

Short questionnaire

Therefore, States are respectfully requested to provide responses to the following questions which relate to the recognition in one State of a domestic adoption granted in another State:

Name of State:	Finland
<u>Information for follow-up purposes</u>	
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A. RECOGNITION IN YOUR STATE OF DOMESTIC ADOPTIONS GRANTED PREVIOUSLY IN OTHER STATES

The law and procedure in your State

1. Please briefly outline the **law** (legislation or other rules) in your State concerning the recognition of a domestic adoption granted previously in another State.

Certain categories of foreign decisions are recognised without a separate confirmation. In other cases a foreign decision can be recognised by Helsinki District Court.

Finnish adoption act is behind this link:
<http://www.finlex.fi/fi/laki/kaannokset/2012/en20120022.pdf>

According to adoption act section 69:

An adoption that has taken place in a foreign state in accordance with permission for adoption referred to in Chapter 6 shall be valid in Finland without a separate confirmation.

An adoption that has taken place in a foreign country shall also be valid in Finland without a separate confirmation: 1) if both of the adopters were habitually resident in that state at the time of the adoption and had been habitually resident therein continuously for at least one year immediately prior to the adoption; or 2) if the adoption is valid in the state wherein the adopters were habitually resident at the time of the adoption and wherein they had been continuously habitually resident for at least one year immediately prior to the adoption.

Where permission for adoption was required for an adoption referred to in subsection 2, the adoption shall, however, be valid in Finland only if the permission was granted.

According to adoption act, section 74:

An adoption other than one referred to in section 69, 72 or 73 that has taken place in a foreign state shall be valid in Finland only if confirmed by the district court of

Helsinki. The district court of Helsinki may, upon petition, confirm an adoption referred to in subsection 1 if, at the time of the granting of the adoption, the adoptee or either of the adopters had, by reason of habitual residence, domicile or citizenship, such a connection with the state wherein the adoption was granted that the authorities of that state can be deemed to have had sufficient cause to exercise jurisdiction over the matter.

If an adoption has taken place in a way other than through a decision of an authority, it may be confirmed only if the adoptee or either of the adopters had a connection referred to in subsection 2 with the state wherein the adoption took place and the measure is valid under the law of that state.

The district court of Helsinki may not confirm under this section an adoption for which permission for adoption should have been applied.

In particular, please specify whether your State applies different rules to the recognition of domestic adoptions made in certain States or regions and, if so, why.

Decisions made in another Nordic Country are recognised without a separate confirmation. This is based on Nordic agreements.

2. Please briefly outline the **procedure** which must be followed in your State by persons seeking the recognition of a domestic adoption granted previously in another State.

Finland can recognise domestic adoptions without separate confirmation, if adopters were habitually resident in country of origin min 1 year before adoption.

But if adopters are habitually resident in Finland and try to make domestic adoption in foreign country, according to their law, Finland can not recognise adoption if adopters don't have permission to adopt.

Adoption Board can grant permissions for these adoptions too, if the conditions for adoption are fulfilled. Adoption Board can also grant permission afterwards.

In particular, please specify what legal or administrative steps are required for recognition.

Recognition depends on habitual residence: If adopters are habitual resident minimum one year before adoption in foreign country: adoption can be recognised without any further measures (adopters have to contact to registration office of their municipality in order to register adoption to population register).

In other cases: helsinki district court can confirm the adoption via exequatur process according to adoption act, section 74

3. What is the competent authority in your State for such matters?

Registration offices or District Court of Helsinki, Adoption Board (as a licence authority)

Cases which have arisen in your State

4. Has your State been asked to recognise domestic adoptions granted previously in other States? If so:

- (a) How many such cases have arisen in the past year?

about 4 cases

Past three years?

About 4 per year

(b) In such cases, why was recognition of the domestic adoption sought?

Normally the adopters are habitually resident in Finland and have adopted a child from their country of origin. Legislation of their country of origin allows domestic adoption if adopter has still the nationality. This is very problematic, because in Finland we see that the question is about a cross border /intercountry adoption.

But the problem is only in those adoptions when adopters are habitually resident in Finland. If they live in foreign country and do the domestic adoption there, there have not been problems in recognition.

(c) What type of document was presented for recognition?

For example: Court's adoption decision, birth certificate of the child, official certificate

(d) Was recognition permitted?

Basically Finland can always recognise adoptions if the domestic adoption is legal in country of origin and the adopters have been habitually resident in that country minimum one year.

But if the requirement of the habitual residency is not fulfilled and adopters have to seek permission before recognition from the adoption board, it is possible that the board don't give permission.

Few permissions have been permitted, because all conditions for adoption have been fulfilled.

(e) In cases where recognition was refused, what were the reasons?

Conditions for adoption have not fulfilled. For example: the child has not been close relative child.

Conditions are in adoption act, section 42: If the prospective adopter is habitually

resident in Finland and intends to adopt a child who is habitually resident in a foreign state and the adoption cannot take place via a service provider, permission for adoption may be granted if the conditions for adoption laid down in sections 3 and 6—9 as well as section 13(1), (2) and (4) are fulfilled and the prospective adopter has been provided with adoption counselling.

Permission referred to in subsection 1 may only be granted for the adoption of a child who:

1) is a close relative of the prospective adopter or of his or her spouse or a former close relative of the prospective adopter's adopted child; or

2) has been taken in by the prospective adopter for a purpose other than with

a view

to adoption and has been cared for and brought up by the prospective adopter in an

established manner.

In particular, have there been any cases in which recognition was refused by your State on the basis that jurisdiction had been inappropriately assumed by the foreign authority?

no-

- (f) Where recognition was refused, what actions, if any, were taken with respect to the status of the child?
- (g) Has there been any cross-border co-operation / communication between your State and any State(s) which granted the adoption(s) in these cases?

Yes we have.

5. In your State's experience, do (some or many) families with an adopted child move to your State without having the child's adoption formally recognised in your State?

Yes, we know few cases like that.

Does this create any problems for the family?

Of course, because the child can't have a residence permit in Finland.

B. RECOGNITION IN ANOTHER STATE OF DOMESTIC ADOPTIONS GRANTED PREVIOUSLY IN YOUR STATE

The law and procedure in your State

6. In relation to the granting of domestic adoptions in your State:
- (a) Are any special rules or procedures followed when a case involving a domestic adoption has an international element (*e.g.*, it involves a foreign national child and / or foreign national prospective adoptive parents, despite the fact that they are all habitually resident in your State)?
- No, except of jurisdiction rules (Section 65 of the Adotion Act)
- (b) What type of document is issued for domestic adoptions granted in your State?
- An adoption is granted by a court order.
7. Are there any special rules or procedures which are followed when your State is made aware that another State has been requested to recognise a domestic adoption originating from your State?

no

Cases which have arisen involving your State

8. Are you aware of situations in which recognition has been sought in other States of domestic adoptions granted in your State?

No

If so:

- (a) How many such cases have arisen in the past year of which you are aware?

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Past three years?

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- (b) Which competent authorities were addressed in your State? And in the other State(s)?
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- (c) In such cases, why was recognition of the domestic adoption sought?
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- (d) Was recognition permitted by the other State(s)?
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- (e) In cases where recognition was refused, what were the reasons?
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- Have you ever had a case where the grounds upon which your State assumed jurisdiction to grant the domestic adoption were challenged by the foreign State?
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- (f) Where recognition was refused, what actions, if any, were taken with respect to the status of the child?
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- (g) Has there been any cross-border co-operation / communication between your State and any State(s) being asked to recognise the adoption in these cases?
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C. PRACTICAL PROBLEMS REQUIRING ACTION

9. In light of the information you have provided in both sections above, overall, are there, in your State's experience, practical problems in this area that need resolving at the international level?

Problem is that some countries allows domestic adoptions to their citizens even if they are habitually residents in other country. But practically the question is about intercountry adoption, because adopters are going to move the child from birth country to another country. It might be useful to discuss this issue at global level

Problems are mainly related to intervcountry adoptions that are taken place independently without accredited body.