



Decision on the use of automated decision-making: Renewal of residence permit card and residence card

Decision

The Finnish Immigration Service will introduce automated decision-making for renewals of residence permit cards and residence cards.

The automated decision-making procedure will be applied to matters involving a positive decision to renew a residence card or residence permit card on application if the application fits the description of a standard case defined in the processing rules.

The automated decision-making procedure will be implemented on 25 April 2024. Applications that become pending after the above date may be decided on automatically.

Reasons

Introduction

The Finnish Immigration Service has assessed the requirements for introducing automated decision-making with this Decision. The lawfulness of personal data processing and respecting data subjects' rights are accounted for in the introduction of automated decision-making, as are the requirements laid down in legislation for automated decision-making, its introduction, and the processes to be complied with.

The conditions laid down in the Administrative Procedure Act (434/2003) and Aliens Act (301/2004) for processing and deciding residence permit card applications and residence card applications are observed.

Processing of personal data

The Finnish Immigration Service processes personal data in accordance with section 1, subsection 1, paragraph 1 of the act on the processing of personal data in the field of immigration administration (laki henkilötietojen käsittelystä maahanmuuttohallinnossa 615/2020). Data is processed in connection with processing cases related to the entry into, departure from and residence in Finland of foreign nationals, and the related decision-making and supervision.

The processing is based on Article 6(1)(c) of the General Data Protection Regulation (EU) 2016/679 (hereinafter 'GDPR'), meaning the processing is necessary for compliance with a legal obligation.

Requirements for automated decision-making under the Administrative Procedure Act

The requirements for automated decision-making are laid down in the Administrative Procedure Act. According to section 53e of said Act, authorities may automatically decide on cases that do not include complex factors requiring case-specific deliberation. Cases can also be automatically decided on if an official or other party processing the case has reviewed the factors of the case that require case-specific deliberation. Automated decision-making must be based on processing rules that the authority has created based on applicable laws and prior assessment.

Automated decision-making at the Finnish Immigration Service is based on norms and rules. Authorities must carry out a prior assessment regarding which matters can be subjected to automated decision-making, and identify the factors that are often repeated in the cases processed by the authority ('standard cases'), which the authority deems should always be decided on according to the same rule. The Finnish Immigration Service carried out a prior assessment on which of the applications subject to this Decision can be justly decided on automatically.

The standard case identified in connection with renewing residence permit cards and residence cards is the holders of a permanent residence permit who renew their cards. These cases include the holders of a permanent residence permit (P permit), the holders of a long-term resident's EU residence permit (P-EU permit), and the holders of a permanent residence card for an EU citizen's family member.

The automated decision-making procedure will be used when a card is renewed as applied for. The Finnish Immigration Service has created processing rules for the automated decision-making as required by the Act on Information Management in Public Administration. The processing rules contain the requirements that must be met before a card can be renewed and before a matter can be decided automatically. The processing rules also contain the requirements based on which an application is referred to an official for processing. Having an official conduct manual verification of the processing rules does not prevent automated decision-making.

In addition, the processing rules contain thresholds that have been defined for the standard cases. The thresholds determine which cases are always referred to an official. The thresholds are based on either a need for more extensive overall consideration or technical register entries that require action from an official.

Card renewals for holders of a fixed-term residence permit are excluded from the standard cases. In such renewals, it is not possible to automatically extract certain data, such as the extent and basis of the applicant's right to work. Further, cards of applicants whose residence status is based on the withdrawal agreement conducted between the European Union and the United Kingdom (Brexit permit holders) cannot be renewed as part of the normal card renewal process for technical reasons. These cards must contain a reference to the withdrawal agreement, which is technically possible only in a separate residence status process.

Applicants who have a non-disclosure for personal safety reasons are excluded from automated decision-making. Processing of data that is subject to a non-disclosure for personal safety reasons requires special care, which is why automated processing of such data is restricted.

The Finnish Immigration Service has taken into account in the processing rules that an application cannot be decided automatically before the applicant has submitted an application for a residence permit card or residence card and before the necessary measures have been taken by authorities and before the necessary register checks have been conducted. These tasks always require action from an official.

The Finnish Immigration Service does not use algorithms based on artificial intelligence in decision-making; instead, the processing is based on rules. Automatically made decisions are based on the requirements for granting residence permits defined in legislation and for which processing rules can be programmed in the Finnish Immigration Service's case management system for immigration matters.

Section 53f of the Administrative Procedure Act lays down a requirement to provide a legal remedy. According to the requirement, decisions related to a natural person can be automatically made only if the natural person in question is provided with the means to request a review of the decision, and the authority that issued the decision or another authority who is a joint controller of the issuing authority must process the request for review. However, this is not required if the automatically decided case pertains to a request from the party concerned that does not relate to any other party concerned.

Pursuant to this Decision, the Finnish Immigration Service automatically decides on applications in which the applicant's request is granted and that do not fall outside the scope of automated decision-making according to what is outlined in this document above. Card renewal matters that can be automatically decided on always apply to only one party concerned. Therefore, the decisions can be issued without providing the means to request for a review.

According to the Finnish Immigration Service's permit procedure guidance (MIGDno-2023-1406), even an applicant under the age of 18 may submit an application from their own Enter Finland account. However, there are cases in which consent from a parent or guardian must always be attached to the application. Consent from a parent or guardian is requested also for minors without an Enter Finland application and will be verified when the applicant visits a service point. Because renewing a card does not involve applying for a residence permit or moving to Finland from abroad, the consent of a parent or guardian for renewing the child's card is requested only if the child is under 15 years old. For children aged 15 or older, the Finnish Immigration Service considers the minor to be able to use his or her parallel right to speak to such an extent that a separate consent from parents or guardians is not required. The processing rules contain a verification of the consent of a parent or guardian. Card renewal applications can also be submitted by a parent or guardian of a child under the age of 18.

Under section 60g, subsection 2 of the Aliens Act, the applicant is provided with no separate administrative decision or instructions for requesting a judicial

review if a residence permit card is issued as applied for. Therefore, the applicant will not be served with a decision. As a rule, the applicant will be informed of a successful card renewal by having the card delivered to him or her directly or by an authority. Under section 53g, subsection 2 of the Administrative Procedure Act, a customer must be informed of an automated decision and of the availability of an implementation decision. Therefore, the applicant will receive a separate notification if the applicant's matter has been decided in an automated process.

Requirements for the introduction and use of automated decision-making laid down in the Act on Information Management in Public Administration

Chapter 6 a of the Act on Information Management in Public Administration (906/2019, hereinafter 'Information Management Act') lays down the requirements for the documentation, quality assurance, quality control and introduction of automated decision-making and describes how the authorities' liability on the automated decision-making is distributed.

According to section 28 of the Information Management Act, authorities must document the division of the duties of the persons who are responsible for the fulfilment of the responsibilities related to the introduction and use of automated decision-making. In addition, authorities must ensure that the processing rules are documented in a manner that enables proving their compliance. The processing rules must indicate how non-discrimination of the rules is ensured, how the cases are examined appropriately and to a sufficient extent, and how the decisions are justified or why they can be left unjustified. The authority must ensure that for at least five years after a decision is issued, it can be determined what processing rules were used to automatically decide on the case and at what stages a natural person has contributed to the processing of the case.

The Finnish Immigration Service has issued separate orders that document the persons responsible for the fulfilment of the responsibilities. The Finnish Immigration Service has created extensive processing rules for the automated decision-making. The Finnish Immigration Service's processing rules meet the requirements laid down in the Information Management Act. The processing rules were designed to be such that the requirements for good governance are met and fundamental rights are respected in the automated decision-making. The processing rules specify how residence permit applications are processed and decided on. The processing rules specify the actions performed by officials on applications, when verifying some matter requires deliberation from an official, and the conditions for returning an application to automated decision-making.

The processing rules enable proving that the introduction of the automated decision-making meets all the legislative requirements discussed in this Decision.

In addition, the Finnish Immigration Service has ensured that for at least five years after a decision is issued, it can be determined what processing rules were used to automatically decide on the case and at what stages an official has contributed to the processing of the case.

Under section 28b of the Information Management Act, before an automated decision-making procedure is introduced or when it is adjusted, the authority in question must ensure that the procedure complies with the documentation required under section 28a, subsection 2 of the Information Management Act, meaning the processing rules defined for the procedure. The authority must ensure that the language of automatically produced documents presented to the party concerned is appropriate and that the key quality control measures have been documented.

Before the introduction, the Finnish Immigration Service has verified that the processing rules work and that the automated decision-making procedure is compliant with its documentation. A separate report was drafted on the testing of the processing rules and the results of the testing. In connection with the testing, it was ensured that the language of the documents produced in connection with the automated decision-making, such as the decision document itself, is appropriate. According to section 28c of the Information Management Act, authorities must monitor the quality of automatically made decisions and the accuracy of their content.

The Finnish Immigration Service has documented the procedures for implementing quality control after the introduction of automated decision-making. Quality control will be carried out according to the plan by manually reviewing randomly selected applications. In addition, the Finnish Immigration Service has documented the procedures for the handling and control of possible incidents.

Requirements laid down in the Aliens Act

Provisions on expiry of residence permit cards are laid down in section 60f of the Aliens Act, whereas provisions on new residence permit cards are laid down in section 60g of the Aliens Act. Under section 60g, subsection 4 of the Aliens Act, a new residence permit card is issued by the Finnish Immigration Service. The application is filed with the Finnish Immigration Service.

The automated decisions on renewal of residence cards and residence permit cards are based on the Finnish Immigration Service's processing rules that comply with the Aliens Act. When formulating the processing rules for the automated decision-making procedure, the Finnish Immigration Service has ensured that each matter that is decided on automatically will lead to a result that complies with the Aliens Act.

Data protection legislation

The GDPR requires national legislation for deciding individual cases automatically. According to Article 22 of the GDPR, data subjects have the right to not be subject to a decision based solely on automated processing. However, the prohibition on automated decision-making is not applied if it is authorised by EU or Member State legislation to which the controller is subject and which also lays down suitable measures to safeguard the data subject's rights and freedoms and legitimate interests.

The Finnish legislation on automated decision-making in public administration entered into force on 1 May 2023, and the Finnish Immigration Service complies with this legislation in its introduction of automated decision-making. The legal basis for the legislation on automated decision-making is laid down in chapter 8b of the Administrative Procedure Act and chapter 6a of the Information Management Act. The legislation establishes safeguards for automated decision-making. The provisions of the Administrative Procedure Act authorise authorities to make decisions automatically within the limits set in the chapter.

Right to obtain human intervention

In the GDPR, one of the safeguards required for automated decision-making is that data subjects have the right to obtain human intervention in the data processing. The request for review referred to in section 53f of the Administrative Procedure Act is deemed to meet the GDPR's requirement for a sufficient safeguard as it meets the discussed requirements. If no provisions on the right to request review exist, the requirement to provide a legal remedy can be met by any legal remedy equal to the right to request review laid down in an act. According to section 53f, subsection 2 of the Administrative Procedure Act, the requirement to provide a legal remedy is not applied if the automated decision-making is used to approve a request from the party concerned that does not relate to any other party concerned. If the request from the party concerned is approved in the required manner, the party concerned no longer has a need to obtain human intervention as a safeguard under data protection legislation (HE 145/2022, s. 154).

No provisions exist on requests for review in matters under the purview of the Finnish Immigration Service. The safeguard required by the GDPR is implemented by automatically deciding residence permit card and residence card renewals where a new card can be issued based on the application.

Information on automated decision-making and prior information

The GDPR and Finland's national legislation include provisions that require that data subjects are informed when a decision they are subject to is made or may be made automatically. The obligation to inform and the procedures related to it are laid down in Articles 12 to 14 of the GDPR. If an automated decision is issued in a case, section 53g of the Administrative Procedure Act requires that the decision includes the information that the case was subject to automated decision-making and the information about where the decision to introduce automated decision-making required by section 28d of the Information Management Act is available.

When introducing automated decision-making, the Finnish Immigration Services has ensured that the person who applies for a residence card or residence permit card is informed of the automated decision-making before becoming subject to it, as required by the GDPR. The applicant will be provided with the required information on automated decision-making in the online service of the Finnish Immigration Service or when the applicant visits a service point of the Finnish Immigration Service, and on the Finnish Immigration Service's website. When the applicant starts filling out the form for applying for card renewal in the Finnish Immigration Service's online service Enter Finland, the applicant is informed that their case may be subject to automated

decision-making. The information provided does not directly state that the applicant's application will be subject to automated decision-making, because at that stage of the application process, it cannot be reliably determined yet. The applicant will be told that further information about automated decision-making is available on the website of the Finnish Immigration Service.

If the applicant does not submit an online application but visits a service point of the Finnish Immigration Service to submit a card application, the official receiving the application will tell the applicant that the decision to renew the card may be issued automatically.

The Finnish Immigration Service informs applicants of the automated decision-making, the principles of the automated decision-making, and other matters relevant to customers' rights on its website at migri.fi/automated-decision. This Decision to introduce automated decision-making will also be available on the page. The page serves as a contact point for the authorities, and it includes more detailed information on communication channels for requesting more information and making information requests.

The separate notifications that confirm the renewal of the residence card or residence permit card will mention that the decision was made automatically and that information on where the decision to introduce automated decision-making required under section 28d of the Information Management Act is available.

Children

When a card is renewed, a consideration of the best interest of the child is generally not necessary because the renewal of a card is not a decision on the applicant's residence permit status. The processing rules do not instruct the official who processes the card application to perform such consideration. Card renewal applications from minors are thus included in the scope of automated decision-making.

The application of a minor may also be submitted by the parent or guardian of the minor. Because the application concerns the residence permit card of a minor, the minor is the applicant in this case. The parent or guardian may act in parallel or on behalf of the applicant who is a minor but the parent or guardian is not an actual applicant in the matter.

Documents on which this Decision is based

This Decision is based on documents with which the Finnish Immigration Service has fulfilled the requirements for the introduction of automated decision-making laid down in the Information Management Act.

- Order on the division of the duties of the persons responsible for the fulfilment of the responsibilities laid down in the Act on Information Management in Public Administration (MIG-24160 and MIG-249159)
- General description of the processing rules (MIG-2411057)
- Quality assurance plan (MIG-2411661)

- Quality control plan (MIG-2411436)

Retention

In accordance with section 28d of the Information Management Act, this Decision to introduce automated decision-making is retained for at least five years from the start of the following year in which the automated decision-making is decommissioned.

Appeal

Under section 6, subsection 2 of the Administrative Judicial Procedure Act (808/2019), this Decision is ineligible for review by appeal.

More information

More information on the automated decision-making procedure can be requested by email at migri@migri.fi.

Director

Pauliina Helminen

Chief Specialist

Niklas Hämäläinen

The document has been electronically signed in the case management system. Finnish Immigration Service 22 April 2024 at 14:35. The authenticity of the signature can be verified by the Registry.