well-being and that the public administration authorities that work with children and families must support parents and guardians in their child upbringing. They must endeavour to provide families with the necessary assistance at a sufficiently early stage, and must refer the child and the family to the child welfare services where necessary. Child welfare must provide parents, guardians and other persons responsible for child care and upbringing, with support in child care and upbringing by arranging the necessary services and support measures[[84]](#footnote-84), since one of the principles of child welfare is supporting parents and guardians in child care and upbringing. Also when assessing the best interests of the child for planning and carrying out child welfare acts, it must take into account how those acts and decisions safeguard the child’s close and continuous relationships[[85]](#footnote-85). When arranging and developing social and health-care services, education services and other services intended for children, young people and families with children, the municipalities must ensure that these services provide support in child upbringing for parents, guardians and other persons responsible for child care and upbringing, and that the special support needs of children, young people and families with children are investigated[[86]](#footnote-86). When the child’s views are ascertained, in the provision of child welfare, this must be done in a manner that does not cause unnecessary harm to the relationship between the child the child’s parents or others close to the child[[87]](#footnote-87).

The child as a witness

The general procedural rules applicable to children involved in administrative judicial proceedings described above apply.

## Protection from harm during proceedings and interviews and ensuring a child-friendly process

### General procedural rules applicable to children involved in administrative judicial proceedings including proceedings reviewing administrative authorities’ decisions in the sectors of asylum, migration, education, health, placement into care administrative sanctions and children below the MACR who have committed offences

The general rules described below apply to administrative judicial proceedings in the sectors listed above. However, if sector-specific rules exist they are described in a separate subheading.

The child as a plaintiff/complainant/defendant/witness/subject of proceedings

Matters of child welfare and family specific child welfare referred to in the [Child Welfare Act](http://www.finlex.fi/fi/laki/kaannokset/2007/en20070417?search%5Btype%5D=pika&search%5Bpika%5D=lastensuojelulaki)[[88]](#footnote-88) as well as the [Aliens Act](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf)[[89]](#footnote-89) must be processed as urgent. Matters concerning involuntary mental health care and involuntary special care of persons with mental disability must be processed as urgent in all cases both concerning adults and children[[90]](#footnote-90).

According to the general rules applying to both adults and children in administrative courts, the court must take care of interpretation and translation if:

* the person does not know the language used in the court;
* or
* cannot make him/herself understood for reason of a sensory speech defect;

and if:

* in a previous phase of the procedure the competent authority was obliged to take care of interpretation and translation;

or

* the court is the first instance in a matter that has been initiated by a public authority;

or

* the child or adult is heard in person.

For a special reason, a court can also take care of interpretation and translation in a case not referred to above[[91]](#footnote-91).

As in a majority of cases concerning a child, he/she is represented by a legal representative and the child has parallel rights. In cases concerning the person of a child who is at least 15, or in certain cases such as child welfare matters 12 years of age, the right to participate in the proceedings of the legal representative, in general a guardian is already in that way provided by law[[92]](#footnote-92). According to the general rules of administrative law, applicable also to children, a party may use an attorney or counsel[[93]](#footnote-93).

There are no provisions on the possibility for other trusted persons to accompany a child.

**Physical and psychological support** services can be provided, by communal health care and social welfare services, to children involved in judicial proceedings. Social welfare officials can also provide information to the child about the services its services. A child can already be under the care of the social welfare services – in which case, the social welfare officials must ascertain the wishes and views of the child in accordance with his/her age and maturity[[94]](#footnote-94). Often, it is the legal representative of the child (and not the child on his/her own) who takes the child to the social welfare authorities and asks for their services.

No information was found concerning rules providing that premises and places where children are involved in proceedings are child-friendly.

Similarly no information was found on special interview methods to be used with regard to children with special needs, or with regard to the need to adapt court sessions to the child’s pace and attention span.

No information was found on materials available to provide support/guidance to children involved in the proceedings.

### Procedural rules applicable to children involved inproceedings for placement into care and children below the MACR who have committed offences

The child as a plaintiff/complainant/defendant/subject of proceedings

[The Child Welfare Act](http://www.finlex.fi/fi/laki/kaannokset/2007/en20070417?search%5Btype%5D=pika&search%5Bpika%5D=lastensuojelulaki) includes a special section on hearing children in courts. The aim of this section is to enforce a child’s right to be heard, taking into consideration his/her views, and also to protect the child from detrimental experiences related to the hearing[[95]](#footnote-95).

Children may be heard by administrative courts or the Supreme Administrative Court if a child requests it or consents to it. In connection with the hearing, children may not be given such information that could seriously endanger their health or development. However, children under 12 may only be heard in person if the hearing is necessary for settling the case and it is estimated that the hearing will not cause the child concerned significant harm.

So that only one or more members of the court and the child concerned are present, children may also be heard in person if this procedure is necessary to protect the child or to ascertain the child’s independent views. The parties concerned and the authority making the application or decision must be reserved an opportunity to see the case material drawn up or recorded about the content of the hearing and to give an opinion on the content. The right of the parties concerned to receive information may be limited if information is withheld to protect the child or to safeguard some other extremely important interests of the child.

Hearing a child in person by an administrative court or the Supreme Administrative Court may take place in oral proceedings or in some other manner decided by the court[[96]](#footnote-96).

Protective measures

When a case of taking into care or substitute care of a child is pending before an administrative court or the Supreme Administrative Court, the court handling the matter may issue an interlocutory order concerning the child’s whereabouts and the arrangement of the care and upbringing of the child during the court proceedings. This is possible either at the court’s own initiative or at the child’s or the child’s parent’s or the guardian’s request[[97]](#footnote-97).

The child as a witness

The general procedural rules applicable to children involved in administrative judicial proceedings described above apply.

### Procedural rules applicable to children involved in asylum and migration proceedings

The child as a plaintiff/complainant/defendant/subject of proceedings

General provisions on refusal of entry under the [Aliens Act](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf) apply also to children. Although in general, for those applying for a residence permit based on the need of protection, a decision on refusal of entry cannot be enforced if the decision has been appealed to an administrative court in cases concerning, for instance, return to a ‘safe country’. The decision may, however, be enforced after a certain period unless the administrative court orders otherwise[[98]](#footnote-98).

The child as a witness

The general procedural rules applicable to children involved in administrative judicial proceedings described above apply.

## Right to be heard and to participate in administrative judicial proceedings

### General procedural rules applicable to children involved in administrative judicial proceedings including proceedings reviewing administrative authorities’ decisions in the sectors of asylum, migration, education, health, placement into care administrative sanctions and children below the MACR who have committed offences

The general rules described below apply to administrative judicial proceedings in the sectors listed above. However, if sector-specific rules exist they are described in a separate subheading.

The child as a plaintiff/complainant/defendant/witness/subject of proceedings

The starting point for the treatment of children in all judicial proceedings, including administrative proceedings, is Section 6 of the [Constitution](http://www.finlex.fi/en/laki/kaannokset/1999/en19990731.pdf), according to which children must be treated equally and as individuals with individual personalities and characteristics and they must be allowed to influence matters relating to them to a degree which corresponds with their level of maturity.

In general, it has been noted that civil and administrative proceedings concerning children are rather similar in that children must be heard, their opinion must be taken into account and the cases must be decided in accordance with the best interests of the child[[99]](#footnote-99).

As mentioned in Section 2.4. according to the general rules applying to both adults and children in administrative courts, the court must take care of interpretation and translation.

### Procedural rules applicable to children involved in proceedings for placement into care and children below the MACR who have committed offences

The child as a plaintiff/complainant/defendant/subject of proceedings

Social workers responsible for a child’s affairs must provide assistance for the child or young person to exercise their right to be heard, and where necessary, direct the child or young person to seek legal aid or ensure that an application is made for a child’s guardian[[100]](#footnote-100).

It has been stressed that being heard is the right of the child and that the aim is to enable the child to influence decisions that concern him/herself[[101]](#footnote-101). In [Finnish child welfare legislation](http://www.finlex.fi/fi/laki/kaannokset/2007/en20070417?search%5Btype%5D=pika&search%5Bpika%5D=lastensuojelulaki) there is a separation between ascertaining a child’s view and hearing a child[[102]](#footnote-102). Hearing a child in child welfare matters comes into question only with children who are at least 12 years old. Younger children’s views can only be ascertained[[103]](#footnote-103). In matters concerning taking a child into care, the social welfare officials must ascertain views and wishes of children of all ages. The child’s wishes and views must be ascertained and taken into account in a way that is appropriate for the child’s age and level of development. The views must be established with sensitivity and in a manner that does not cause unnecessary harm to the relationship between the child and the child’s parents or others close to the child. For instance ascertaining a very young child’s views can happen by observing interaction between the child and his/her parents. Only in cases where ascertaining the child’s views would endanger the child’s health or development, or if it is manifestly unnecessary, may it not be undertaken[[104]](#footnote-104).

In matters concerning taking a child into care, the court must hear the child, parents, guardians and the person who has taken care of the child and his/her upbringing before preparations for taking into care have been started[[105]](#footnote-105). The hearing is part of the written preparation[[106]](#footnote-106) but an oral preparatory hearing could also be arranged. A separate provision for oral hearing was included in the [Child Welfare Act](http://www.finlex.fi/fi/laki/kaannokset/2007/en20070417?search%5btype%5d=pika&search%5bpika%5d=lastensuojelulakihttp://www.finlex.fi/fi/laki/kaannokset/2007/en20070417?search%5Btype%5D=pika&search%5Bpika%5D=lastensuojelulaki), although arrangements of oral hearings had been possible even before the amendment, in order to emphasise the duty of the court to clarify the questions of the case[[107]](#footnote-107). After written and oral preparation, administrative courts must organise an oral hearing if a private party so requests[[108]](#footnote-108). The social welfare officials may also ask for an oral hearing but they do not have a similar right to it[[109]](#footnote-109).

Children may be heard in person by administrative courts or the Supreme Administrative Court if a child requests it or consents to it. In connection with the hearing, children may not be given such information that could seriously endanger their health or development. Children under 12 years of age may, however, only be heard in person if the hearing is necessary for settling the case and it is estimated that the hearing will not cause the child concerned significant harm.

Children may also be heard in person so that only one or more members of the court and the child concerned are present – if this procedure is necessary to protect the child or to ascertain the child’s independent views. The parties concerned and the authority making the application on taking a child into care and placement, or has made the decision that is being appealed, must be reserved an opportunity to see the case material drawn up or recorded about the content of the hearing and to give an opinion on its content. The right of the parties concerned to receive information may be limited if information is withheld to protect the child or to safeguard some other extremely important interests of the child. Hearing a child in person may take place in oral proceedings or in some other manner decided by the court[[110]](#footnote-110).

The child as a witness

The general procedural rules applicable to children involved in administrative judicial proceedings described above apply.

### Procedural rules applicable to children involved in asylum and migration proceedings

The child as a plaintiff/complainant/defendant/subject of proceedings

In matters under the [Aliens Act](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf), such as asylum and residence permit, children who are at least 12 years old must be heard unless such hearing is manifestly unnecessary. The child’s view must be taken into account in accordance with the child’s age and level of development. A younger child may also be heard if the child is sufficiently mature to have his/her views taken into account[[111]](#footnote-111).

The provision of the [Child Welfare Act](http://www.finlex.fi/fi/laki/kaannokset/2007/en20070417?search%5Btype%5D=pika&search%5Bpika%5D=lastensuojelulaki) on assistance of the child by the responsible social workers applies also to a child who has applied for asylum alone or with other members of the family[[112]](#footnote-112).

In addition, if the child who is applying for a residence permit based on international protection or receives temporary protection, or is a victim of human trafficking, is in Finland without a guardian or other legal representative, then he/ she must be ordered immediately a representative whose tasks in legal representation corresponds largely to that of a guardian[[113]](#footnote-113). The costs of such a representative are covered with State funds[[114]](#footnote-114).

The child as a witness

The general procedural rules applicable to children involved in administrative judicial proceedings described above apply.

## Right to legal counsel, legal assistance and representation

### General procedural rules applicable to children involved in administrative judicial proceedings including proceedings reviewing administrative authorities’ decisions in the sectors of asylum, migration, education, health, placement into care administrative sanctions and children below the MACR who have committed offences

The general rules described below apply to administrative judicial proceedings in the sectors listed above. However, if sector-specific rules exist they are described in a separate subheading.

The child as a plaintiff/complainant/defendant/witness/subject of proceedings

According to the general rules of administrative judicial procedure a party, adult or child, can use an attorney or a counsel. An attorney uses the right to speak for a party, whereas a counsel assists a party[[115]](#footnote-115). The general rules of administrative judicial proceedings also include a provision on ordering a party, adult or child, a guardian for the court proceedings if a person cannot take care of his/her interests for example because of illness[[116]](#footnote-116). Specific sections are included in other acts.

### Procedural rules applicable to children involved in proceedings for placement into care and children below the MACR who have committed offences

The child as a plaintiff/complainant/defendant/witness/subject of proceedings

When an administrative court or the Supreme Administrative Court hears a case concerning child welfare, a lawyer, public legal attorney or a licensed counsel can serve as representative or counsel to a private party to the proceedings[[117]](#footnote-117).

An administrative court or the Supreme Administrative Court may appoint a legal advisor for a child in court proceedings if the child or the child’s legal representative so requests or if the court otherwise deems such an appointment necessary.

If an administrative court or the Supreme Administrative Court appoints a legal advisor in spite of the fact that the child or the child’s legal representative has not informed the court of their desire to have one, the [Legal Aid Act](http://www.finlex.fi/en/laki/kaannokset/2002/en20020257.pdf) provides for appropriate appointing of a legal advisor – the fee and compensation payable to the legal advisor is regardless of whether or not the child has been or will be granted legal aid as referred to in the [Legal Aid Act](http://www.finlex.fi/en/laki/kaannokset/2002/en20020257.pdf). To this extent the legal aid is free of charge[[118]](#footnote-118).

The [Child Welfare Act](http://www.finlex.fi/fi/laki/kaannokset/2007/en20070417?search%5Btype%5D=pika&search%5Bpika%5D=lastensuojelulaki) also includes specific provisions on designating a guardian. As it has been noted, a child who is at least 12 years old can present him/herself independently in a child welfare case, and not be represented by a guardian. If in any case there is:

1. good cause to assume that the guardian is unable to supervise the child’s interest in the case without prejudice;
2. designation of a guardian is necessary in order to investigate a case or otherwise to safeguard the interests of the child[[119]](#footnote-119).

A guardian could be designated, for instance, if the parent is suspected of having physically abused the child or the child and his/her parent or other family member are adversary parties in a case[[120]](#footnote-120). It has been stressed that even if a guardian is appointed, a child who is at least 12 years of age and the parent are still parties to a child welfare case and have a right of action[[121]](#footnote-121). If a case is pending in an administrative court, the court can, on application by social welfare officials or the child or other parties, or on initiative of the court, appoint a guardian[[122]](#footnote-122).

### Procedural rules applicable to children involved in asylum and migration proceedings

The child as a plaintiff/complainant/defendant/witness/subject of proceedings

The general provisions under the [Aliens Act](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf) concerning, asylum, residence permits and visas, apply both to adults and children. When a person files an appeal under the [Act](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf), he/she may use a counsel or attorney. Although in general, the [Legal Aid Act](http://www.finlex.fi/en/laki/kaannokset/2002/en20020257.pdf)[[123]](#footnote-123) applies. The counsel assigned may also be a person with legal training other than a public legal aid attorney. A court may also 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](http://www.finlex.fi/en/laki/kaannokset/2002/en20020257.pdf).

### Procedural rules applicable to children involved in (mental) health proceedings

The child as a plaintiff/complainant/defendant/witness/subject of proceedings

An administrative court or the Supreme Administrative Court can appoint a legal counsel for a person who has been ordered to treatment against his/her will, if the person asks for it or the court otherwise considers it necessary. If an administrative court or the Supreme Administrative Court appoints a legal counsel, although the person ordered to treatment has not stated that he/she wants one, the appointment of a counsel, to the extent appropriate, and the fees and reimbursements are covered by legal aid irrespective of whether or not the person ordered to treatment has been or will be granted legal aid referred to in the [Legal Aid Act](http://www.finlex.fi/en/laki/kaannokset/2002/en20020257.pdf)[[124]](#footnote-124).

## Restrictions on liberty

### Procedural rules applicable to children involved in asylum and migration proceedings

The child as a plaintiff/complainant/defendant/witness/subject of proceedings

The detention of foreign persons could be related to administrative proceedings, for example, if a person has received a negative decision on an asylum/residence permit and his/her entry has been refused. The detention proceedings are, however, taken by the Police or Border Guard and the matters are heard by general district courts and not administrative courts[[125]](#footnote-125). Generally, a detention period can last up to six months, and even up to 12 months if the person in detention does not cooperate, or a third country does not provide the travel documents necessary for the return procedure[[126]](#footnote-126). There are no child-specific provisions with regard to the length of detention. The rules applying to adults therefore also apply to children. However, the Administration Committee of the Finnish Parliament emphasised the importance of considering the best interests of the child when detaining children[[127]](#footnote-127).

Foreign persons, both adults and children, can be ordered to be held in detention, instead of interim measures, if:

1. taking account of his/her personal and other circumstances, there are reasonable grounds to believe that he/she will prevent or considerably hinder the issue of a decision concerning him/her, or the enforcement of a decision, or removing him/her from the country by hiding or in some other way; or
2. holding a foreign person in detention is necessary for establishing his/her identity; or
3. taking account of his/her personal and other circumstances, there are reasonable grounds to believe that he/she will commit an offence in Finland.

In addition, holding a foreign person in detention on grounds that his/her identity is unclear requires that the person gave unreliable information when the matter was processed, or refused to give the required information, or that it otherwise appears that his or her identity cannot be considered established[[128]](#footnote-128).

A special section on children, notes that before a child is placed in detention, the representative of social welfare must be heard[[129]](#footnote-129). Children in detention should be placed in a detention unit and may be placed in Police or Border Guard detention facilities only if his/her parent or guardian or other adult member of his/her family is also held in detention in Police or Border Guard detention facilities[[130]](#footnote-130).

The child as a witness

No rules concerning restrictions on liberty apply to child witnesses in migration and asylum proceedings.

### Procedural rules applicable to children involved in health proceedings

The child as a plaintiff/complainant/defendant/subject of proceedings

According to the general provision, applicable to adults and children, a person can be ordered to treatment in a psychiatric hospital against his/her will only if:

* the person is diagnosed as mentally ill;
* the person needs treatment for a mental illness which, if not treated, would become considerably worse or severely endanger the person’s health or safety, or the health or safety of others;
* all other mental health services are inapplicable or inadequate. In addition, a child can be ordered to treatment in a psychiatric hospital against his/her will if the child needs treatment for a serious mental disorder which, if not treated, would become considerably worse or severely endanger the child’s health or safety, or the health or safety of others, and if all other mental health services are inapplicable.

A child should be treated separately from adults unless the interests of the child would require otherwise[[131]](#footnote-131).

The opinion of a patient, adult or child, who is under observation, must be ascertained before the patient is ordered to treatment. The parents or guardians of a child and persons who have been in charge of the care and upbringing of the child immediately before his/her admission for observation, must be given an opportunity, as far as possible, to be heard either orally or in writing. If a child has been ordered to involuntary treatment, the decision must be immediately submitted for the approval of an administrative court[[132]](#footnote-132) - also in cases in which he/she would be in hospital having first consented to treatment[[133]](#footnote-133).

Children with disabilities.

According to general provision applicable to adults and children, involuntary special care may be given to persons who cannot be taken care of in any other way, and whose life and health would otherwise be at risk. Involuntary special care can also be given to a person, who because of his disability, is dangerous to others and in need of immediate special care. An exception for children would be if the [Child Welfare Act](http://www.finlex.fi/fi/laki/kaannokset/2007/en20070417?search%5Btype%5D=pika&search%5Bpika%5D=lastensuojelulaki) would require something else. Special care can be applied for by a guardian or other legal representative. If they are not willing, or if there is no such person, the Social Welfare Board can apply to the municipality’s Special Service Board. If the Special Service board, after having had the person examined, decides on involuntary special care, that decision must be made subject to confirmation by an administrative court within two weeks[[134]](#footnote-134).

The child as a witness

No rules concerning restrictions on liberty apply to child witnesses in health proceedings.

### Procedural rules applicable to children involved in proceedings for placement into care and children below the MACR who have committed offences

The child as a plaintiff/complainant/defendant/subject of proceedings

Taking a child into care has not, in general, been considered deprivation of liberty as such. It has been regarded as a powerful intervention into personal liberty based on the need to provide special protection to children[[135]](#footnote-135).

According to the Child Welfare Act, Section 69, children who are in substitute care in an institution may be prohibited, for a fixed period, from leaving the institution or the premises of a certain residential unit if:

* It is necessary for their care;
* It is in their own interests;
* the decision to impose substitute care for the child has been taken because he/she have seriously endangered their health or development by using intoxicants or by committing an illegal act other than a minor offence.

Such liberty restrictions must not continue longer than seven days without a new decision. Restrictions may not continue for longer than 30 days without interruption. Liberty restrictions must not be imposed on a larger scale or for a longer period than the child's care and upbringing necessitates. The measure must also be terminated as soon it is no longer necessary.

The director of an institution, or a staff member designated by the director, may decide on a restriction of a maximum of seven days. Decisions on longer restrictions of a maximum duration of 30 days are made by the social worker responsible for the child. The social worker responsible for the child must be notified of the matter.

These decisions can be appealed to an administrative court by the child, who is at least 12 years of age, and his/her guardian

The child as a witness

No rules concerning restrictions on liberty apply to child witnesses in proceedings for placement into care of children.

## Remedies or compensation exist for violation of rights and failure to act

### General procedural rules applicable to children involved in administrative judicial proceedings including proceedings reviewing administrative authorities’ decisions in the sectors of asylum, migration, education, health, placement into care administrative sanctions and children below the MACR who have committed offences

The general rules described below apply to administrative judicial proceedings in the sectors listed above. However, if sector-specific rules exist they are described in a separate subheading.

The child as a plaintiff/complainant/defendant/witness/subject of proceedings

General provisions on appealing against an administrative court’s decision apply to both adults and children. If an administrative court has rejected the original appeal, the administrative court’s decision can be appealed to the Supreme Administrative Court by the party that filed the original appeal. In some cases, such as those under the Aliens Act, a leave to appeal must be sought first[[136]](#footnote-136). Decisions taken by the administrative courts regarding fines issued in the sector of public transport, the decision of an administrative court cannot be appealed.

If a party is incapable of looking after his/her interests in judicial proceedings owing to illness, a mental disorder, diminished health, or another comparable reason, the court, where the matter is pending, may on its own motion, appoint a guardian for the purposes of the judicial proceedings. Unless the court decides otherwise, the appointment of the guardian will also be in effect in a Superior Court, if the matter is referred there by the way of appeal[[137]](#footnote-137).

As a general rule, anyone who has suffered damages caused by violation of rights, may claim compensation in a district court under the general Tort Liability Act A special guardian can be appointed by the court if there is a conflict of interests between a legal representative and the child[[138]](#footnote-138).

A child of 18 years of age can initiate a proceeding for events that happened when he/she was a child – if the limitation period has not expired. The length of the limitation period depends on the event itself and on whether the proceedings are based on civil law or criminal law[[139]](#footnote-139).

### Procedural rules applicable to children involved in proceedings for placement into care and children below the MACR who have committed offences

The child as a plaintiff/complainant/defendant/witness/subject of proceedings

Parties to a child welfare case have the right to appeal on a decision of an administrative court even if they would have not appealed or objected at an earlier stage[[140]](#footnote-140).

Decisions by administrative courts concerning taking a child into care and substitute care, termination of care, restrictions on contact, authorisation to examine a child, safeguarding means of support and accommodation and after-care, may be appealed to the Supreme Administrative Court. The authority making an application or a decision may also appeal on these administrative court decisions to the Supreme Administrative Court. Interlocutory orders of administrative courts may not be appealed separately[[141]](#footnote-141).

### Procedural rules applicable to children involved in asylum and migration proceedings

The child as a plaintiff/complainant/defendant/witness/subject of proceedings

Most decisions on residence permits or asylum can be appealed to an administrative court in accordance with the general provisions of administrative procedure. In general, decisions on visas cannot be appealed to administrative courts. As an exception, visa decisions concerning family members of an EU citizen who have used their right of free movement can be appealed to the Administrative Court of Helsinki. In other visa cases, appeal is to be filed with the authority that refused the application.

## Legal costs

### General procedural rules applicable to children involved in administrative judicial proceedings including proceedings reviewing administrative authorities’ decisions in the sectors of asylum, migration, education, health, placement into care administrative sanctions and children below the MACR who have committed offences

The general rules described below apply to administrative judicial proceedings in the sectors listed above. However, if sector-specific rules exist they are described in a separate subheading.

The child as a plaintiff/complainant/defendant/subject of proceedings

General provisions on court fees apply to adults and children. Court fees are not collected for matters concerning social affairs such as Child Welfare cases, or under the [Aliens Act](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf) for such matters as asylum, residence permit or visa, or matters under the [Mental Health Act](http://www.finlex.fi/en/laki/kaannokset/1990/19901116)[[142]](#footnote-142).

A party, also an administrative authority, may be liable to compensate the other party for his/her legal cost in full or in part, especially if in view of the resolution of the matter, it is unreasonable to make the latter bear his own costs. For assessment of the liability of a public author, it is significant whether or not the proceedings have arisen from the error of the authority. A private individual is not liable for the costs of public authority unless he/she has made a manifestly unfounded claim[[143]](#footnote-143).

The child as a witness

Witnesses have the right to be compensated for travel or income expenses related to acting as witnesses[[144]](#footnote-144).

## Enforcement of administrative court judgements

### General procedural rules applicable to children involved in administrative judicial proceedings including proceedings reviewing administrative authorities’ decisions in the sectors of asylum, migration, education, health, placement into care administrative sanctions and children below the MACR who have committed offences

The general rules described below apply to administrative judicial proceedings in the sectors listed above. However, if sector-specific rules exist they are described in a separate subheading.

The child as a plaintiff/complainant/defendant/subject of proceedings

Although legislation does not include a specific provision on service of decisions of an administrative court or the Supreme Administrative Court, they are served at least to the parties[[145]](#footnote-145). A decision must be verifiably served if an appeal period or some other set period affecting the rights of the parties begins from the service of the decision[[146]](#footnote-146).

**Restraining orders.** If a child feels threatened or harassed by another person it is possible to seek a restraining order[[147]](#footnote-147). The application for a restraining order is submitted either to the Police or to the District Court, in writing or orally. An application on behalf of the threatened person can be submitted also by the Police or a social service authority if the interested person is afraid to submit it him/herself. Children cannot submit such an application in their own right; instead their guardians can file it on their behalf. Civil servants may issue temporary restraining orders but proper restraint orders are issued by District Courts[[148]](#footnote-148).

The child as a witness

The general procedural rules applicable to children involved in administrative judicial proceedings described above apply.

### Procedural rules applicable to children involved in asylum and migration proceedings

The child as a plaintiff/complainant/defendant/subject of proceedings

The starting point is that the general provisions of administrative law on serving decisions of administrative courts apply to matters under the [Aliens Act](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf)[[149]](#footnote-149). To appeal a decision of the administrative court, the applicant needs the leave to appeal from the Supreme Administrative Court[[150]](#footnote-150). The decisions of administrative courts can be enforced in these matters unless the Supreme Administrative Court decides otherwise[[151]](#footnote-151).

An unaccompanied child can be turned back to the country of origin only if there is guardian or, for example, an institution to take care of the child[[152]](#footnote-152).

The child as a witness

The general procedural rules applicable to children involved in administrative judicial proceedings described above apply.

### Procedural rules applicable to children involved in proceedings for placement into care and children below the MACR who have committed offences

The child as a plaintiff/complainant/defendant/subject of proceedings

In child welfare affairs, decisions must be served to children who are 12 years or older[[153]](#footnote-153). In cases concerning younger children, the decisions are served only to their legal representatives and other parties.

As noted in [Section 2.2](#_Provision_of_information), the social worker responsible for a child’s affairs must ensure that it has been explained to the child in substitute care, in a manner suited to the child’s age and development level, why the child has been taken into care and the measures which have been or will be taken in the child’s case.

A child must be provided, in a manner to be recorded in detail in the client plan, with adequate opportunity to meet the social worker responsible for the said child’s affairs, or some other child welfare employee in person, without the presence of other people, and to discuss matters concerning the child and the provision of substitute care[[154]](#footnote-154).

Decisions concerning taking a child into care, termination of care, substitute care, emergency placement, restrictions on contact and restrictive measures, may be implemented immediately, regardless of appeals, if the implementation cannot be postponed without endangering the child’s health or development and an authority or a court has ordered the decision to be implemented promptly. If the administrative court’s decision has been appealed, the Supreme Administrative Court may prohibit implementation of a decision or order the implementation to be interrupted[[155]](#footnote-155).

The child as a witness

The general procedural rules applicable to children involved in administrative judicial proceedings described above apply.

Conclusions

Overview of Member State’s approach to children in administrative judicial proceedings and specialised services dealing with such children

The Supreme Administrative Court and the regional administrative courts are the general courts of administrative law. The Supreme Administrative Court is the final instance in administrative matters. There are no special family or youth courts in Finland.

The [Administrative Procedure Act](http://www.finlex.fi/en/laki/kaannokset/2003/en20030434.pdf) is the general act on administrative law. [Administrative Judicial Procedure Act](http://www.finlex.fi/en/laki/kaannokset/1996/en19960586.pdf) applies when administrative decisions are appealed to general administrative courts. Both Acts include child specific provisions on the right to be heard.

Specific provisions on child welfare measures such as taking into care are included in the [Child Welfare Act](http://www.finlex.fi/en/laki/kaannokset/2007/en20070417.pdf). The [Aliens Act](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf) applies, for instance, to visas, asylum and residence permits generally, and includes some provisions on children. The Act on Reception of a Person Applying for international Protection also includes provisions on unaccompanied children, ordering them legal representation and providing special services for those in certain conditions such as being a victim of human trafficking, or due to health conditions or the age of a person. The [Mental Health Act](http://www.finlex.fi/en/laki/kaannokset/1990/en19901116.pdf) includes both general and child specific provisions. The [Act on Special Care for the Mentally Handicapped](http://www.finlex.fi/fi/laki/ajantasa/1977/19770519?search%5btype%5d=pika&search%5bpika%5d=laki%20kehitysvammaisten#L3) is general but refers to the Child Welfare Act in connection to involuntary special care.

The [Child Welfare Act](http://www.finlex.fi/en/laki/kaannokset/2007/en20070417.pdf) also applies to children below the minimum age of criminal responsibility which is 15 years in Finland. One basis for taking a child into care and providing substitute care is, namely, if a child seriously endangers his/her health by committing an illegal act other than a minor offence.

The starting point for the treatment of children in all judicial proceedings, including administrative proceedings, is Section 6 of the [Constitution](http://www.finlex.fi/en/laki/kaannokset/1999/en19990731.pdf), according to which, children must be treated equally and as individuals, and they must be allowed to influence matters relating to them to a degree which corresponds with their level of maturity.

The [Child Welfare Act](http://www.finlex.fi/fi/laki/kaannokset/2007/en20070417?search%5Btype%5D=pika&search%5Bpika%5D=lastensuojelulaki) includes a list of core principles of child welfare. The most important principle is the best interests of the child. The principle is also explicitly referred to in the [Act on Rights and Position of a Customer of Social Welfare Services](http://www.finlehttp/www.finlex.fi/fi/laki/ajantasa/2000/20000812x.fi/fi/laki/ajantasa/2000/20000812) and the [Aliens Act](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf). In scholarly writing concerning child welfare, it has been stressed that the best interests of the child does not mean following the will of the child, and that children cannot be made responsible for the outcome of child welfare cases.

The children’s right to obtain information in a child welfare case affecting them, and the opportunity for them to present a view on the case, must be safeguarded for the child in a manner in keeping with their age and level of development. In practice, this means that the child’s self-determination is given more weight if the child is older and/or more mature.

In Finland, the Ombudsman for Children promotes the interest of children and implementation of children’s rights on a general level but does not handle individual cases. The Parliamentary Ombudsman and Chancellor of Justice oversee public authorities and officials and handles individual complaints. Children’s rights have been central in the work of the Parliamentary Ombudsman’s work, and the Ombudsman has carried out investigations on his/her own initiative as well as on-site inspections.

The child as an actor in administrative judicial proceedings

The starting point for administrative judicial proceedings is that the right of action, including making an appeal to a court, is exercised by the guardian or other legal representative. As an exception, a child alone has the capacity of action when the matter concerns property or income that he/she administers, and is parallel to the legal representative - most often a guardian - if the child is 15-17 years of age and the matter concerns his/her person or personal benefit or interest.

In certain matters, a child who is at least 12 years old can also exercise his/her rights parallel to the legal representative.

In matters concerning child welfare, such as taking a child into care, a child who is at least 12 years old exercises his/her right of action parallel to the legal representative. In child care matters, the child is considered a party to the proceedings even if he/she doesn’t initiate the proceedings. The child care proceedings could also be initiated, for example, by social welfare officials or the guardians of the child.

Appeal against a decision to order a child to mental health treatment or to continue treatment, may be lodged by a child who has reached the age of 12 years, by his/her parents and guardians and a person who was in charge of his/her care and upbringing immediately before he/she was ordered to treatment. A child who is at least 12 years of age may also appeal against a decision to limit the contacts, Also the child’s guardian or other legal representative, or another interested party whose contacts with child have been limited by the decision, may appeal.

Matters concerning education, such as decisions on religious education and ethics, provision of translation and assistance services, a reprimand, temporary expulsion, student care benefits, school transport, accommodation, and care in cases of accidents, in which a child who is at least 15 years old has the right, in addition to the guardian,, to appeal on a decision to an administrative court.

Children under 15 years old can be heard as witnesses or for probative purposes only if the court deems this appropriate and if hearing him/her personally is of central significance to the clarification of the matter and hearing the person would probably not cause the child suffering or other harm that can injure him/her or his/her development. A child who is younger than 15 cannot give oath or affirmation.

Provision of information

According to general rules of administrative law, applicable to adults and children who are parties, the authority that has made an administrative decision must enclose appeal instructions to the decision. A notification must be included if rectification should be sought first or if an appeal is not foreseen. During the proceedings, the court has the duty to inform on various matters and if the court arranges an oral hearing, it must summon the parties, the representative of the public administration authority that made the decision and any other person whose presence the court considers necessary. This also concerns witnesses. When serving documents such as the decision, the court must - if there is an appeal period or some other set period - serve the decision verifiably to the recipients.

The social worker responsible for a child’s affairs must ensure that it has been explained to the child in substitute care, in a manner suited to the child’s age and development level, why the child has been taken into care and the measures which have been or will be taken in the child’s case. A child must also be provided with an opportunity to meet the social worker responsible for the child’s affairs, or some other child welfare employee, in person without the presence of other people and to discuss matters concerning the child and the provision of substitute care.

Even though a child who is at least 12 years old is considered a fully-fledged party in a child welfare case concerning taking into care, there are some restrictions in order to protect him/her. The child’s right to obtain information in a case affecting him/her and the opportunity to present a view on the case, must be safeguarded for the child in a manner in keeping with their age and level of development. When ascertaining the views of the child, he/she must not be given any information that would endanger his/her development or which would be contrary to some very important interests of the child. When hearing the child in person in an administrative court or the Supreme Administrative Court, he/she must not be given information that could seriously endanger his/her development.

The court must summon the witnesses if an oral hearing is arranged. When a person is being heard, the judge will also ask the witness about possible reasons that would prevent him/her testifying.

Protection of the child’s private and family life

In principle, court proceedings are public. This concerns both oral hearings and documentation. Information for identification could be kept secret in accordance with legislation for aims of protection of privacy or safety. The rights and interest of the parties must be provided with information which is necessary for their rights and interests.

Oral proceedings must be held without the presence of the public if secret information or a document is presented. However, exceptions are possible to ensure due process. Closed proceedings are possible if public proceedings would cause a party particular detriment and the closed proceedings would promote provision of the administrative court with information in the case.

Protection from harm during proceedings and interviews and ensuring a child friendly process

Cases concerning adults and children under the Child Welfare Act and the [Aliens Act](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf) must be processed as urgent. Matters concerning involuntary mental health care and involuntary special care of persons with mental disability must also be processed as urgent in all cases

Right to be heard and to participate in administrative judicial proceedings

Social workers responsible for a child’s affairs must provide assistance for children or young people in exercising their right to be heard in child welfare cases, and where necessary, direct the child or a young person to seek legal aid or ensure that an application is made for a child’s guardian.

In matters concerning taking a child into care, the court must hear the child, parents, guardians and the person who has taken care of the child and his/her upbringing before preparations for taking into care have been started. The hearing is part of written preparation but also, an oral hearing can be arranged.

Children may be heard in person by administrative courts or the Supreme Administrative Court if a child requests it or consents to it

In matters under the [Aliens Act](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf), such as asylum and residence permit, children who are at least 12 years old must, in general, be heard and his/her views must be taken into account in accordance with the child’s age and level of development. A younger child may also be heard if the child is sufficiently mature to have his/her views taken into account

Restrictions on liberty

Detention of foreign persons could be related to administrative proceedings, for example, if a person has received a negative decision on an asylum/residence permit and his/her entry has been refused. The detention proceedings are taken by the Police or Border Guard, and the matters are heard by general district courts and not administrative courts[[156]](#footnote-156).Both adults and children could be ordered to be held in detention. Before a child is placed in detention, the representative of social welfare must be heard. Children should be placed in a detention unit and may be placed in Police or Border Guard detention facilities only if his/her parent or guardian or other adult member of his/her family is also held in detention in Police or Border Guard detention facilities

Right to legal counsel, legal assistance and representation

When an administrative court or the Supreme Administrative Court hears a case concerning child welfare, a lawyer, public legal attorney or a licensed counsel can serve as representative or counsel to a private party to the proceedings. An administrative court or the Supreme Administrative Court may appoint a legal advisor for a child for court proceedings if the child or the child’s legal representative request it or if the court otherwise deems such an appointment necessary.

Remedies or compensation exist for violation of rights and failure to act

General provision on appealing against an administrative court’s decision apply to both adults and children. If an administrative court has rejected the original appeal, the administrative court’s decision can be appealed to the Supreme Administrative Court by the party that filed the original appeal. In some cases, such as those under the Aliens Act, a leave to appeal must be sought first.

Legal costs

General provisions on court fees apply to adults and children. Court fees are not collected for matters concerning social affairs such as Child Welfare cases, or under the [Aliens Act](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf) such as asylum, residence permits or visas, or matters under the [Mental Health Act](http://www.finlex.fi/en/laki/kaannokset/1990/19901116).

A party, also an administrative authority, may be liable to compensate the other party for his/her legal cost in full or in part. In view of the resolution of the matter, it is unreasonable to make the latter bear his own costs.

Enforcement of administrative court judgements

The decisions of administrative courts in matters under the Aliens Act can be enforced unless the Supreme Administrative Court decides otherwise.

Strengths and gaps

The best interests of the child is included in various acts and more broadly defined in the Child Welfare Act, in addition to other principles. In scholarly writing, it has however been noted that the assessment of the best interests of the child is not always clearly explained in the reasoning of decisions. Having an expert member involved in child welfare cases in administrative courts enhances multi-disciplinarity. In addition to the Ombudsman for Children, the Parliamentary Ombudsman pays special attention to children’s rights. The current gap in policy and procedures are due to the lack of formal guidelines - at least for the legal actors, and training should be increased.

1. List of legislation

Act on Reception of a Person Applying for International Protection ([*Lakikansainvälistäsuojeluahakevanvastaanotosta*](http://www.finlex.fi/fi/laki/ajantasa/2011/20110746?search%5btype%5d=pika&search%5bpika%5d=laki%20vastaanotosta#L5P39)*/Lag ommottagandeavpersonersomsökerinternationelltskydd*) (746/2011) 17 June 2011, entered into force 1 September 2011

[Child Welfare Act](http://www.finlex.fi/en/laki/kaannokset/2007/en20070417.pdf) (*Lastensuojelulaki/Barnskyddslag*) (417/2007) 13 April 2007, entered into force 1 January 2008

[Act on the Publicity of Administrative Court Proceedings](http://www.finlex.fi/en/laki/kaannokset/2007/en20070381?search%5btype%5d=pika&search%5bpika%5d=laki%20oikeudenk%C3%A4ynnin%20julkisuudesta) (*Lakioikeudenkäynninjulkisuudestahallintotuomioistuimissa/Lag omoffentlighet vid rättegång in förvaltningsdomstolar*) (381/2007) 30 March 2007, came into force on 1 October 2007

[Aliens Act](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf) (*Ulkomaalaislaki/Utlänningslag*) (301/2004) 30 April 2004, entered into force 1 May 2004

[Non-Discrimination Act](http://www.finlex.fi/en/laki/kaannokset/haku/?search%5btype%5d=pika&search%5bpika%5d=yhdenvertaisuuslaki&submit=Search) (*Yhdenvertaisuuslaki/Lag omlikabehandling*) (21/2004) 20 January 2004, entered into force on 1 February 2004

[Administrative Procedure Act](http://www.finlex.fi/en/laki/kaannokset/2003/en20030434.pdf) (*Hallintolaki/Förvaltiningslag*) (434/2003) 6 June 2003, entered into force 1 January 2004

[Act on Checking the Criminal Background of Persons Working with Children](http://www.finlex.fi/en/laki/kaannokset/2002/en20020504.pdf) (*Lakilastenkanssatyöskentelevienrikostaustanselvittämisestä/Lag omkontrollavbrottsligbakgrundhospersonersomarbetar med barn*) (504/2002) 14 June 2002, entered into force 1 January 2003

[Legal Aid Act](http://www.finlex.fi/en/laki/kaannokset/2002/en20020257.pdf) (*Oikeusapulaki/Rättshjälpslag*) (257/2002) 5 April 2002, came into force 1 June 2002

The Act on Rights and Position of a Customer of Social Welfare Services ([*Lakisosiaalihuollonasiakkaanasemastajaoikeuksista*](http://www.finlehttp:/www.finlex.fi/fi/laki/ajantasa/2000/20000812x.fi/fi/laki/ajantasa/2000/20000812) */ Lag omklientensställningochrättigheterinomsocialvården*) (812/2000) 22 September 2000, entered into force on 1 January 2001

[The Constitution of Finland](http://www.finlex.fi/en/laki/kaannokset/1999/en19990731?search%5btype%5d=pika&search%5bpika%5d=perustuslaki) (*Suomenperustuslaki/Finlandsgrundlag*) (731/1999) 11 June 1999, entered into force 1 March 2000

[Act on the Openness of Government Activities](http://www.finlex.fi/en/laki/kaannokset/1999/en19990621.pdf) (*Lakiviranomaistentoiminnanjulkisuudesta/Lag omoffentlighet I myndigheternasverksamhet*) (621/1999) 21 May 1999, entered into force 1 December 1999

Administrative Courts Act ([*Hallinto-oikeuslaki*](http://www.finlex.fi/fi/laki/ajantasa/1999/19990430)*/Lag omförvaltningsdomstolarna*) (430/1999) 26 March 1999, entered into force 1 November 1999

The Act on the Restraining Order ([*Lakilähestymiskiellosta*](http://www.finlex.fi/fi/laki/smur/1998/19980898?search%5btype%5d=pika&search%5bpika%5d=laki%20l%C3%A4hestymiskiellosta)/*Lag ombesöksförbud*) (898/1998) 4 December 1998, entered into force 1 January 1999

[Basic Education Act](http://www.finlex.fi/en/laki/kaannokset/1998/en19980628.pdf) (*Perusopetuslaki/Lag omgrundläggandeutbildning*) (628/1998) 21 August 1998, entered into force 1 January 1999

[Administrative Judicial Procedure Act](http://www.finlex.fi/en/laki/kaannokset/1996/en19960586.pdf) (*Hallintolainkäyttölaki/Förvaltningsprocesslag*) (586/1996) 26 July 1996, entered into force 1 December 1996

Act on Court Fees and Fees of Certain Judicial Administration authorities ([*Lakituomioistuintenjaeräidenoikeushallintoviranomaistensuoritteistaperittävistämaksuista*](http://www.finlex.fi/fi/laki/ajantasa/1993/19930701) */ Lag omavgifterfördomstolarsochvissajustitieförvaltningsmyndighetersprestationer*) (701/1993) 26 July 1993, entered into force 1 September 1993

[Mental Health Act](http://www.finlex.fi/en/laki/kaannokset/1990/en19901116.pdf) (*Mielenterveyslaki/Mentalvårdslag*) (1116/1990) 14 December 1990, entered into force on 1 January 1991

[Act on Equality between Women and Men](http://www.finlex.fi/en/laki/kaannokset/1986/en19860609?search%5btype%5d=pika&search%5bpika%5d=laki%20naisten%20ja%20miesten%20v%C3%A4lisest%C3%A4) (*Lakinaistenjamiestenvälisestätasa-arvosta/Lag omjämställdhetmellankvinnorochmän*) (609/1986) 8 August 1986, entered into force on 1 January 1987

The Child Custody and Right of Access Act ([*Lakilapsenhuollostajatapaamisoikeudesta*](http://www.finlex.fi/fi/laki/ajantasa/1983/19830361)/*Lag angåendevådnadom barn ochumgängesrätt*) (361/1983) 8 April 1983, entered into force 1 January 1984

[Social Welfare Act](http://www.finlex.fi/en/laki/kaannokset/1982/en19820710?search%5Btype%5D=pika&search%5Bpika%5D=sosiaalihuoltolaki) (*Sosiaalihuoltolaki/Socialvårdslagen*) (710/1982) 17 September 1982, entered into force 1 January 1984

The Act on Special Care for the Mentally Handicapped ([*Lakikehitysvammaistenerityishuollosta*](http://www.finlex.fi/fi/laki/ajantasa/1977/19770519?search%5btype%5d=pika&search%5bpika%5d=laki%20kehitysvammaisten#L3) */ Lag angåendespecialomsorgeromutvecklingsstörda*) (519/1977) 23 June 1977, entered into force on 1 January 1978

[Code of Judicial Procedure](http://www.finlex.fi/en/laki/kaannokset/1734/en17340004.pdf) (*Oikeudenkäymiskaari/Rättegångs Balk*) (4/1734) 1 January 1734, entered into force 1 January 1734

1. This table provides an indicative summary of competent courts and relevant proceedings. However, please check [Section 1](#Section1) for a complete overview of the competent courts or sections/divisions within the competent courts. [↑](#footnote-ref-1)
2. This study on Children’s involvement in judicial proceedings is composed by three contextual overviews i.e. contextual overview for criminal justice, contextual overview for civil justice, contextual overview for administrative justice. The rules applying to judicial proceedings in the sectors of family and employment are described in the contextual overview for civil justice. [↑](#footnote-ref-2)
3. (MACR) Minimum Age of Criminal Responsibility – see [Table 3.1 of the EU Summary of contextual overviews on children's involvement in criminal judicial proceedings](http://bookshop.europa.eu/en/summary-of-contextual-overviews-on-children-s-involvement-in-criminal-judicial-proceedings-in-the-28-member-states-of-the-european-union-pbDS0313659/related/?PublicationKey=DS0313659&CatalogCategoryID=WTQKABsteF0AAAEjKpEY4e5L) on MACR in EU28 as at 1 June 2012. [↑](#footnote-ref-3)
4. [The Constitution of Finland](http://www.finlex.fi/en/laki/kaannokset/1999/en19990731?search%5btype%5d=pika&search%5bpika%5d=perustuslaki) (*Suomen perustuslaki/Finlands grundlag*) (731/1999) Section 21. [↑](#footnote-ref-4)
5. [The Constitution of Finland](http://www.finlex.fi/en/laki/kaannokset/1999/en19990731?search%5btype%5d=pika&search%5bpika%5d=perustuslaki) (*Suomen perustuslaki/Finlands grundlag*) (731/1999) Section 98. [↑](#footnote-ref-5)
6. [The Constitution of Finland](http://www.finlex.fi/en/laki/kaannokset/1999/en19990731?search%5btype%5d=pika&search%5bpika%5d=perustuslaki) (*Suomen perustuslaki/Finlands grundlag*) (731/1999) Section 99. [↑](#footnote-ref-6)
7. [Administrative Procedure Act](http://www.finlex.fi/en/laki/kaannokset/2003/en20030434.pdf) (*Hallintolaki/Förvaltiningslag*) (434/2006). [↑](#footnote-ref-7)
8. [Administrative Judicial Procedure Act](http://www.finlex.fi/en/laki/kaannokset/1996/en19960586.pdf) (*Hallintolainkäyttölaki/Förvaltningsprocesslag*) (586/1996). [↑](#footnote-ref-8)
9. [Administrative Judicial Procedure Act](http://www.finlex.fi/en/laki/kaannokset/1996/en19960586.pdf) (*Hallintolainkäyttölaki/Förvaltningsprocesslag*) (586/1996) Chapter 4; [Administrative Procedure Act](http://www.finlex.fi/en/laki/kaannokset/2003/en20030434.pdf) (*Hallintolaki/Förvaltiningslag*) (434/2006) Section 14. [↑](#footnote-ref-9)
10. [Child Welfare Act](http://www.finlex.fi/en/laki/kaannokset/2007/en20070417.pdf) (*Lastensuojelulaki/Barnskyddslag*) (417/2007). [↑](#footnote-ref-10)
11. [Aliens Act](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf) (*Ulkomaalaislaki/Utlänningslag*) (301/2004). [↑](#footnote-ref-11)
12. Act on Reception of a Person Applying for international Protection ([*Laki kansainvälistä suojelua hakevan vastaanotosta*](http://www.finlex.fi/fi/laki/ajantasa/2011/20110746?search%5btype%5d=pika&search%5bpika%5d=laki%20vastaanotosta#L5P39)*/Lag om mottagande av personer som söker internationellt skydd*) (746/2011). [↑](#footnote-ref-12)
13. Government Bill [HE 266/2010 vp](http://www.finlex.fi/en/laki/kaannokset/2003/en20030434.pdf). [↑](#footnote-ref-13)
14. [Mental Health Act](http://www.finlex.fi/en/laki/kaannokset/1990/en19901116.pdf) (*Mielenterveyslaki/Mentalvårdslag*) (1116/1990). [↑](#footnote-ref-14)
15. The Act on Special Care for the Mentally Handicapped ([*Laki kehitysvammaisten erityishuollosta*](http://www.finlex.fi/fi/laki/ajantasa/1977/19770519?search%5btype%5d=pika&search%5bpika%5d=laki%20kehitysvammaisten#L3)*/Lag angående specialomsorger om utvecklingsstörda*) (519/1977). [↑](#footnote-ref-15)
16. Mental Health Act (*Mielenterveyslaki/Mentalvårdslag*) (1116/1990) Section 8. [↑](#footnote-ref-16)
17. Mental Health Act (*Mielenterveyslaki/Mentalvårdslag*) (1116/1990) Section 11. [↑](#footnote-ref-17)
18. Act on Public Transportation Penalty Fare ([*Laki joukkoliikenteen tarkastusmaksusta*](http://www.finlex.fi/fi/laki/ajantasa/1979/19790469)*/Lagen om kontrollavgift i kollektivtrafik*)(469/1979) Sections 1 and 13. [↑](#footnote-ref-18)
19. Godzinsky, V-M. de, [Huostaanotto Hallinto-oikeuksissa – Tutkimus tahdonvastaisten huostaanottojen päätöksentekomenettelystä](http://www.optula.om.fi/Satellite?blobtable=MungoBlobs&blobcol=urldata&SSURIapptype=BlobServer&SSURIcontainer=Default&SSURIsession=false&blobkey=id&blobheadervalue1=inline;%20filename=260_de_Godzinsky_2012.pdf&SSURIsscontext=Satellite%20Server&blobwhere=1324303619216&blobheadername1=Content-Disposition&ssbinary=true&blobheader=application/pdf) (with English summary: Taking a child into care – research of decision making in administrative courts), Oikeuspoliitiittisen tutkimuslaitoksen tutkimuksia 260, Helsinki 2012, at 13. [↑](#footnote-ref-19)
20. [Child Welfare Act](http://www.finlex.fi/en/laki/kaannokset/2007/en20070417.pdf) (*Lastensuojelulaki/Barnskyddslag*) (417/2007) Section 40. [↑](#footnote-ref-20)
21. Godzinsky, V-M. de, [Huostaanotto Hallinto-oikeuksissa – Tutkimus tahdonvastaisten huostaanottojen päätöksentekomenettelystä](http://www.optula.om.fi/Satellite?blobtable=MungoBlobs&blobcol=urldata&SSURIapptype=BlobServer&SSURIcontainer=Default&SSURIsession=false&blobkey=id&blobheadervalue1=inline;%20filename=260_de_Godzinsky_2012.pdf&SSURIsscontext=Satellite%20Server&blobwhere=1324303619216&blobheadername1=Content-Disposition&ssbinary=true&blobheader=application/pdf) (with English summary: Taking a child into care – research of decision making in administrative courts), Oikeuspoliitiittisen tutkimuslaitoksen tutkimuksia 260, Helsinki 2012, at 62; Marttunen, M, [Nuorisorikosoikeus](http://www.optula.om.fi/1210250004478), Oikeuspoliittisen tutkimuslaitoksen julkaisuja 236 (2008), at 373. [↑](#footnote-ref-21)
22. A child could be placed into substitute care also related to protective measures (earlier stage. Explained below in Section 2.4). Under Finnish law, different forms of substitute care, forms of providing care and upbringing, such as in families or institutions, exist. [↑](#footnote-ref-22)
23. [Child Welfare Act](http://www.finlex.fi/en/laki/kaannokset/2007/en20070417.pdf) (*Lastensuojelulaki/Barnskyddslag*) (417/2007) Section 43. [↑](#footnote-ref-23)
24. [Child Welfare Act](http://www.finlex.fi/en/laki/kaannokset/2007/en20070417.pdf) (*Lastensuojelulaki/Barnskyddslag*) (417/2007) Sections 38 and 40. [↑](#footnote-ref-24)
25. [Child Welfare Act](http://www.finlex.fi/en/laki/kaannokset/2007/en20070417.pdf) (*Lastensuojelulaki/Barnskyddslag*) (417/2007) Section 83. [↑](#footnote-ref-25)
26. Godzinsky, V-M. de, [Huostaanotto Hallinto-oikeuksissa – Tutkimus tahdonvastaisten huostaanottojen päätöksentekomenettelystä](http://www.optula.om.fi/Satellite?blobtable=MungoBlobs&blobcol=urldata&SSURIapptype=BlobServer&SSURIcontainer=Default&SSURIsession=false&blobkey=id&blobheadervalue1=inline;%20filename=260_de_Godzinsky_2012.pdf&SSURIsscontext=Satellite%20Server&blobwhere=1324303619216&blobheadername1=Content-Disposition&ssbinary=true&blobheader=application/pdf) (with English summary: Taking a child into care – research of decision making in administrative courts), Oikeuspoliitiittisen tutkimuslaitoksen tutkimuksia 260, Helsinki 2012, at 13.

    25 [↑](#footnote-ref-26)
27. [The Child Custody and Right of Access Act](file:///\\ghkfar1.ghkint.local\Farringdon\Jobs\EUR\JHA\J9312%20-%20Children%20in%20Justice%20Proceedings\Documents%20and%20Settings\Documents%20and%20Settings\hiniemin\Local%20Settings\Temp\The%20Child%20Custody%20and%20Right%20of%20Access%20Act) (*Laki lapsen huollosta ja tapaamisoikeudesta*/*Lag angåendevådnadom barn och umgängesrätt*)(361/1983) and [The Child Welfare Act](http://www.finlex.fi/fi/laki/kaannokset/2007/en20070417?search%5Btype%5D=pika&search%5Bpika%5D=lastensuojelulaki) ([*Lastensuojelulaki*](http://www.finlex.fi/fi/laki/ajantasa/2007/20070417?search%5btype%5d=pika&search%5bpika%5d=laki%20lapsen%20huollosta)*/ Barnskyddslag)* (417/2007). [↑](#footnote-ref-27)
28. [The Child Welfare Act](http://www.finlex.fi/fi/laki/kaannokset/2007/en20070417?search%5Btype%5D=pika&search%5Bpika%5D=lastensuojelulaki) (*Lastensuojelulaki*/B*arnskyddslag*) (417/2007). [↑](#footnote-ref-28)
29. The Act on Rights and Position of a Customer of Social Welfare Services ([*Laki sosiaalihuollon asiakkaan asemasta ja oikeuksista*](http://www.finlehttp:/www.finlex.fi/fi/laki/ajantasa/2000/20000812x.fi/fi/laki/ajantasa/2000/20000812)*/Lag om klientens ställning och rättigheter inom socialvården*) (812/2000) Section 10 . [↑](#footnote-ref-29)
30. [Aliens Act](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf) (*Ulkomaalaislaki/Utlänningslag*) (301/2004) Section 6. [↑](#footnote-ref-30)
31. Godzinsky, V.-M. de, [Huostaanotto Hallinto-oikeuksissa – Tutkimus tahdonvastaisten huostaanottojen päätöksentekomenettelystä](http://www.optula.om.fi/Satellite?blobtable=MungoBlobs&blobcol=urldata&SSURIapptype=BlobServer&SSURIcontainer=Default&SSURIsession=false&blobkey=id&blobheadervalue1=inline;%20filename=260_de_Godzinsky_2012.pdf&SSURIsscontext=Satellite%20Server&blobwhere=1324303619216&blobheadername1=Content-Disposition&ssbinary=true&blobheader=application/pdf) (with English summary: Taking a child into care – research of decision making in administrative courts), Oikeuspoliitiittisen tutkimuslaitoksen tutkimuksia 260, Helsinki 2012, at 99. [↑](#footnote-ref-31)
32. Godzinsky, V.-M. de, [Huostaanotto Hallinto-oikeuksissa – Tutkimus tahdonvastaisten huostaanottojen päätöksentekomenettelystä](http://www.optula.om.fi/Satellite?blobtable=MungoBlobs&blobcol=urldata&SSURIapptype=BlobServer&SSURIcontainer=Default&SSURIsession=false&blobkey=id&blobheadervalue1=inline;%20filename=260_de_Godzinsky_2012.pdf&SSURIsscontext=Satellite%20Server&blobwhere=1324303619216&blobheadername1=Content-Disposition&ssbinary=true&blobheader=application/pdf) (with English summary: Taking a child into care – research of decision making in administrative courts), Oikeuspoliitiittisen tutkimuslaitoksen tutkimuksia 260, Helsinki 2012, at 119. [↑](#footnote-ref-32)
33. [The Child Welfare Act](http://www.finlex.fi/fi/laki/kaannokset/2007/en20070417?search%5Btype%5D=pika&search%5Bpika%5D=lastensuojelulaki) (*Lastensuojelulaki*/B*arnskyddslag*) (417/2007) Section 4. [↑](#footnote-ref-33)
34. [The Child Welfare Act](http://www.finlex.fi/fi/laki/kaannokset/2007/en20070417?search%5Btype%5D=pika&search%5Bpika%5D=lastensuojelulaki) (*Lastensuojelulaki*/B*arnskyddslag*) (417/2007) Section 5. [↑](#footnote-ref-34)
35. The Government Bill [HE 252/2006 vp](http://www.finlex.fi/fi/esitykset/he/2006/20060252.pdf). [↑](#footnote-ref-35)
36. [Non-Discrimination Act](http://www.finlex.fi/en/laki/kaannokset/haku/?search%5btype%5d=pika&search%5bpika%5d=yhdenvertaisuuslaki&submit=Search) (*Yhdenvertaisuuslaki/Lag om likabehandling*) (21/2004). [↑](#footnote-ref-36)
37. Ombudsman for Minorities, [Customer Service](http://www.vahemmistovaltuutettu.fi/en/ethnic_discrimination/help/customer_service). [↑](#footnote-ref-37)
38. Doctoral dissertation (not finished) of Hiitola, J. referred to in Godzinsky, V.-M. de, [Huostaanotto Hallinto-oikeuksissa – Tutkimus tahdonvastaisten huostaanottojen päätöksentekomenettelystä](http://www.optula.om.fi/Satellite?blobtable=MungoBlobs&blobcol=urldata&SSURIapptype=BlobServer&SSURIcontainer=Default&SSURIsession=false&blobkey=id&blobheadervalue1=inline;%20filename=260_de_Godzinsky_2012.pdf&SSURIsscontext=Satellite%20Server&blobwhere=1324303619216&blobheadername1=Content-Disposition&ssbinary=true&blobheader=application/pdf) (with English summary: Taking a child into care – research of decision making in administrative courts), Oikeuspoliitiittisen tutkimuslaitoksen tutkimuksia 260, Helsinki 2012, at 130. [↑](#footnote-ref-38)
39. [Act on Equality between Women and Men](http://www.finlex.fi/en/laki/kaannokset/1986/en19860609?search%5btype%5d=pika&search%5bpika%5d=laki%20naisten%20ja%20miesten%20v%C3%A4lisest%C3%A4) (Laki naisten ja miesten välisestä tasa-arvosta/Lag om jämställdhet mellan kvinnor och män)(609/1986); [The Ombudsman for Equality](http://www.tasa-arvo.fi/en/home). [↑](#footnote-ref-39)
40. [Ombusman for Children in Finland](http://www.lapsiasia.fi/en/overv). [↑](#footnote-ref-40)
41. Jääskeläinen, P, [Tuomioistuinten valvonnan perusteet, rajoitukset ja sisältö](http://www.oikeusasiamies.fi/dman/Document.phx?documentId=oi04110163531412&cmd=download); [Chancellor of Justice](http://www.okv.fi/); [Parliamentary Ombudsman](http://www.oikeusasiamies.fi/Resource.phx/eoa/english/index.htx). [↑](#footnote-ref-41)
42. The Parliamentary Ombudsman of Finland, [Children’s rights](http://www.oikeusasiamies.fi/Resource.phx/eoa/english/ombudsman/tasks/childrensrights.htx). [↑](#footnote-ref-42)
43. [Paunio, R-L.: Lapsiasioita painotetaan oikeusasimiehen omissa aloitteissa, 17 September 2009](http://www.lapsiasia.fi/nyt/tiedotteet/tiedote/-/view/1427151). [↑](#footnote-ref-43)
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109. Godzinsky, V.-M. de, [Huostaanotto Hallinto-oikeuksissa – Tutkimus tahdonvastaisten huostaanottojen päätöksentekomenettelystä](http://www.optula.om.fi/Satellite?blobtable=MungoBlobs&blobcol=urldata&SSURIapptype=BlobServer&SSURIcontainer=Default&SSURIsession=false&blobkey=id&blobheadervalue1=inline;%20filename=260_de_Godzinsky_2012.pdf&SSURIsscontext=Satellite%20Server&blobwhere=1324303619216&blobheadername1=Content-Disposition&ssbinary=true&blobheader=application/pdf) (with English summary: Taking a child into care – research of decision making in administrative courts), Oikeuspoliitiittisen tutkimuslaitoksen tutkimuksia 260, Helsinki 2012, at 19. [↑](#footnote-ref-109)
110. [The Child Welfare Act](http://www.finlex.fi/fi/laki/kaannokset/2007/en20070417?search%5Btype%5D=pika&search%5Bpika%5D=lastensuojelulaki) (*Lastensuojelulaki*/B*arnskyddslag*) (417/2007) Section 86. [↑](#footnote-ref-110)
111. [Aliens Act](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf) (*Ulkomaalaislaki/Utlänningslag*) (301/2004) Section 6. [↑](#footnote-ref-111)
112. European Migration Network,[Yksintulleet – näkökulmia ilman huoltajaa maahan saapuneiden lasten asemasta Suomessa](http://www.emn.fi/files/44/Artikkeli_yksintulleet_24062009_FINAL.pdf), 10. [↑](#footnote-ref-112)
113. Act on Reception of a Person Applying for International Protection ([*Laki kansainvälistä suojelua hakevan vastaanotosta*](http://www.finlex.fi/fi/laki/ajantasa/2011/20110746?search%5btype%5d=pika&search%5bpika%5d=laki%20vastaanotosta#L5P39)*/Lag om mottagande av personer som söker internationellt skydd*) (746/2011) Sections 39 and 41. [↑](#footnote-ref-113)
114. Act on Reception of a Person Applying for International Protection ([*Laki kansainvälistä suojelua hakevan vastaanotosta*](http://www.finlex.fi/fi/laki/ajantasa/2011/20110746?search%5btype%5d=pika&search%5bpika%5d=laki%20vastaanotosta#L5P39)*/Lag om mottagande av personer som söker internationellt skydd*) (746/2011) Section 7. [↑](#footnote-ref-114)
115. [Administrative Judicial Procedure Act](http://www.finlex.fi/en/laki/kaannokset/1996/en19960586.pdf) (*Hallintolainkäyttölaki/Förvaltningsprocesslag*) (586/1996) Section 20. [↑](#footnote-ref-115)
116. [Administrative Judicial Procedure Act](http://www.finlex.fi/en/laki/kaannokset/1996/en19960586.pdf) (*Hallintolainkäyttölaki/Förvaltningsprocesslag*) (586/1996) Section 19a. [↑](#footnote-ref-116)
117. [The Child Welfare Act](http://www.finlex.fi/fi/laki/kaannokset/2007/en20070417?search%5Btype%5D=pika&search%5Bpika%5D=lastensuojelulaki) (*Lastensuojelulaki*/B*arnskyddslag*) (417/2007) Section 86a. [↑](#footnote-ref-117)
118. [The Child Welfare Act](http://www.finlex.fi/fi/laki/kaannokset/2007/en20070417?search%5Btype%5D=pika&search%5Bpika%5D=lastensuojelulaki) (*Lastensuojelulaki*/B*arnskyddslag*) (417/2007) Section 87. [↑](#footnote-ref-118)
119. [The Child Welfare Act](http://www.finlex.fi/fi/laki/kaannokset/2007/en20070417?search%5Btype%5D=pika&search%5Bpika%5D=lastensuojelulaki) (*Lastensuojelulaki* /B*arnskyddslag*) (417/2007) Section 22. [↑](#footnote-ref-119)
120. Godzinsky, V.-M. de, [Huostaanotto Hallinto-oikeuksissa – Tutkimus tahdonvastaisten huostaanottojen päätöksentekomenettelystä](http://www.optula.om.fi/Satellite?blobtable=MungoBlobs&blobcol=urldata&SSURIapptype=BlobServer&SSURIcontainer=Default&SSURIsession=false&blobkey=id&blobheadervalue1=inline;%20filename=260_de_Godzinsky_2012.pdf&SSURIsscontext=Satellite%20Server&blobwhere=1324303619216&blobheadername1=Content-Disposition&ssbinary=true&blobheader=application/pdf) (with English summary: Taking a child into care – research of decision making in administrative courts), Oikeuspoliitiittisen tutkimuslaitoksen tutkimuksia 260, Helsinki 2012, at 25; Government Bill HE 252/2006 vp at 17. [↑](#footnote-ref-120)
121. Godzinsky, V.-M. de, [Huostaanotto Hallinto-oikeuksissa – Tutkimus tahdonvastaisten huostaanottojen päätöksentekomenettelystä](http://www.optula.om.fi/Satellite?blobtable=MungoBlobs&blobcol=urldata&SSURIapptype=BlobServer&SSURIcontainer=Default&SSURIsession=false&blobkey=id&blobheadervalue1=inline;%20filename=260_de_Godzinsky_2012.pdf&SSURIsscontext=Satellite%20Server&blobwhere=1324303619216&blobheadername1=Content-Disposition&ssbinary=true&blobheader=application/pdf) (with English summary: Taking a child into care – research of decision making in administrative courts), Oikeuspoliitiittisen tutkimuslaitoksen tutkimuksia 260, Helsinki 2012, at 24. [↑](#footnote-ref-121)
122. Godzinsky, V.-M. de, [Huostaanotto Hallinto-oikeuksissa – Tutkimus tahdonvastaisten huostaanottojen päätöksentekomenettelystä](http://www.optula.om.fi/Satellite?blobtable=MungoBlobs&blobcol=urldata&SSURIapptype=BlobServer&SSURIcontainer=Default&SSURIsession=false&blobkey=id&blobheadervalue1=inline;%20filename=260_de_Godzinsky_2012.pdf&SSURIsscontext=Satellite%20Server&blobwhere=1324303619216&blobheadername1=Content-Disposition&ssbinary=true&blobheader=application/pdf) (with English summary: Taking a child into care – research of decision making in administrative courts), Oikeuspoliitiittisen tutkimuslaitoksen tutkimuksia 260, Helsinki 2012, at 25; [Administrative Judicial Procedure Act](http://www.finlex.fi/en/laki/kaannokset/1996/en19960586.pdf) (*Hallintolainkäyttölaki/Förvaltningsprocesslag*) (586/1996) Section 19a. [↑](#footnote-ref-122)
123. [Legal Aid Act](http://www.finlex.fi/en/laki/kaannokset/2002/en20020257.pdf) (*Oikeusapulaki/Rättshjälpslag*) (257/2002). [↑](#footnote-ref-123)
124. [Mental Health Act](http://www.finlex.fi/en/laki/kaannokset/1990/en19901116.pdf) (*Mielenterveyslaki/Mentalvårdslag*) (1116/1990) Section 27. [↑](#footnote-ref-124)
125. [Aliens Act](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf) (*Ulkomaalaislaki/Utlänningslag*) (301/2004) Sections 123-129. [↑](#footnote-ref-125)
126. [Aliens Act](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf) (*Ulkomaalaislaki/Utlänningslag*) (301/2004) Sections 127. [↑](#footnote-ref-126)
127. [Memorandum of the Administration Committee of the Finnish Parliament (*Hallintovaliokunnan mietintö*) 30/2010 vp](http://www.eduskunta.fi/faktatmp/utatmp/akxtmp/havm_30_2010_p.shtml). [↑](#footnote-ref-127)
128. [Aliens Act](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf) (*Ulkomaalaislaki/Utlänningslag*) (301/2004) Section 121. [↑](#footnote-ref-128)
129. [Aliens Act](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf) (*Ulkomaalaislaki/Utlänningslag*) (301/2004) Section 122. [↑](#footnote-ref-129)
130. [Aliens Act](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf) (*Ulkomaalaislaki/Utlänningslag*) (301/2004) Section 123. [↑](#footnote-ref-130)
131. [Mental Health Act](http://www.finlex.fi/en/laki/kaannokset/1990/en19901116.pdf) (*Mielenterveyslaki/Mentalvårdslag*) (1116/1990) Section 8. [↑](#footnote-ref-131)
132. [Mental Health Act](http://www.finlex.fi/en/laki/kaannokset/1990/en19901116.pdf) (*Mielenterveyslaki/Mentalvårdslag*) (1116/1990) Section 11. [↑](#footnote-ref-132)
133. [Mental Health Act](http://www.finlex.fi/en/laki/kaannokset/1990/en19901116.pdf) (*Mielenterveyslaki/Mentalvårdslag*) (1116/1990) Section 13. [↑](#footnote-ref-133)
134. The Act on Special Care for the Mentally Handicapped ([*Laki kehitysvammaisten erityishuollosta*](http://www.finlex.fi/fi/laki/ajantasa/1977/19770519?search%5btype%5d=pika&search%5bpika%5d=laki%20kehitysvammaisten#L3)*/Lag angående specialomsorger om utvecklingsstörda*) (519/1977) Sections 32-34. [↑](#footnote-ref-134)
135. Godzinsky, V.-M. de, [Huostaanotto Hallinto-oikeuksissa – Tutkimus tahdonvastaisten huostaanottojen päätöksentekomenettelystä](http://www.optula.om.fi/Satellite?blobtable=MungoBlobs&blobcol=urldata&SSURIapptype=BlobServer&SSURIcontainer=Default&SSURIsession=false&blobkey=id&blobheadervalue1=inline;%20filename=260_de_Godzinsky_2012.pdf&SSURIsscontext=Satellite%20Server&blobwhere=1324303619216&blobheadername1=Content-Disposition&ssbinary=true&blobheader=application/pdf) (with English summary: Taking a child into care – research of decision making in administrative courts), Oikeuspoliitiittisen tutkimuslaitoksen tutkimuksia 260, Helsinki 2012, at 31; Statement of the Constitutional Law Committee of the Parliament of Finland PeVL 58/2006; The Supreme Administrative Court KHO 2006:17. [↑](#footnote-ref-135)
136. Mäenpää, O 298. [↑](#footnote-ref-136)
137. [Administrative Judicial Procedure Act](http://www.finlex.fi/en/laki/kaannokset/1996/en19960586.pdf) (*Hallintolainkäyttölaki/Förvaltningsprocesslag*) (586/1996) Section 70. [↑](#footnote-ref-137)
138. Kurki-Suonio, K. ‘[Parental Responsibilities – Finland](http://ceflonline.net/wp-content/uploads/Finland-Parental-Responsibilities.pdf)’. [↑](#footnote-ref-138)
139. The limitation period is dependent on the nature and gravity of the act. According to the Criminal Code (Rikoslaki 19.12.1889/39) Chapter 8 § 6 limitation period expires, unless the charges have been filed in:

     1) 20 years if the offense the maximum penalty is imprisonment for a fixed period of more than eight years,

     2) in 10 years, if the maximum penalty is more than two years and a maximum of eight years in prison,

     3) five years, if the maximum penalty is more than one year and a maximum of two years' imprisonment, and

     4) two years, if the maximum penalty is up to one year's imprisonment, a fine or a petty fine.

     Penalties described for sexual abuses on children (less than 16 years of age) are limited to no less than four months and no more to four years. Therefore, the third category applies to the limitation period. In case of aggravated rape (also applies to children under 18) the minimum sentence is two years and the max is 10 years, so in this case first category applies. [↑](#footnote-ref-139)
140. Räty, T. 598-599. [↑](#footnote-ref-140)
141. [The Child Welfare Act](http://www.finlex.fi/fi/laki/kaannokset/2007/en20070417?search%5Btype%5D=pika&search%5Bpika%5D=lastensuojelulaki) (*Lastensuojelulaki*/B*arnskyddslag*) (417/2007) Section 92. [↑](#footnote-ref-141)
142. Act on Court Fees and Fees of Certain Judicial Administration Authorities(*[Laki tuomioistuinten ja eräiden oikeushallintoviranomaisten suoritteista perittävistä maksuista](http://www.finlex.fi/fi/laki/ajantasa/1993/19930701)/Lag om avgifter för domstolars och vissa justitieförvaltningsmyndigheters prestationer*) (701/1993). [↑](#footnote-ref-142)
143. [Administrative Judicial Procedure Act](http://www.finlex.fi/en/laki/kaannokset/1996/en19960586.pdf) (*Hallintolainkäyttölaki/Förvaltningsprocesslag*) (586/1996) Section 74. [↑](#footnote-ref-143)
144. [Administrative Judicial Procedure Act](http://www.finlex.fi/en/laki/kaannokset/1996/en19960586.pdf) (*Hallintolainkäyttölaki/Förvaltningsprocesslag*) (586/1996) Section 49. [↑](#footnote-ref-144)
145. Mäenpää, O, Hallintoprosessioikeus, 572. [↑](#footnote-ref-145)
146. [Administrative Judicial Procedure Act](http://www.finlex.fi/en/laki/kaannokset/1996/en19960586.pdf) (*Hallintolainkäyttölaki/Förvaltningsprocesslag*) (586/1996) Section 55. [↑](#footnote-ref-146)
147. The Act on the Restraining Order ([*Laki lähestymiskiellosta*](http://www.finlex.fi/fi/laki/smur/1998/19980898?search%5btype%5d=pika&search%5bpika%5d=laki%20l%C3%A4hestymiskiellosta)/*Lag om besöksförbud*) (898/1998). [↑](#footnote-ref-147)
148. <http://www.poliisi.fi/poliisi/home.nsf/ExternalFiles/englanti/$file/englanti.pdf>. [↑](#footnote-ref-148)
149. [Aliens Act](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf) (*Ulkomaalaislaki/Utlänningslag*) (301/2004) Section 204. [↑](#footnote-ref-149)
150. [Aliens Act](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf) (*Ulkomaalaislaki/Utlänningslag*) (301/2004) Section 196. [↑](#footnote-ref-150)
151. [Aliens Act](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf) (*Ulkomaalaislaki/Utlänningslag*) (301/2004) Section 200. [↑](#footnote-ref-151)
152. [Representation for asylum seekers](http://www.pakolaisneuvonta.fi/files/PAN_edustajaopas_2010_verkko.pdf). [↑](#footnote-ref-152)
153. Räty, T, Lastensuojelulaki – käytäntö ja soveltaminen, 594. [↑](#footnote-ref-153)
154. [The Child Welfare Act](http://www.finlex.fi/fi/laki/kaannokset/2007/en20070417?search%5Btype%5D=pika&search%5Bpika%5D=lastensuojelulaki) (*Lastensuojelulaki*/B*arnskyddslag*) (417/2007) Section 53. [↑](#footnote-ref-154)
155. [Administrative Judicial Procedure Act](http://www.finlex.fi/en/laki/kaannokset/1996/en19960586.pdf) (*Hallintolainkäyttölaki/Förvaltningsprocesslag*) (586/1996) Section 91. [↑](#footnote-ref-155)
156. [Aliens Act](http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf) (*Ulkomaalaislaki/Utlänningslag*)(301/2004) Sections 123-129. [↑](#footnote-ref-156)