

## API FACT SHEET

Updated: 04 December 2019

### COUNTRY: Finland

#### A. START DATE

January 31<sup>st</sup>, 2014

#### B. SCOPE / API APPLICATION

Air Carriers shall submit to the border-control authority, on its request, information listed in Section 25 of the Act on the Processing of Personal Data by the Border Guard (639/2019, shown below in this document). The request will be renewed annually when needed.

- API information is required for all flights to and from Finland that originate or terminate in an airport located in a country outside of the Schengen Area.
- API data is required for passengers and crew members, including cargo flights.

#### C. DATA ELEMENTS

##### **Complying with the EU Council Directive 2004/82/EC of 29 April 2004.**

The information referred to above shall comprise:

- Operating Airline
- Flight number
- Passenger list count
- Number and type of travel document used
- Country that issued the travel document
- Nationality
- Passenger's complete name (surname, given names as shown in the travel document)
- Date of birth
- Gender
- Airport of arrival into (or departure from) Finland
- Code of transport,
- Scheduled time of departure (or arrival) of the flight
- Scheduled date of departure (or arrival) of the flight
- Initial point of embarkation.

#### D. TRANSMISSION MODE

The passenger list and crew lists are delivered by airline companies or their agent using UN/EDIFACT PAXLST messages transmitted to **HELIMXH** not later than 15 minutes after the flight's departure. In order to facilitate Border checks, API crew list can be submitted at the same time as the passenger API-list. However the crew list shall be delivered at the latest on arrival at the border checks (mandatory).

See point, F. (Other)

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### E. RESPONSIBILITIES / PENALTIES

- EU Council Directive 2004/82/EC of 29 April 2004.
- Border Guard Act 15.7.2005/578
- Act on the Processing of Personal Data by the Border Guard (639/2019)
- Aliens Act (301/2004)

NB: Unofficial translation (shown below), legally binding only in Finnish and Swedish

#### **Border Guard Act (578/2005)**

##### **Section 30**

##### **Arrangements and traffic at border crossing points (749/2014)**

The Border Guard has the right to be provided by the owners or holders of traffic operating points serving as border crossing points, against compensation at the going rate, with the border control facilities required to carry out border checks.

Transport operators shall notify the Border Guard of the beginning of cross-border traffic no later than four months before beginning the operation. New routes or lines shall be reported no later than two months before beginning the operation.

#### **Act on the Processing of Personal Data by the Border Guard (639/2019)**

##### **Section 24**

##### **Information about persons in a vehicle crossing the external border**

Notwithstanding secrecy provisions, the Border Guard has the right to access and process information concerning the passengers of organisations and corporations and the personnel of vehicles for border control and border management.

The driver of a vehicle entering or leaving the country and crossing the external border shall submit to the border control authorities of the point of entry or exit information on the persons in the vehicle. The captain of a ship or an aircraft, and the owner or holder of a train or another means of transport, or their representative shall submit to the border control authorities of the point of entry or exit the passenger and crew list, or in some other manner information on the personnel, passengers and other persons in the means of transport, unless the information has already been submitted under section 25 or 26.

The passenger and crew list shall state the last and first names of each person entered in the list, their date of birth, gender and nationality, and the nationality and registration information of the means of transport and the place of arrival and departure.

The information referred to in subsections 2 and 3 shall be submitted also for traffic crossing internal borders if border control has been temporarily reintroduced at the internal borders in accordance with Title III, Chapter 2 of the Schengen Borders Code or section 15 of the Border Guard Act.

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### **Section 25**

#### ***Air passenger data***

In addition to the provisions in section 24, natural person and legal person whose professional it is to provide passenger transport by air shall submit to border control authorities, at their request, information referred to in this section on passengers whom they carry to an authorised border crossing point through which these persons enter or leave the territory of European Union Member States (air passenger data).

The air carrier passenger data shall include the number and type of the travel document used by the passenger, his or her citizenship or lack thereof, full name, date of birth, the border crossing point of entry into or exit from the territory of European Union Member States, the code of transport and its departure and arrival times, the total number of passengers carried on that transport and embarkation. The data shall be submitted immediately after check-in closure. The data shall be submitted electronically or, if this is not possible, by any other appropriate means.

This section also applies to traffic crossing internal borders if border control has been temporarily reintroduced at the internal borders in accordance with Title III, Chapter 2 of the Schengen Borders Code or section 15 of the Border Guard Act.

### **Section 27**

#### **Processing of passenger and crew data**

The passenger and crew data referred to in sections 24–26 may be processed to facilitate border checks and to combat illegal entry and illegal immigration. The data may also be processed in another duty laid down for the Border Guard, the Police or Customs.

In connection with the processing referred to in subsection 1, the passenger and crew data may be compared to registers and data bases necessary for the processing.

### **Section 28**

#### **Sanctions**

Provisions on the financial penalty to be imposed on carriers who violate their obligation under sections 25 and 26 are laid down in section 179 of the Aliens Act.

Provisions on a violation of the Aliens Act are laid down in section 185 of the Aliens Act.

### **Section 29**

#### **Transfer of the data to the Border Guard**

The Border Guard has the right of access to the data referred to in this chapter free of charge, unless otherwise provided by law. This data may also be accessed with the aid of a technical interface or as a set of data as agreed upon with the controller on the practical procedure.

The Border Guard shall, on request, submit to the controller who disclosed the personal data information regarding the processing of personal data it has accessed with the aid of a technical interface, as a set of data or online.

### **Section 41**

#### **Erasure of air passenger data**

The air passenger data referred to in section 25 are erased at the latest 24 hours after they were submitted to the border check authorities after the passengers have entered or left the country

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unless the data are needed in another statutory duty of the Border Guard, the Police or Customs. The provisions of the Act on the Use of Airline Passenger Name Record Data in the Prevention of Terrorist Offences and Serious Crime also apply to the processing of air passenger data after 24 hours.

Unless otherwise provided, the party disclosing the air passenger data referred to in section 25 shall destroy the personal data it has acquired and submitted to the border check authorities at the latest 24 hours after the means of transport used has arrived at its destination.

### **Aliens Act (301/2004)**

#### **Section 3 Definitions**

For the purposes of this Act:

- 1) alien means a person who is not a Finnish citizen;
- 2) EU citizen or a similar person means a citizen of a Member State of the European Union (EU) or a citizen of Iceland, Liechtenstein, Norway or Switzerland;
- 2a) third-country national means any person who is not an EU citizen or a similar person (358/2007)
- 3) carrier means a natural or legal person professionally engaged in passenger transport by air, land, rail or sea;
- (--)

#### **Section 173 (1214/2013) Carriers' obligation to check**

A carrier shall ensure that an alien whom it brought to Finland across the external border and who is not an EU citizen or similar person holds a travel document required for entry into the country and the required visa or residence permit.

#### **Section 174 (581/2005) Obligation of vehicle drivers and carriers to report and control**

The driver of a vehicle, the master of a vessel or aircraft and the representative of the carrier on board another vehicle are obliged to ensure that people not entitled to enter the country do not enter it without the permission of border control authorities. The master of a vessel shall notify border control authorities in advance of any stowaway detected on board.

Sections 24 - 26 of the Act on the Processing of Personal Data by the Border Guard (639/2019) lay down provisions on the obligation of vehicle drivers and carriers to report. (644/2019)

#### **Section 175 Obligation to transport**

If an alien is refused entry referred to in section 142(2) or in accordance with the Schengen Borders Code, the carrier which transported him or her across the external border to Finland is obliged to transport him or her to:

- 1) the country of embarkation;
  - 2) the country which issued the alien with the travel document on which he or she travelled; or
  - 3) any country to which the alien is certain to be admitted.
- (1214/2013)

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The provisions of subsection 1 also apply to the carrier if a third-country national in transit through Finland is refused entry in accordance with the Schengen Borders Code and if:

- 1) another carrier, which was supposed to transport the alien to the country of destination, refuses to take him or her on board; or
- 2) the authorities of the country of destination have refused the alien entry and he or she has been sent back to Finland.

If border control authorities have allowed the alien's entry into the country, the carrier is not under the obligation provided in subsection 1 unless the alien has at the border applied for asylum or a residence permit on the basis of subsidiary protection or temporary protection. (332/2016)

### Section 176

#### Costs of return transport (1214/2013)

If an alien, who has been refused entry, does not have funds for his or her return journey, the carrier which transported him or her across the external border is obliged to arrange his or her transport at its own cost. If immediate transport is not feasible, the carrier also bears any costs that arise from the alien's stay.

If an alien has stayed in the country after disembarking from a vehicle without the required travel document, visa, residence permit or sufficient financial resources for his or her residence in the country, the carrier is obliged to reimburse any costs incurred by the State as a result of the alien's residence and refusal of entry. (--)

### Section 177

#### Escorts

When enforcing the removal of an alien from the country, police or border control authorities may order a necessary number of escorts if the security of the vehicle or the enforcement of the decision on the alien's removal so requires. An escort may also be ordered if an alien leaves the country voluntarily without a decision on removal. The carrier responsible for transporting the alien may submit a request for ordering an escort.

The authorities' decision on ordering an escort is not subject to separate appeal.

### Section 178

#### Costs of escorts

If an alien is refused entry and the refusal of entry is based on his or her not holding the required travel document, visa, residence permit or sufficient financial resources for his or her residence in the country, and the alien needs an escort, the carrier which transported him or her across the external border to Finland is also obliged to pay for the costs arising from the escort. The carrier is not entitled to receive compensation from the State for the costs arising from the transport. (1214/2013)

The carrier's obligation under subsection 1 to pay the costs arising from the escort also applies if the alien has applied for asylum at the border and the decision on refusal of entry is issued within three months of entry into the country.

If the authorities escort the alien in cases other than those referred to in subsection 1 or 2 without the carrier's request, the Police or the border control authority bear the costs arising from the escort.

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### Section 179 (755/2014)

#### Financial penalties on carriers

A carrier who violates the obligation to obligation to check laid down in section 173 or the obligation to submit information laid down in section 25 or 26 of the Act on the Processing of Personal Data by the Border Guard is liable to financial penalty (financial penalty on a carrier). The penalty for violation of section 173 amounts to EUR 3,000 per transported person. The penalty for violation of section 25 and 26 of the Act on the Processing of Personal Data by the Border Guard amounts to EUR 3,000 euros per each journey where passenger information is missing or inadequate, or where false information has been supplied. (644/2019)

No financial penalty on a carrier is imposed if:

- 1) the carrier can prove that it has fulfilled its obligation to ensure that the alien held the required travel document and the required visa or residence permit when taken on board;
- 2) the required travel document, visa or residence permit has proved to be a forgery and the forgery has not been easy to detect;
- 3) transporting a person without the required travel document, visa or residence permit or the mistake in supplying air or professional vessel or rail transport passenger data has been excusable, all circumstances considered; or
- 4) imposing a penalty would be otherwise unreasonable under the circumstances.

Subsection 2(1) does not apply to a penalty imposed for violation of section 25 or 26 of the Act on the Processing of Personal Data by the Border Guard. (644/2019)

A financial penalty on a carrier may not be imposed on anyone who is suspected of the same act in a criminal matter in which criminal investigation, consideration of charges or a trial is pending. Neither may a financial penalty be imposed on anyone with a final judgement for the same act.

### Section 180

#### Carriers' opportunity to be heard

Before imposing a financial penalty on a carrier, the carrier or its representative shall be given an opportunity to present an explanation in writing within a fixed period, which may not be less than two weeks.

### Section 181

#### Imposing financial penalties on carriers

A financial penalty on a carrier is imposed in the course of a border check by the commander or deputy commander of the Border Guard District or Coast Guard District or the head of the Border Guard office or Coast Guard office within whose territory the violation of section 173 or section 25 or 26 of the Act on the Processing of Personal Data by the Border Guard was detected. If the border control authority is the police, the financial penalty on the carrier is imposed by a commanding officer of the local police department. If the border control authority is Customs, the financial penalty on the carrier is imposed by a customs officer at supervisory level who is designated for this task in an operational arm of the unit responsible in the Finnish Customs. (644/2019)

Financial penalties on carriers are ordered to be paid to the State.

The penalty is specified in a decision. The legally valid decision is enforced in the manner of a final judgement.

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### **Section 182 (653/2004)**

#### **Revoking financial penalties on carriers**

The authorities who imposed a financial penalty on a carrier shall revoke the penalty if:

- 1) the alien may stay in the country on the grounds that he or she is issued with a residence permit on the basis of refugee status, subsidiary protection or temporary protection; or
- 2) the carrier is sentenced to punishment for facilitation of illegal entry under Chapter 17, section 8 or for aggravated facilitation of illegal entry under Chapter 17, section 8a of the Criminal Code. (332/2016)

The provisions of section 1(1) do not apply to a penalty imposed for violation of section 25 or 26 of the Act on the Processing of Personal Data by the Border Guard. (644/2019)

### **Section 183**

#### **Term of payment**

A financial penalty on a carrier shall be paid within one month of service of the decision.

A penalty interest at an interest rate under section 4(1) of the Interest Act (633/1982) is charged on overdue financial penalties.

### **Section 184**

#### **Enforcement**

The Legal Register Centre is responsible for the enforcement of a financial penalty on a carrier.

The Legal Register Centre shall be notified of any decision by the authorities or a court of law to reduce or revoke the financial penalty.

The Legal Register Centre shall refund, without application, any financial penalty paid without justification

### **Section 184 a (10/2019)**

#### **Obligations for carriers in internal border traffic**

Provisions referred to in this Chapter shall also apply to internal traffic if the border control has been temporarily reintroduced at the internal borders in accordance with Title III, Chapter 2 of the Schengen Borders Code and Section 15 of the Border Guard Act.

## F. GOVERNMENT POINT OF CONTACT

Ministry of the Interior  
Border Guard Headquarters  
P.O.BOX 3  
FI-00131 Helsinki  
e-mail: [api.info@raja.fi](mailto:api.info@raja.fi)  
tel: +358 295 421 000  
fax: +358 295 411 500

## G. OTHER

See: Advanced Passenger Information (API), Finland Implementation Guide-  
UN/EDIFACT PAXLST [http://www.raja.fi/guidelines/carriers\\_supervisory\\_and\\_disclosure\\_obligation](http://www.raja.fi/guidelines/carriers_supervisory_and_disclosure_obligation)

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