

**QUESTIONNAIRE FOR THE NATIONAL REPORT ON THE IMPLEMENTATION
OF THE DIRECTIVE :**

TEMPORARY PROTECTION OF 20 JULY 2001

IN

FINLAND

By
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The person in the team of thematic coordination in charge of this directive that you can contact if you have a question or need help when completing this questionnaire is:

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FIRST PART

1. NORMS OF TRANSPOSITION AND JURISPRUDENCE

Q.1.A. Identify the central norm(s) of transposition and indicate its legal nature

- This question includes even norms adopted before the adoption of the directive but ensuring its transposition (what is called a pre-existing norm in the table of correspondence).
- Quote the norm of transposition and not only the norm modified by it (the same is true in case of existence of a code of aliens law)
- About legal nature in the table below: *legislative* refers to a norm adopted in principle by the Parliament; *regulation* refers to a norm complementing the law and adopted in principle by the executive power; *circular or instructions* refer to practical rules about implementation of laws and regulations and adopted in principle by the administrative authorities

When answering this question, please use one or more of the tables below. If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

This table is about: <input checked="" type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted
TITLE: Ulkomaalaislaki (Aliens Act)
DATE: 30.4.2004
NUMBER: 301/2004
DATE OF ENTRY INTO FORCE: 1.5.2004
PROVISIONS CONCERNED : 33, 34, 53, 54, 58, 68, 79, 109 - 117, 134, 149, (for example if the norm also pursues other objectives than the transposition of the directive)
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: 301 (30.4.2004)
LEGAL NATURE (please tick the correct box): <input checked="" type="checkbox"/> LEGISLATIVE <input type="checkbox"/> REGULATION <input type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Table 2

This table is about: <input checked="" type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted
TITLE: Laki maahanmuuttajien kotouttamisesta sekä turvapaikanhakijoiden vastaanotosta (Act on the Integration of Immigrants and Reception of Asylum Seekers)
DATE: 9.4.1999
NUMBER: 493/1999
DATE OF ENTRY INTO FORCE: 1.5.1999
PROVISIONS CONCERNED : 1, 2, 3, 4, 6, 7, 14, 19, 22, 25, 26, 31, 32, 34, 37, 41, 43, 45 (for example if the norm also pursues other objectives than the transposition of the concerned directive)
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: 493 (9.4.1999)
LEGAL NATURE (please tick the correct box): <input checked="" type="checkbox"/> LEGISLATIVE <input type="checkbox"/> REGULATION <input type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Table 3

This table is about: <input checked="" type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted
TITLE: Laki maahanmuuttajien kotouttamisesta sekä turvapaikanhakijoiden vastaanotosta annetun lain muuttamisesta (Act amending the Act on the Integration of Immigrants and Reception of Asylum Seekers)
DATE: 15.2.2002
NUMBER: 118/2002
DATE OF ENTRY INTO FORCE: 1.3.2002
PROVISIONS CONCERNED : all provision (for example if the norm also pursues other objectives than the transposition of the concerned directive)

REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: 118(15.2.2002)
LEGAL NATURE (please tick the correct box): <input checked="" type="checkbox"/> LEGISLATIVE <input type="checkbox"/> REGULATION <input type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Q.1.B.

Please list the others norms of transposition according to their hierarchical position in your legal system (first laws, to be followed by regulations; and circulars or instructions):

- This question includes even norms adopted before the adoption of the directive but ensuring its transposition (what is termed a pre-existing norm in the table of correspondence).
- Quote the norm of transposition and not only the norm modified by it (the same is true in case of existence of a code of aliens law)

When answering this question, please use one or more of the tables below (one norm per table). If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

TITLE: Laki ulkomaalaislain muuttamisesta (Act amending the Aliens Act) This was the act implementing specifically the changes brought about by the Directive to the Aliens Act in force at the time.
DATE: 15.2.2002
NUMBER: 130/2002
DATE OF ENTRY INTO FORCE: 1.3.2002
PROVISIONS CONCERNED : all (for example if the norm also pursues other objectives than the transposition of the directive)
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: 130 (15.2.2002)
LEGAL NATURE (indicate by ticking the correct box): <input checked="" type="checkbox"/> LEGISLATIVE <input type="checkbox"/> REGULATION <input type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Table 2

TITLE: Asetus maahanmuuttajien kotouttamisesta ja turvapaikanhakijoiden vastaanotosta (Decree on the integration of immigrations and reception of asylum-seekers)
DATE: 22.4.1999
NUMBER: 511/1999
DATE OF ENTRY INTO FORCE: 1.5.1999
PROVISIONS CONCERNED : 4, 6a, 11 - 15 (for example if the norm is not devoted only to the transposition of the concerned directive)

REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: 511 (22.4.1999)
LEGAL NATURE (indicate by ticking the correct box): <input type="checkbox"/> LEGISLATIVE <input checked="" type="checkbox"/> REGULATION <input type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Table 3

TITLE: Valtioneuvoston asetus maahanmuuttajien kotouttamisesta ja turvapaikanhakijoiden vastaanotosta annetun asetuksen muuttamisesta (Decree amending the decree on the integration of immigrants and reception of asylum-seekers)
DATE: 21.2.2002
NUMBER: 156/2002
DATE OF ENTRY INTO FORCE: 1.3.2002
PROVISIONS CONCERNED : all provisions (for example if the norm also pursues other objectives than the transposition of the directive)
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: 156 (21.2.2002)
LEGAL NATURE (indicate by ticking the correct box): <input type="checkbox"/> LEGISLATIVE <input checked="" type="checkbox"/> REGULATION <input type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Table 4

TITLE: Työministeriön asetus vastaanottokeskusten ryhmäkotien henkilöstöstä ja turvapaikanhakijoiden ja tilapäistä suojelua saavien toimeentulotuen jakamisesta rahamääräiseen osaan ja hyödykkeinä annettavaan osaan (Decree from the Ministry of Labour on the staff of the reception centers and the division of the maintenance grant for asylum seekers or persons granted temporary protection into one part consisting of money and another part consisting of goods)
DATE: 26.2.2002
NUMBER: 158/2002
DATE OF ENTRY INTO FORCE: 1.3.2002
PROVISIONS CONCERNED : 1-3 (for example if the norm also pursues other objectives than the transposition of the directive)
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: 158 (26.2.2002)
LEGAL NATURE (indicate by ticking the correct box): <input type="checkbox"/> LEGISLATIVE <input checked="" type="checkbox"/> REGULATION <input type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Table 5

TITLE: Ulkoasianministeriön asetus ulkoasianhallinnon suoritteiden maksuista (Decree on charges for services by the Foreign Ministry)
DATE: 21.12.2005
NUMBER: 1173/2005
DATE OF ENTRY INTO FORCE: 1.1.2006
PROVISIONS CONCERNED : 5 (for example if the norm also pursues other objectives than the transposition of the directive)
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: 1173(21.12.2005)
LEGAL NATURE (indicate by ticking the correct box): <input type="checkbox"/> LEGISLATIVE <input checked="" type="checkbox"/> REGULATION <input type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Q.2. This question needs to be answered only for **FEDERAL OR SIMILAR MEMBER STATES LIKE AUSTRIA, BELGIUM, GERMANY, ITALY, SPAIN**

Q.2.A. Explain which level of government is competent to adopt the norms of transposition.

Please include your answer in the tables below

LEGISLATIVE RULES
COMPETENCES OF THE FEDERAL/CENTRAL LEVEL:
COMPETENCES OF THE COMPONENTS:
EXPLANATIONS IF NECESSARY:

REGULATIONS
COMPETENCES OF THE FEDERAL/CENTRAL LEVEL:
COMPETENCES OF THE COMPONENTS:
EXPLANATIONS IF NECESSARY:

CIRCULAR OR INSTRUCTIONS
COMPETENCES OF THE FEDERAL/CENTRAL LEVEL:
COMPETENCES OF THE COMPONENTS:
EXPLANATIONS IF NECESSARY: The Aland Islands is an autonomous part of Finland, whereby Finland can be seen as a federal state. However, as the implementation of the directive regarding temporary protection does not require the exercise of the autonomous powers of the Aland Islands in order to gain power also on the Islands, and as all provisions in Finnish law relating to temporary protection are subject to the powers of the central government, not of the autonomous powers of the Aland Islands, Finland will for the purpose of this study not be considered to be a federal state.

Q.2.B. Where appropriate, please explain if the federal structure and the distribution of competences between the different levels creates any problem or difficulty regarding the transposition and/or the implementation of the directive.

Q.3. Explain which authorities are competent for the practical implementation of the norm of transposition by taking the decisions in individual cases.

When answering this question, please use one or more of the tables below (one table per competence concerned). If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

COMPETENCE CONCERNED:	Issuance of first residence permits, decision-making on possible applications for asylum by persons benefiting from temporary protection; decision-making on applications for family reunification, issuance of alien's passports; keeping of register of foreigners in Finland.
CENTRAL MINISTRY OF:	Ministry of Interior
DIRECTION OR SERVICE WITHIN THE ABOVE MINISTRY:	
OTHER LEVEL OF ADMINISTRATION:	Directorate of Immigration
IF NECESSARY, COMMENT ABOUT THE NATURE OF THE AUTHORITY (for instance if it is independent of the competent minister)	The Directorate of Immigration is the central authority in questions relating to foreigners in Finland. It is an authority subordinate to the Ministry of Interior. The M of I can on a general level instruct the Directorate. However, the M of I cannot influence separate decisions.

Table 2

COMPETENCE CONCERNED:	Issuance of other than the first residence permit, registration of applications for asylum, registration of information about foreigners (fingerprints, photos etc.)
CENTRAL MINISTRY OF:	Ministry of Interior
DIRECTION OR SERVICE WITHIN THE ABOVE MINISTRY:	
OTHER LEVEL OF ADMINISTRATION:	Police
IF NECESSARY, COMMENT ABOUT THE NATURE OF THE AUTHORITY (for instance if it is independent of the competent minister)	It is mainly the local police that is involved in tasks relating to the reception of persons with temporary protection. Again, the M of I, as the supervising ministry, can on a general level instruct the Directorate, but not influence separate decisions.

Table 3

COMPETENCE CONCERNED:	Housing, maintenance grants, healthcare, social services, interpretation
CENTRAL MINISTRY OF:	Ministry of Labour
DIRECTION OR SERVICE WITHIN THE ABOVE MINISTRY:	
OTHER LEVEL OF ADMINISTRATION:	Reception centers
IF NECESSARY, COMMENT ABOUT THE NATURE OF THE AUTHORITY (for instance if it is independent of the competent minister)	The reception centers for asylum seekers are either run by the counties, directly by the ministry of labour or by the Finnish Red Cross. Services are provided by the Ministry of Labour.

Table 4

COMPETENCE CONCERNED:	Supervising municipalities' immigrant integration work, supervising employment offices' immigrant integration work and employment services for immigrants, compensating municipalities for expenses resulting from the reception of refugees as well as promoting ethnic relationships.
CENTRAL MINISTRY OF:	Ministry of Labour
DIRECTION OR SERVICE WITHIN THE ABOVE MINISTRY:	Employment and Economic Development Centre
OTHER LEVEL OF ADMINISTRATION:	
IF NECESSARY, COMMENT ABOUT THE NATURE OF THE AUTHORITY (for instance if it is independent of the competent minister)	

Table 5

COMPETENCE CONCERNED:	Assistance with work related issues.
CENTRAL MINISTRY OF:	Ministry of Labour
DIRECTION OR SERVICE WITHIN THE ABOVE:	Employment offices

MINISTRY:	
OTHER LEVEL OF ADMINISTRATION:	
IF NECESSARY, COMMENT ABOUT THE NATURE OF THE AUTHORITY (for instance if it is independent of the competent minister)	

Q.4.A. Has the central regulation foreseen by the central norm of transposition already been adopted?

YES NO

Q.4.B. If the central norm(s) of transposition foresee(s) the adoption of one or several regulations, indicate if they have all been adopted:

YES NO

If NO, please indicate the missing text(s) in the table below. Where necessary, please add further explanations (specify in particular if the missing texts are at least under preparation or foreseen in the very near future):

When answering this question, please use one or more of the tables below (one table per missing text). If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

MISSING TEXTS
<i>INDICATE HERE THE MISSING TEXTS</i>

SECOND PART

Duration and implementation of temporary protection

Q.5. According to article 5(1) in the Directive the existence of a mass influx of displaced persons shall be established by a Council Decision adopted by a qualified majority on a proposal from the Commission, which shall also examine any request by a Member State that it submit a proposal to the Council. According to article 5(3) the Council Decision shall have the effect of introducing temporary protection for the displaced persons to which it refers, in all the Member States, in accordance with the provisions in the Directive.

Do the national norms of transposition in your Member State mandate the Council to decide about the existence of a mass influx of displaced person, with the effect of introducing temporary protection for the displaced persons to which it refers in your Member State?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation (if the answer is “no”, how is a Council decision transposed ad hoc into national law?)

Section 109 of the Aliens' Act (301/2004) gives the Finnish Government the right to in general chamber decide on to which group of persons and for which time temporary protection can be granted. In the preparatory works (Government Bill 28/2003) this is explained as meaning that the Government as result of for instance a decision by the Council will make a national decision regarding temporary protection. However, it is not said whether there is an obligation for the Government to make a decision as a result of a decision by the Council.

Q.6. According to article 6 in the Directive, temporary protection shall come to an end when the maximum duration has been reached or at any time by Council Decision on a proposal from the Commission. *See article 6 (1-2).*

Do the national norms of transposition mandate the Council to decide when temporary protection in your Member State shall come to an end?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (if the answer is ‘no’, how is a Council decision transposed ad hoc into national law?)

Section 109 of the Aliens' Act (301/2004) gives the Finnish Government the right to in general chamber decide on the length of the temporary protection. The preparatory works (Government Bill 28/2003) refers to that this right can be exercised for instance as a result of a decision in the Council.

According to the same preparatory works, the Government can also decide to extend temporary protection beyond the period decided on by the Council.

Q.7. According to article 7, a Member States may extend temporary protection, as provided for in the Directive, to additional categories of displaced persons over and above those to whom a Council decision applies, where they are displaced for the same reasons and from the same country or region of origin. *See optional provision in article 7 (1-2).*

Do the national norms of transposition allow your Member State to extend temporary protection to additional categories of displaced persons?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (If the answer is "yes", if any, what are the criteria for extending protection to additional categories of displaced persons)?

Section 109 of the Aliens' Act enables the Finnish Government to in general chamber decide on the groups eligible for temporary protection. The preparatory works (Government Bill 28/2003) give a Council decision as one example of when such a decision is made by the government, but does not restrict the right of the Government to decide on temporary protection only to instances when the Council has passed a prior decision. The Government Bill mentions both armed conflicts, other forms of violence and environmental disasters as possible reasons for the temporary protection.

Obligations of the Member States towards persons enjoying temporary protection

Q.8. Questions regarding obligations of the Member States towards persons enjoying temporary protection. *See article 8(1-3):*

Q.8.A. Does your Member State provide persons enjoying temporary protection with a residence permit? *See mandatory provision in article 8(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (if the answer is 'no', what are the practical Consequences for the individual?)

Section 110 of the Aliens' act (301/2004) states that persons granted temporary protection are granted temporary residence permits for one year at a time. The first one year residence permit is issued by the Directorate of Immigration (section 116), whereas the subsequent residence permits are issued by the local police (section 117). The grounds for issuing residence permits are, clearly, at hand as long as the period for temporary protection has not ended.

Q.8.B. Answer this question if the answer on Q.8.A is 'yes': Is the residence permit valid for the entire period of temporary protection? *See mandatory provision in article 8(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation: (if the answer is 'no', what are the practical Consequences for the individual?)

Q.8.C. Will documents or other equivalent evidence for the residence permit be issued? See mandatory provision in article 8(1).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

The residence permit is granted in the form of a written decision, according to the Act on Administrative Conduct (434/2003) section 43 that states that all decisions in the administration must be produced in writing. Also, proof of the residence permit is marked in the passport or travelling document of the foreigner. Additionally, a foreigner enjoying temporary protection can be granted a foreigner's passport if he or she does not possess any other travel document (Aliens' Act 301/2004, section 134), in which the details of the residence permit will be marked.

Q.8.D. Will your Member State provide persons enjoying temporary protection with a document, in a language likely to be understood by them, in which the provisions relating to temporary protection, and which are relevant to them, is clearly set out? See mandatory provision in article 9.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

The Act on Administrative Conduct (434/2003) section 43 that states that all decisions in the administration must be produced in writing. Section 203 of the Aliens' Act 301/2004 clearly states that a party to a procedure, such as for instance a person that has requested temporary protection, has the right to receive information on the contents of the decision effecting his or her status in his or her native language or in a language that is likely to be understood by him or her. The information shall be given through interpretation or through translation.

In practise it is possible that the contents of the decision is translated through interpretation, not by translation in writing. In such instances, the document will be written in a language not understood by the person, but translated into a language he or she understands.

Q.8.E. Will the personal data of the persons enjoying temporary protection (name, nationality, date and place of birth, marital status, and family relationship) be registered? See mandatory provision in article 10.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

The Directorate of Immigration upholds a register of foreigners in Finland, into which the information about persons under temporary protection will be fed. The law governing the register is Laki ulkomaalaisrekisteristä (1997/1270) (The Act on the Aliens' Register 1997/1270). The specific data is stored in a subregister in the reception centres in accordance with the Integration Act 493/1999 section 5(1).

Q.8.F. Will your Member State provide facilities for obtaining the necessary visas, including transit visas, to persons which will be admitted to the territory for the purposes of temporary protection? See mandatory provision in article 8(3).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

There are no direct provisions on the matter in Finnish law, but the Finnish Red Cross is on basis of contracts with the Ministry of Labour handling the reception, including the travelling to Finland, of quota refugees and holds expertise in this respect. Thus, the practical undertaking of the visa formalities will be carried out by the Red Cross in cooperation with the Foreign Ministry of Finland, which is the responsible ministry.

Q.8.G. According to the national law of your Member State: Will the visas referred to in Q.8.F, be free of charge? See mandatory provision in article 8(3).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (if the answer is “no”, please indicate the amount charged and indicate amounts charged for other types of visas)

Section 5,5 of the Decree on charges in the Foreign Ministry (1173/2005) visas are free of charge to persons coming to Finland as refugees, as persons under temporary protection or due to heavy humanitarian reasons.

Q.9. According to national law of transposition, is your Member State responsible to take back a person enjoying temporary protection on its territory if that person seeks to enter onto or remains on the territory of another Member State without authorisation during the period of temporary protection? See mandatory provision in article 11.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

There is no provision in Finnish law obliging Finland to take back or receive persons enjoying temporary protection.

However, persons granted a residence permit on the grounds of temporary protection in Finland always have the right to enter into Finland during the length of their residence permits.

Q.10. Has your Member State concluded bilateral agreements with other Member States regulating the responsibility for persons enjoying temporary protection under the Directive? *See optional provision in article 11, final sentence.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation: (If the answer is “yes”, please specify with which country)

Q.11. Questions regarding work and other activities during temporary protection: *See mandatory provision in article 12.*

Q.11.A. Are the persons enjoying temporary protection allowed to engage in:

Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Employed activities? Yes No

Self-employed activities? Yes No

Educational opportunities for adults? Yes No

Vocational training? Yes No

Practical workplace experience? Yes No

Explanation:

There are no restrictions to the right to work, to be self-employed or to the access to any form of adult education for persons enjoying temporary protection. However, the temporary nature of their residence permit may exclude them from some services and social security only granted to persons with a permanent residence permit.

Q.11.B. According to optional provision in article 12, Member States may, for reasons of labour market policies, give priority to EU citizens and citizens of States bound by the Agreement on the European Economic Area and also to legally resident third-country nationals who receive unemployment benefit.

Do the national norms of transposition in your Member State give priority, or allow giving priority, to:

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

- EU citizens? Yes No
- Citizens of the European Economic Area? Yes No
- Legally resident third-country nationals who receives unemployment benefits? Yes No

Explanation: There are no provisions on the matter in Finnish law.

Question to be answered only if persons enjoying temporary protection are allowed to work:

Q.11.C. According to article 12, final sentence, the general law in force in the Member States applicable to remuneration, access to social security systems relating to employed or self-employed activities and other conditions of employment shall apply if persons enjoying temporary protection are allowed to work.

If persons enjoying temporary protection are allowed to work: Will your country's general laws be applicable regarding:

Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

- Remuneration? Yes No
- Access to social security systems relating to employed or self-employed activities and other conditions of employment? Yes No

Explanation:

A temporarily protected person falls at least partly outside the scheme for social security in Finland. He or she is not entitled to unemployment benefits, due to the temporary nature of his or her residence permit. Neither is the person entitled to the services of the Social Insurance Institution of Finland, nor to the health- and social services distributed by municipalities.

A person enjoying temporary protection is, according to section 22 of the Integration Act (1999/493) to income support in Finland.

Q.12. Questions regarding the Member States obligation towards the temporary protected regarding accommodation, subsidies, medical care etc. *See article 13(1-4).*

Q.12.A. Is your Member State obliged under national law to provide the persons enjoying temporary protection with suitable accommodation or means in order to obtain housing? *See mandatory provision in article 13(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation :

Sections 19 and 19 c of the Integration Act (1999/493) states that persons enjoying temporary protection are entitled to the same reception as asylum seekers in Finland in terms of housing. This implies that accommodation for persons enjoying temporary protection will be arranged in the reception centres used for reception of asylum seekers. Additionally, persons enjoying temporary protection naturally have the same right as asylum seekers to find private housing, if so desired.

Section 6a of the same Integration Act (1999/493) also states that special centres for registration can be founded in cases of mass-influx. In such instances the first reception and, thus, accommodation will be provided in these centres.

Q.12.B. Will your Member State, according to national law, be obliged to provide the persons enjoying temporary protection with economic assistance such as social welfare and means of subsistence? See mandatory provision in article 13(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

Section 22 of the Integration Act (1999/493) states that social welfare can be granted to a person enjoying temporary protection under the general conditions of the Act on Social Welfare (1997/1412). Thus, if a temporarily protected person meets the general requirements for social welfare, this will be provided to him. In practise, most asylum seekers in Finland are granted social welfare, which indicates that also persons under temporary protection would be provided with this.

Q.12.C. Do the persons enjoying temporary protection have access to emergency medical care and essential treatment of illness? See mandatory provision in article 13 (2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation: (If the answer is “yes”, please provide details whether persons enjoying temporary protection have access to *general medical care* or if it is restricted to *emergency care and essential treatment of illness*?)

Section 19 of the Integration Act (1999/493) states that a person enjoying temporary protection is entitled to necessary health services.

Q.12.D. Will your Member State, according to national law, be obligated to provide for necessary medical or other assistance to persons enjoying temporary protection who have special needs such as unaccompanied minors, persons who have undergone torture, rape or other serious forms of

psychological, physical or sexual violence? *See mandatory provision in article 13(4).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (If the answer is “yes”, please provide details about the assistance given to different groups of persons with special needs, for example psychological help for persons who have undergone torture).

Section 19 a of the Integration Act (1999/493) states that persons enjoying temporary protection in Finland are entitled to health and social services to the same extent as persons resident in Finland. The right to medical assistance for the person enjoying temporary protection is thus far extended beyond what asylum seekers are entitled to. Persons enjoying temporary protection have the right to medical assistance in special conditions on the same grounds as persons resident in Finland.

Q.13. Questions regarding access to education. *See article 14 (1-2):*

Q.13.A. Do persons who are under 18 years of age and enjoying temporary protection have access to the education system under the same conditions as nationals of your Member State? *See mandatory provision in article 14(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

The right to education is in Finland not tied to the nationality. In accordance with section 16 of the Constitution (731/1999), everyone is entitled to free basic education. According to the Act on Basic Education (628/1998) sections 25 and 4, the municipalities are obliged to offer basic education to children permanently resident in Finland. According to section 5, the municipality can voluntarily offer basic education also to other children than those permanently resident in Finland, but are not obliged to do so.

Q.13.B. If the answer on Q.13.A is ‘yes’: **Is access to education confined to the state education system or does it cover all kinds of educational institutions?**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

The municipalities can offer education to children that are temporarily resident in Finland. In addition, according to the High School Act (1998/629) municipalities, registered communities and foundations can arrange high school teaching. The right to attend such education is not tied to the nationality nor status of residence permit, but to the entrance requirements for the high school in question.

Q.13.C. Do adults enjoying temporary protection have access to the general education system? See optional provision in article 14(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

There are no explicit provisions on the matter in Finnish law. In practise, the right to education is in Finland not tied to the nationality of the educated nor, in the case of adults, to the status of their residence permits. However, adults do not have the same right to basic education as children.

Q.14. Questions regarding right to family reunification. *See article 15:*

Q.14.A. Do the national norms of transposition in your Member State allow separated family members, which enjoy temporary protection in different Member States, to reunite? See mandatory provision in article 15(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

Section 114 of the Aliens' Act (301/2004) allows family members of a person enjoying temporary protection in Finland to apply for a residence permit on family reasons in Finland. This is granted if the applicant is not seen as constituting a danger to the public order or the security of the society (section 114, 2).

Q.14.B. Do the national norms of transposition in your Member State allow family members who are not yet in a Member State to reunite with a person enjoying temporary protection in your Member State? See mandatory provision in article 15(3).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

There are no limitations to the right to seek family reunification, nor are there any geographical limitations in the criteria for granting residence permits on grounds of family reunifications. Section 114 of the Aliens' Act (301/2004) clearly indicates that all family members, regardless of their geographical location, are eligible for family reunification.

Q.14.C. For the application of the rules regarding family reunification: Whom does your Member State consider a “family member”? See article 15(1)(a)(b).

(Please indicate by ticking the correct box/boxes and **EXPLAIN YOUR ANSWER**)

- The spouse of the person enjoying temporary protection.**
- The unmarried partner in a stable relationship to the person enjoying temporary protection.**
- The minor unmarried children of the person enjoying temporary protection or of his/her spouse, without distinction as to whether they were born in or out of wedlock or adopted.**
- Other close relatives who lived as part of the family unit with the person enjoying temporary protection at the time of the events leading to the mass influx, and who were wholly or mainly dependent on him/her at the time.**

Explanation:

Section 37 of the Aliens' Act (301/2004) defines family members as the spouse to a person resident in Finland, children under 18 years of age whose provider lives in Finland or who is the spouse to someone resident in Finland and the provider(s) to a child resident in Finland. The term spouse is according to section 37,2 to be understood broadly, including also same-sex partners, and partners that have lived together for more than two years or if they have children together.

Further, section 115 of the Aliens' Act (301/2004) also stipulates that other persons outside the range of the family-concept can be granted residence permits on the same grounds as family members, if there is a strong bond of dependency between the person in Finland and them.

Q.14.D. What means of proof is needed in your Member State to verify family membership, is for example documentary evidence needed?

The primary source of information when establishing family bonds is documentary evidence. However, article 64 of the Aliens Act (301/2004) provides for the possibility to conduct oral hearings with the applicant, the family member in Finland or other other family members in order to retain information about the family bonds. Article 65 states that if other proof of the family relationship has not been presented, the applicant can be requested to verify the family bond by means of DNA-testing.

Q.14.E. Explain which measures have been taken in your Member State to ensure that 'the best interest of the child' is accounted for when applying the provisions on family reunification in the national norms of transposition? See mandatory provision in article 15(4).

Article 6 of the Aliens Act (301/2004) states that whenever decisions concern minors, special care shall be taken that the best interest of the child is respected. Special attention shall be paid to circumstances effecting the development and health of the child. The opinion of the child is, if possible, always to be included in the material constituting the base for the decision-making.

Q.14.F. According to article 15(5), Member States shall decide in which Member State the reunification shall take place. Please indicate which authority possesses the competency to take such decisions?

Name and function of the Authority: Directorate of Immigration; Authority with competence in matters related to foreigners and aliens in Finland.

Q.14.G. If there is a formal procedure foreseen for such decisions, please describe it briefly:

There is no explicit references to any formal procedure for deciding on in which state the reunification shall take place. However, the Council Directive (2003/86/EC) on the right to family reunification is implemented and, thus, gives the frames to the formal procedure. In addition, section 114 of the Aliens Act (301/2204) states that a requirement for the granting of a residence permit on the basis of family bonds is that the uniting family member lives in Finland.

Regarding the decision making procedure generally in matters of family reunification for persons enjoying temporary protection the following can be said: Section 114 of the Aliens Act (301/2004) states that family members to persons in Finland can seek family reunification in Finland. Section 62 states that an application for family reunification can be handed in either by the family members abroad to a Finnish embassy or legation abroad, or by the uniting family member to the local police in Finland. Section 63 states that on grounds of the application, the Directorate of Immigration or the local police can request statements on issues regarding health, age and the family bonds by the health and social services in the area where the uniting family member lives. Section 64, again, states that oral hearings can be conducted with the family members and the person in Finland, whereas sections 65 and 66 provides for the possibility to attain physical DNA-evidence on the family bonds. Sections 66a and 67 gives the Directorate of Immigration the power to assess and make decisions on applications for residence permits on family bonds.

Q.14.H. Are reunited family members in your Member State granted residence permits under temporary protection?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

Section 114 of the Aliens Act (301/2004) states that family member to persons enjoying temporary protection are granted residence permits on ground of their family bonds to Finland. In practise this means that the family members will be granted temporary residence permits on the basis of family bonds for the same time as the temporarily protected person has been granted residence permit.

In practice, the family member is regardless the differences in residence permits granted the same rights and benefits as the temporary protected.

Q.14.I. Are documents or other equivalent evidence issued for persons who comes to your Member State and receives temporary protection under the provisions regarding family reunification?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

The residence permit is granted in the form of a written decision in conformity with the demands of the Act on Administrative Conduct (434/2003) section 43. . Also, proof of the residence permit is marked in the passport or travelling document of the foreigner. Additionally, a foreigner enjoying temporary protection can be granted a foreigner's passport if he or she does not possess any other travel document (Aliens' Act 301/2004, section 134), in which the details of the residence permit will be marked.

Q.14.J. Does the national norms of transposition in your Member State comply with the provision in article 15(8) stating that a Member State shall at the request of another Member State, provide information on a person receiving temporary protection which is needed to process a matter of family reunification? See mandatory provision in article 15(8).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

There are no explicit stipulations on the matter in the Finnish law. However, the cooperation with foreign authorities has, according to involved ministries and authorities, been good.

Q.15. Questions regarding unaccompanied minors: *See article 16:*

Q.15.A. Explain how the representation of unaccompanied minors enjoying temporary protection in your Member State is arranged according to national law. See mandatory provision in article 16(1).

Unaccompanied minors under temporary protection are, in accordance with section 26 of the Integration Act (493/1999) provided with a representant. The representant functions as the guardian of the child in matters of the child's person and property. The representant further decides about the placement of the child.

Q.15.B. Does your Member State provide for unaccompanied minors to be placed with: See mandatory provision in article 16(2).

(Please indicate by ticking the correct box/boxes and **EXPLAIN YOUR ANSWER**)

- Adult relatives ?**
- A foster-family ?**
- In reception centres with special provisions for minors, or in other accomodation suitable for minors ?**
- With the person who looked after the child when fleeing ?**

Explanation:

There are a number of reception centres for minors and unacompanied minors in connection to the general receptions centres for asylum seekers and persons enjoying temporary protection. In addition, unaccompanied minors can be placed in private homes if this is seen as consistent with the best interest of the child. The representant decides on questions of placement, but is obliged under law (Integration Act 493/1999 Section 26) to discuss with the child before reaching a decision.

Q.15.C. Do the national norms of transposition in your Member State meet the requirement that the views of the child shall be taken into account when arranging placement for the minor? See mandatory provision in article 16(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Section 26 of the Integration Act (493/199) obliges the representant of the child to discuss all matters with the child before making decisions, if this is possible with regard to the age of the child. Additionally, section 6 of the Aliens Act (301/2004) states that in decisions regarding children of a younger age than 12 years special attention shall be paid to the needs of the child and the child shall be heard if possible. In decisions regarding children over 12 years of age, the child must always be heard before making decisions that are of effect for the child.

Access to the asylum procedure in the context of temporary protection

Q.16. Questions regarding access to the asylum procedure. *See article 3 and 17-19:*

According to mandatory provision in article 3(1) temporary protection shall not prejudice recognition of refugee status under the Geneva Convention.

Q.16.A. Does temporary protection in any way prejudice recognition of refugee status under the Geneva Convention in your Member State?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

It is explicitly stated in the preparatory works to the acts of implementation (Government Bill 23/2001) that temporary protection does not exclude the applicability of the Geneva Convention or in any manner prejudice the recognition of refugee status under the Convention.

Q.16.B. Does your Member State allow persons enjoying temporary protection to apply for asylum at any time during the period of temporary protection? *See mandatory provision in article 17(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Persons enjoying temporary protection are free to apply for asylum during the time of protection. Also, the fact that a person has applied for asylum is no hinder for him or her being granted temporary protection. However, according to section 111 of the Aliens Act (301/2004) the examination of the applications for asylum by persons enjoying temporary protection can be postponed until the temporary protection has ended.

Q.16.C. Does your Member State allow persons enjoying temporary protection to stay in the Member State during the examination of their asylum claim, even though the period of temporary protection has ended? *See mandatory provision in article 17(2).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

If the application for asylum is examined after the temporary protection has ended, the applicant has the same right to stay in Finland during the examination of his or her application as any other asylum seeker. This implies that there is a right of stay until the first decision is made in the matter, and possible also during the appeal-stages of the examination. Legal norms governing the right to stay in Finland during appeals procedures are to be found in the Aliens' Act 301/2004, sections 190 - 202.

Q.16.D. What criteria are provided by the norms of transposition in your Member State to determine the responsibility amongst Member States for examining an asylum application submitted by a person enjoying temporary protection in another Member State? See mandatory provision in article 18.

The determination of the responsibility for examining an asylum application submitted by a person enjoying temporary protection in another MS is carried out in accordance with the rules of the Dublin regulation (Council Regulation No 343/2003 of 18 February 2003) as far as this is possible.

Q.16.E. Has your Member State decided that temporary protection may not be enjoyed concurrently with the status of asylum seeker while applications are under consideration? See optional provision in article 19.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: If the answer is “yes”, please provide details concerning differences between the reception conditions for asylum seekers and persons enjoying temporary protection in your Member State which might lead to withdrawal or reduction of rights for a temporary protected who lodges an application for asylum.

A person may apply for asylum though he or she is temporarily protected in Finland. The most common situation of simultaneous applications for asylum and residence permits on grounds of temporary protection is situations where the person has applied for asylum before being recognised as a person benefiting from temporary protection.

However, the general rule according to section 111 of the Aliens' Act (301/2004) is that applications for asylum by person enjoying temporary protection will not be examined or in any manner processed before the temporary protection has ended, unless there are weighty reasons for doing so. The Directorate of Immigration will contact all persons enjoying temporary protection and that have applied for asylum after the period of protection has ended in order to enquire about the future of their applications for asylum. The applicant must, if the application is not processed during the time of the temporary protection, in written ask the Directorate of Immigration to take up the examination of his or her application for asylum, otherwise the application will expire.

Q.16.F. If refugee status or, where applicable, other kind of protection is not granted to a person who is eligible for or already enjoys temporary protection is that person allowed to enjoy or continue to enjoy temporary protection in your Member State? See mandatory provision in article 19(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation:

If the negative decision is given while the person enjoys temporary protection, the person indeed has the right to continue to enjoy temporary protection for the period established. However, the need for temporary protection and the eligibility of the person is re-evaluated each year in connection with the issuance of a new residence permit.

Return and measures after temporary protection has ended

Q.17. Questions regarding the voluntary return of persons enjoying temporary protection:

Q.17.A. According to mandatory provision in article 21(1) the Member States *shall* ensure that the provisions governing voluntary return of persons enjoying temporary protection facilitate their return with respect for human dignity. How is that reflected in the national norms of transposition in your Member State?

According to the Act on the Integration of Immigrants and Reception of Asylum Seekers (493/1999) reception centres can support voluntary returns of people enjoying temporary protection in Finland by paying their travelling and removal costs and granting them a subsidy for settling again in the home country.

In addition, section 51 of the Aliens' Act (301/2004) gives the authorities the possibility to grant a residence permit to a person whose return cannot be facilitated on grounds of the health of the person.

Q.17.B. Please explain how your Member State ensures that a decision of persons enjoying temporary protection, or whose temporary protection has ended, to return voluntarily is taken in full knowledge of the facts. *See mandatory provision in article 21(1).*

The Integration Act (493/1999) does not include provisions concerning information for people enjoying temporary protection and wishing to return voluntarily. However, they are given necessary information in reception centres when asked and in connection with granting of the financial support mentioned above. The Ministry of Labour also has contracts with international organisations, such as IOM, for supporting returns in practical questions.

Regarding the facts of the decision to return the foreigner, section 43 of the Act on Administrative Conduct (434/2003) states that a written decision must be made on the matter, of which the alien is entitled to information in a language he or she is likely to understand.

Q.17.C. Is it possible for the temporary protected in your Member State to make exploratory visits to the home country? *See optional provision in article 21(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation:

There are no direct provisions on the matter in Finnish law. However, during the time in 1999 when Finland received persons from Kosovo under temporary protection based on a decision by the Government, exploratory visits were organised in cooperation with the IOM. It is likely that the same pattern of conduct would be used in possible future exploratory visits.

Q.17.D. Please explain if and how your Member State has transposed article 21(2) stating that Member States shall, for such time as the temporary protection has not ended and on the basis of the circumstances prevailing in the country of origin, give favourable consideration to requests for return to the host Member State from persons who have enjoyed temporary protection and exercised their right to a voluntary return?

If a person enjoying temporary protection in his or her notice of removal (required from all residents in Finland that move either within the country or between states) indicates that he or she is moving permanently to the home state, the residence permit of the person expires according to the Aliens' Act 301/2004, section 58 disregarding possible time left on the temporary protection. If the person moving indicates that he or she is moving, but not permanently, the residence permit does not expire. The persons exercising their right to a voluntary return must, according to the involved ministries, be informed about the effects of the notice of removal. However, there are no provisions on this in the Finnish law.

If a person, whose residence permit has expired, wishes to reavail him- or herself of the protection of Finland during the time of temporary protection, his or her request for residence permit is as a starting point assessed positively by the Directorate of Immigration.

Q.17.E. Is it possible, under the national norms of transposition in your Member State, for persons enjoying temporary protection to continue receive their benefits as temporary protected after the period of temporary protection has ended, if they benefit from a voluntary return programme? See optional provision in article 21.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation: (If the answer is “yes”, for how long is that possible).

There are no provisions on the matter in Finnish law.

Q.18. Questions concerning enforced return of persons who have enjoyed temporary protection. See articles 22:

Q.18.A. Explain if and how the laws of your Member State comply with the mandatory provision in article 22(1), obliging Member States to ensure that the enforced return of persons whose temporary protection has ended and who are not eligible for admission shall be conducted with due respect for human dignity.

The starting point when temporary protection has ended is that the persons that have enjoyed temporary protection voluntarily will return to their home countries when a return that is safe and that respects their human dignity is possible. If a return is not possible after the temporary protection has ended or if the person does not voluntarily return, the examination of the grounds for enforced return or residence permits is made on the basis of the general rules of the Aliens' Act 301/2004.

The respect for human dignity in matters of enforced return is seen as self evident by involved authorities. In the internal instructions of the Ministry of Interior (SM-2003-06382/Tu-41) it is explicitly stated that the rights of the alien in situations of enforced return cannot be restricted more than necessary. The same provision is included in the Aliens' Act 301/2004 section 5, which states that the rights of the alien cannot be restricted more than is necessary in matters encompassed by the Act. Also, section 146 of the Aliens' Act requires that a general assessment of the matter is to be carried out before any decision on return can be enforced. Finally, section 147 of the Aliens' Act includes norms on non-refoulement.

In addition, section 52 of the Aliens' Act also stipulates that residence permits are granted to persons whose return cannot, on humanitarian grounds, be sent back from Finland.

Q.18.B. Explain if and how the laws of your Member State comply with the mandatory provision in article 22(2) obliging Member States to consider any compelling humanitarian reasons which may make return impossible or unreasonable in specific cases.

Section 146 of the Aliens Act (301/2004) stipulates that account must be taken to all relevant circumstances when deciding on the turning back or expulsion of an alien from Finland. This includes circumstances of humanitarian nature. Furthermore, section 147 includes a provision on non-refoulement. In addition, section 52 of the Aliens Act states that permanent residence permits are granted to persons if humanitarian compelling reasons.

Q.18.C. In the national law of your Member State, are there any other grounds (except for the one referred to in Q.18.B) for allowing persons who have enjoyed temporary protection to stay in your Member State?

According to section 146 of the Aliens Act (301/2004) also circumstances relating to the best interest of the child, the right to family life, the bonds to Finland and the cultural or social bonds to his or her home country play a role when deciding on return of the alien.

Q.19. Questions concerning forcible return of persons who have enjoyed temporary protection. *See article 23:*

Q.19.A. Does the national law and practice of your Member State comply with the mandatory provision in article 23, providing that persons who have enjoyed temporary protection and who cannot, in view of their state of health reasonably be expected to travel, are not expelled as long as that situation continues? The provision exemplifies with persons who would suffer serious negative effects if their treatment was interrupted.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation:

The general rule on non-refoulement (section 147 of the Aliens Act 301/2004) includes the interpretation that persons cannot be turned back if this would risk their health in above mentioned manner. Also, section 52 of the same Act explicitly states that one of the grounds for granting permanent residence permits to foreigners in

Finland relates to the implications of a return on the health conditions of the person. In addition, section 51 states that residence permits are also granted to persons, whose return from Finland is impossible due to practical reasons.

Q.19.B. Does your Member State allow families whose children attend school in a Member State, to benefit from residence conditions allowing the children concerned to complete the current school period before return? See optional provision in article 23.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

There are no specific provisions on the matter in Finnish law.

Solidarity

Q.20. Please describe how your Member State ensures that persons eligible for temporary protection defined in a Council Decision under article 5 and who have not arrived in the Community have expressed their will to be received on their territory? See mandatory provision in article 25(2).

There are no explicit references to the will of the aliens to be received on Finnish territory in Finnish legislation.

When arriving in Finland, temporary protection will be granted to eligible persons upon request. Thus, the persons must themselves request the residence permit and thus express their will to be received as temporary protected persons in Finland.

Q.21. Questions concerning the transferral between Member States of persons enjoying temporary protection. See article 26:

Q.21.A. According to mandatory provision in article 26(1) the Member States shall cooperate with each other with regard to transferral of the residence of persons enjoying temporary protection from one Member State to another, subject to the *consent* of the persons concerned to such transferral.

Does the national law of your Member State comply with article 26(1) regarding the *consent* of the person who are about to be transferred?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

There are no explicit references to the transferral of persons enjoying temporary protection in Finnish law. However, involved ministries see the requirement for consent of the transferred person as a principle that is self evident.

Q.21.B. Do the national norms of transposition in your Member State comply with article 26(2) stating that a Member State shall communicate requests for transfers to the other Member States and notify the Commission and UNHCR?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

There are no explicit references to the transferral of persons enjoying temporary protection in Finnish law. However, the cooperation between the authorities and institutions has been good.

Q.21.C. According to the national norms of transposition, is your Member State obliged to, at the request of another Member State, provide information as set out in Annex II of the Directive, on a person enjoying temporary protection, which is needed to process a matter of transferral? (See mandatory provision in article 26(3)).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

There are no explicit references to the transferral of persons enjoying temporary protection in Finnish law. According to involved ministries the Directive on temporary protection itself would in this respect, if the provisions on temporary protection would be activated, become directly applicable.

Q.21.D. According to the national law in your Member State, will the residence permit of a person who is transferred, from your Member State to another Member State, expire? See mandatory provision in article 26(4)

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

According to section 58 of the Aliens Act (301/2004) temporary residence permits expire if the person holding this moves to another country. By moving to another country can here as well be understood that the person is transferred to another country permanently.

Q.21.E. When a person, who has been enjoying temporary protection in your Member State is transferred to another Member State, will the obligations relating to temporary protection in your Member State come to an end upon the transferral? See mandatory provision in article 26(4)

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

As section 58 of the Aliens Act (301/2004) states that the residence permit expires when moving to another country, also the obligations of Finland towards the person in question come to their end.

Q.21.F. If a person, who previously has enjoyed temporary protection in another Member State, is transferred to your Member State, will your Member State grant temporary protection to that person? See mandatory provision in article 26(4), last sentence.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

There are no explicit references to the transferral of persons enjoying temporary protection in Finnish law. However, it is clear that the decisions on granting temporary protection in Finland follows the general decisions made by the Commission, and that persons eligible under the community decisions also are eligible for temporary protection in Finland. Thus, if a person is transferred to Finland during the period of temporary protection, this person will be granted temporary protection in Finland.

Q.21.G. Will the ‘model pass’ set out in annex I of the Directive be used in a foreseen transferral procedure?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

There are no explicit references to the transferral of persons enjoying temporary protection in Finnish law and no specific provisions on the possible use of the "model pass". However, involved authorities and ministries find that the Model Pass would be used in case of a situation where temporary protection would be granted.

Q.22. What authority in your Member State is appointed as national contact point according to the mandatory provision in article 27?

The name and function of the authority is: Directorate of Immigration, authority with general competence in matters of aliens and foreigners in Finland.

Q.23. Questions regarding exclusion from temporary protection:

Q.23.A. Are there any criteria for exclusion from temporary protection in your Member State? See optional provision in article 28.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation: (If yes, specify the criteria).

Section 110 of the Aliens Act (301/2004) stipulates that temporary protection is not granted whether the person is seen as a threat to the public order or security, or if there is reason to believe that the person has committed acts mentioned in article 1(F) of the Geneva Convention.

Q.23.B. If the answer to A. is “yes”, please indicate whether they in any way exceed the exhaustive list of criteria in article 28(1)(a) and (b).

Yes No

Explanation:

Q.23.C. Do the national norms of transposition in your Member State meet the terms in article 28(2) stating that the grounds for exclusion shall be based solely on the personal conduct of the person concerned?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

The exhaustive list of grounds for exclusion exclusively indicate reasons relating to the personal conduct of the person concerned as relevant grounds. Furthermore, the preparatory works (Government Bill 23/2001) to the implementation act clearly indicate that the decision on granting or exclusion from temporary protection must be made on an individual basis, even if the examination is narrower than for instance in the asylum procedure.

Q.23.D. Do the national norms of transposition in your Member State meet the terms of article 28(2) stating that exclusion decisions or measures shall be based on the principle of proportionality?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

The preparatory works (Government Bill 28/2003) to the Aliens Act (301/2004) clearly states that when considering possible grounds for exclusion from temporary protection, both circumstances in favour and against exclusion shall be taken into account. Thus, weighing and balancing in the spirit of the principle of proportionality is compulsory.

Q.24. Questions concerning the right to legal challenge:

Q.24.A. Do the laws of your Member State allow a person to mount a legal challenge if he/she has been: *See mandatory provision in article 29.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

excluded from the benefit of temporary protection **Yes** **No**

denied family reunification **Yes** **No**

Explanation:

The only restriction in the right to appeal in connection to temporary protection is that the alien cannot mount a legal challenge to a positive decision granting him or her temporary protection (section 192 (5) of the Aliens Act 301/2004).

Q.24.B. If the answer on any of the questions in Q.24.A is “yes”, please describe the applicable legal procedures for challenging the decision, in your Member State.

If denied temporary protection, the first appellate instance is, according to section 193 of the Aliens Act (301/2004) the District Administrative Court of Helsinki to which court the matter can be appealed within 30 days of the decision. Second (and last) appellate instance is the Supreme Administrative Court, which will examine the case if leave for appeal is granted (section 196).

If denied family reunification the first appellate instance is, according to section 192 of the Aliens Act (301/2004) the District Administrative Court in the area where the appellant resides. It is also in matters of family reunification possible to lodge further appeals to the Supreme Administrative Court, if leave for appeal is granted (section 196).

Q.25. Questions regarding penalties applicable to infringements of the national provisions.

Q.25.A. Are there penalties applicable to infringements of the national provisions in your Member State? See mandatory provision in article 30.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (If yes, specify the penalties).

The general provisions of the Law on Government Officials (750/1994) are naturally also applicable both to the decision-makers in the Directorate of Immigration, and to the judges of the administrative courts involved in the decision-making procedure relating to temporary protection. This law includes stipulations on penalties in cases of infringements of the duties of the official. The penalties include warnings and denunciation. Furthermore, the Criminal Code's (39A/1889) provisions on penalties for breach of official duties are, naturally, applicable to the decision-makers in matters of temporary protection. The punishments for breach of duties range from day fines to prison.

Q.25.B. Explain if the penalties, according to your opinion, comply with the Directive concerning them being effective, proportionate and dissuasive? See mandatory provision in article 30.

Yes. There is a wide range of penalties in use, which enables the most effective and proportionate penalty to be enacted in each case.

Final questions

Q.26. Can you refer us to any study, report or research by any source on the practice of granting temporary protection in the event of a mass influx in your Member State?

Prior to the implementation of the directive on temporary protection, Finland granted in 1999 in a similar procedure temporary protection to persons fleeing from Kosovo. Mentionings on the practise relating to these events can be found in Government Bill 28/2003 page 191 - 192

Also, the Finnish Red Cross in cooperation with the police, border guards and other organisations in 2006 organised practical excercises as training for situations of mass influx and temporary protection. See Q.28 for comments received by the Red Cross on special problems that became evident during these excercises.

Q.27. Has there been a political or public debate on the implementation of the Directive? If so, please summarize the main issues of the debate

The main debate during the implementation of the directive concerned the right of the Government to decide on when the provisions on temporary protection shall be activated. The original draft for the implementation act stated that the Government through a decree will decide on when temporary protection shall be granted. The Finnish Constitution (731/1999) however stipulates in section 9 that provisions on the right of foreigners to enter and reside in Finland must be passed by law. Thus, a decree would have been of to low a standard for the Constitution provisions to be met. This was addressed both in the opinions by the Parliament's Constitutional Law Committee (opinion 17/2001) and the Parliament's Administrative Committee (opinion 29/2001). In the end, this led to a revision of the proposed law withdrawing the stipulation demanding a decree by the Governement and in stead settling for a rule simply stating that the Government in grand chamber decides on the activation of the rules on temporary protection.

Q.28. Are there any problems of legislation or practice in your Member State which relate to temporary protection and have not been covered in preceding questions?

During the practical excercises facilitated by the Finnish state and undertaken in cooperation with, amongst others, the Finnish Red Cross, the police and the border guards of Finland in 2006, it became apparent that there are some practical problems in the implementation of the rules on temporary protection.

Firstly, the distinction between temporarily protected persons and asylum seekers was not clear to all authorities and other institutions involved. Whereas some of the authorities involved were quite clear on the meaning of temporarily protected persons, other treated the persons as asylum seekers, taking notes of experiences of persecution etc.

Secondly, there was some confusion regarding the freedom of movement and the responsibilities of the authorities during the time from arrival to initial registrations. It is not entirely clear whose task it is to refrain the temporarily protected but unregistered persons from leaving their centres, and it is not entirely clear if this is possible at all.

THIRD PART

IMPACT OF THE DIRECTIVE ON NATIONAL LAW

Q.29 Question regarding the evolution of national law: **Did the transposition of the Directive make the rules related to the protection of third country nationals in cases of a mass influx become, from the point of view of the third-country national concerned, more favourable or less favourable. Please make also a comparison with the standard of the directive in the last column of the table below**

OBJECTIVE <i>To enhance the protection of displaced persons in cases of a mass influx</i>		EVALUATION REGARDING THE EVOLUTION OF NATIONAL LAW	EVALUATION IN COMPARISON WITH THE STANDARD OF THE DIRECTIVE
<p>Explain the situation <u>before</u> transposition</p> <p>There were no provisions in the law on reception of displaced persons in cases of mass influx. In principle all persons arriving and seeking protection in Finland were thus treated under the rules on asylum seekers. Also when ad hoc decisions from the Government made recognition as temporarily protected persons possible, no rules on the rights and obligations of these persons as distinct from of asylum seekers were available.</p>	<p>Explain the situation <u>after</u> transposition</p> <p>Specific and detailed provisions on the reception, rights and obligations of temporarily protected persons came about with the Act amending the Aliens' Act 15.2.2002/130 (entry into force 1.3.2002). This amendment led to that temporarily protected persons in the Finnish legal system were identified as an own group of subjects.</p>	<p><input type="checkbox"/> <i>Less favourable than previous national rules</i></p> <p><input type="checkbox"/> <i>Status quo</i></p> <p><input checked="" type="checkbox"/> <i>More favourable than previous national rules</i></p>	<p><input type="checkbox"/> <i>Less favourable than the Directive</i></p> <p><input checked="" type="checkbox"/> <i>In line with the directive</i></p> <p><input type="checkbox"/> <i>More favourable than the directive</i></p>

Q. 30. **From your point of view, did the transposition of the directive imply other interesting changes for the third country national concerned regarding other elements than the ones mentioned in the previous question? Please make also a comparison with the standard of the directive in the last column of the table below**

When answering this question, please use one or more of the tables below. If the 3 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

OBJECTIVE (to be indicated by the national rapporteur) Clearer standards of rights and obligations		EVALUATION REGARDING THE EVOLUTION OF NATIONAL LAW	EVALUATION IN COMPARISON WITH THE STANDARD OF THE DIRECTIVE
<p>Explain the situation before transposition</p> <p>No direct provisions on for instance the right to family reunification or the right to health care. In practise, the same rights as asylum seekers as analogous interpretation of the law led to that temporarily protected persons were subsumed under the provisions relating to asylum seekers.</p>	<p>Explain the situation after transposition</p> <p>Specific regulations on the right to family reunification, the right to health care, education etc gives rise to legal security and the identification of and response to the special needs of temporarily protected person visavis asylum seekers. These provisions were taken into the Aliens' Act by the Act amending the Aliens Act 15.2.2002/130 (entry into force 1.3.2002).</p>	<p><input type="checkbox"/> <i>Less favourable than previous national rules</i></p> <p><input type="checkbox"/> <i>Status quo</i></p> <p><input checked="" type="checkbox"/> <i>More favourable than previous national rules</i></p>	<p><input type="checkbox"/> <i>Less favourable than the Directive</i></p> <p><input checked="" type="checkbox"/> <i>In line with the directive</i></p> <p><input type="checkbox"/> <i>More favourable than the directive</i></p>

Table 2

OBJECTIVE (to be indicated by the national rapporteur) Clear mechanisms for eligibility		EVALUATION REGARDING THE EVOLUTION OF NATIONAL LAW	EVALUATION IN COMPARISON WITH THE STANDARD OF THE DIRECTIVE
<p>Explain the situation before transposition</p> <p>No direct provisions on when mass influx was to be seen as being at hand, no provisions on groups or persons that could come into questions as eligible for temporary protection. Decisions on the activation of temporary protection-schemes were taken ad hoc without</p>	<p>Explain the situation after transposition</p> <p>With the Act amending the Aliens' Act 15.2.2002/130 (entry into force 1.3.2002) procedural rules for the activation of the rules on temporary protection were introduced. Also, the preparatory works (Government Bill 23/2001) includes references to the groups of persons that can come into question.</p>	<p><input type="checkbox"/> <i>Less favourable than previous national rules</i></p> <p><input type="checkbox"/> <i>Status quo</i></p> <p><input checked="" type="checkbox"/> <i>More favourable than previous national rules</i></p>	<p><input type="checkbox"/> <i>Less favourable than the Directive</i></p> <p><input checked="" type="checkbox"/> <i>In line with the directive</i></p> <p><input type="checkbox"/> <i>More favourable than the directive</i></p>

Q.31.A. Question regarding the method of transposition: **Did your Member State copy the provisions of the directive into national legislation without any redrafting or adaptation to national circumstances.**

YES NO

Q.31.B. **If yes, did this method of transposition create any problems (for example difficulties of implementation, risk that a provision remain unapplied).**

YES NO

Q.31.C. **If yes, give some of examples:**

Q.31.D. **If only some provisions of the directive have been copied and if this may create any problem, please quote them and explain the problem.**

Q.32. **Quote interesting decisions of jurisprudence related to the directive, its transposition or implementation** (this question concerns in principle decisions after the national norms of transposition entered into force, but decisions prior to that may be quoted if relevant). Quote in particular decisions of supreme Courts; limit yourself to the appeal Courts and ignore the first resort if there are too many decisions at this level, unless there is a certain jurisprudence made of a group of decisions.

When answering this question, please use one or more of the tables below. If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

DECISION OF SUPREME COURTS	<u>DATE:</u>	<u>REFERENCE OF PUBLICATIONS:</u>	<u>SUMMARY OF CONTENT:</u> The provisions on temporary protection have not been in use, therefore no decisions are available.
DECISION OF APPEAL COURTS	<u>DATE:</u>	<u>REFERENCE OF PUBLICATIONS:</u>	<u>SUMMARY OF CONTENT:</u>
DECISION(S) IN FIRST RESORT	<u>DATE:</u>	<u>REFERENCE OF PUBLICATIONS:</u>	<u>SUMMARY OF CONTENT:</u>

ANY SUPPLEMENTARY COMMENT ABOUT THE TREND OF THE JURISPRUDENCE:

Q.33. Are there any **problems with the translation of the text of the directive in the official language of your Member State and give in case a list of the worst examples of provisions which have been badly translated.**

There are no problems with the translation of the directive.

There are some problems with the translation of the directive.

Explanation: (If there are such problems, please specify the most problematic provisions in the Directive when it comes to translation).

Explain the difficulties that this could create:

ANY OTHER INTERESTING ELEMENT

Q.34. **Following your personal point of view, mention from the point of view of third country nationals and/or from the Member State any interesting or innovative practice in your Member State**

When answering this question, please use one or more of the tables below. If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

OBJECTIVE OF THE PRACTICE	EXPLANATION

Q.35. **Please add here any other interesting element in your Member State which you did not have the opportunity to mention in your previous answers.**