

## **Translation from Finnish**

**Legally binding only in Finnish and Swedish**

**Ministry of Justice, Finland**

## **Act on International Legal Assistance in Criminal Matters**

*(4/1994; amendments up to 471/2021 included)*

By decision of Parliament, the following is enacted:

### **Chapter 1**

#### **General provisions**

#### **Section 1**

##### **Scope of application**

The provisions of this Act apply to international legal assistance in criminal matters where the proceedings, at the time of making a request for legal assistance, fall within the competence of the requesting Finnish or foreign authority.

International legal assistance referred to in this Act includes:

- 1) service of decisions, summonses, invitations and other documents relating to criminal proceedings, including invitations to appear before an authority of the requesting state in order to be heard;
- 2) hearing of witnesses, experts and parties, obtaining expert opinions, conducting site visits, obtaining documents and objects to be presented as evidence, as well as taking and submitting of any other evidence for criminal proceedings;
- 3) use of coercive measures in order to obtain evidence or to secure the enforcement of a confiscation order;
- 4) institution of criminal prosecution;
- 5) disclosure of information extracted from criminal records for criminal proceedings; and

6) other necessary legal assistance, provision of information on legislation, and any other forms of mutual cooperation needed in criminal proceedings.

With regard to other Member States of the European Union, this Act only applies to such legal assistance that is not governed by the Act on the Implementation of the Directive Regarding the European Investigation Order in Criminal Matters (430/2017). This Act is, however, applied with regard to the Republic of Ireland and the Kingdom of Denmark. (432/2017)

## **Section 2 (149/2004)**

### **Restrictions on the scope of application**

This Act does not apply to:

- 1) extradition; and
- 2) international cooperation in the enforcement of criminal judgments, transfer of persons sentenced to a custodial sentence, transfer of the supervision of conditionally sentenced or conditionally released persons, or the enforcement of a fine, a confiscation order or another criminal sanction.

## **Section 3**

### **Central Authority**

The Ministry of Justice is the Central Authority responsible for the duties falling within the scope of application of this Act.

In the capacity of the Central Authority, the Ministry of Justice shall:

- 1) receive requests for legal assistance sent by foreign authorities;
- 2) execute, either directly or through the competent Finnish authorities, requests for legal assistance sent by foreign authorities;

3) send requests for legal assistance made by competent Finnish authorities to foreign authorities;  
and

4) take care of translations of documents and other duties of the Central Authority.

#### **Section 4**

##### **Requests for legal assistance made to Finnish authorities**

A request for legal assistance shall be sent by a foreign authority to the Ministry of Justice or directly to the authority competent to execute the request.

If a request has been sent to the Ministry of Justice, the Ministry shall, without delay, forward it to the authority competent to execute the request, unless the execution of the request falls within the competence of the Ministry of Justice.

#### **Section 5**

##### **Making a request for legal assistance to foreign authorities**

A request for legal assistance to a foreign state may be made by the Ministry of Justice, a court, a prosecution authority or a criminal investigation authority. If the execution of a measure requested in a request for legal assistance would, in corresponding circumstances in Finland, require a decision made by another authority than the requesting one, such a decision shall be obtained in Finland as the basis for the request. (301/2014)

The request is sent to a foreign state in compliance with the procedure required by the foreign state and taking into account the provisions of any treaties in force between Finland and the foreign state. The request may be transmitted via the Ministry of Justice, if the requesting authority cannot send it directly to the competent authority of the foreign state or if the transmission of the request via the Ministry of Justice is for some other reason deemed appropriate. Where necessary, the Ministry of Justice may transmit the request to the foreign state via the Ministry for Foreign Affairs.

## **Section 6**

### **Issue of further provisions on communications**

Further provisions on the procedure for making and accepting requests for legal assistance and on the order of communications are issued by decree.

## **Chapter 2**

### **Provision of legal assistance**

## **Section 7**

### **Form and content of a request for legal assistance**

A request for legal assistance sent by a foreign authority to a Finnish authority may be made in writing, as a recording, or orally, and it may also be sent as an electronic message. If service of a summons, an invitation, a decision or some other document is requested, the request shall, however, always be accompanied or supplemented by the document to be served. If the authenticity or the content of a request or any related document raises doubts, the Ministry of Justice or the competent authority may request a necessary verification in writing. Requests for legal assistance and the related documents are exempt from legalisation and any similar formalities.

A request for legal assistance shall, to the extent necessary for the adequate execution of the request, indicate:

- 1) the authority making the request and information on the court or other authority where the criminal matter motivating the request is subject to proceedings or investigations;
- 2) the content of and reasons for the request;
- 3) the necessary information available on the persons whom the request concerns;
- 4) a judicial description of the offence motivating the request and the applicable provisions of criminal law;

5) a brief description of the criminal act and the related facts, unless the request concerns service of a document;

6) an account of the facts that need to be established and information on the related documents and evidence; and

7) allowances and compensations for expenses to which a witness or expert requested to appear before an authority of the requesting state is entitled.

A request for legal assistance may be executed even if the requirements set out in subsections 1 or 2 are not fully met, if the defects do not prevent the execution of the request.

## **Section 8**

### **Language and translations**

A request for legal assistance shall be made in Finnish, Swedish or English, or be accompanied by a translation into one of these languages. The documents related to the request shall also be in Finnish, Swedish or English, or be accompanied by a translation into one of these languages. (301/2014)

The competent authority may execute a request even if the request and the related documents are drawn up in some other language than Finnish, Swedish or English, if the authority accepts the use of the foreign language in question and there are no other impediments to the execution of the request. Provisions on the duty of the Ministry of Justice to take care of translations from foreign languages into Finnish and Swedish are issued by government decree. (301/2014)

A document to be served need not be accompanied by a translation, if service may under section 17, subsection 2 be effected without appending a translation to the document.

A foreign language may be used in a hearing conducted on the basis of a request for legal assistance, if the person to be heard requests this or if the competent authority otherwise deems this justified, and the use of the foreign language does not compromise the rights or legal protection of the parties. (149/2004)

## **Section 9**

### **Execution of a request**

The execution of a request for legal assistance shall be carried out following the procedure laid down by Finnish law, unless otherwise provided in this Act. A request for legal assistance shall be executed without delay, and the time limits set or implied in the request shall be observed as far as possible. (149/2004)

If the request or the accompanying documents are defective to the extent that the request cannot be executed, the requesting foreign authority shall without delay be asked to supplement the request or to provide additional information on the matter.

If the request cannot be executed or the execution of the request is delayed, the requesting foreign authority shall be notified of this without delay and simultaneously be informed of the reasons for the non-execution or the delay.

## **Section 10**

### **Presence in the provision of legal assistance**

The competent authority of the requesting state, the parties, and any other persons concerned have the right, under Finnish law, to be present when witnesses, experts or parties are being heard or when some other requested measure is being carried out. An authority of the requesting state may, with the consent of the court or the criminal investigation authority, participate in the court proceedings or the criminal investigation and present questions to the persons being heard.

At the request of an authority of the requesting state, the authority of the requesting state shall be notified of the time and place of the execution of the requested measure well in advance, so that the authority and those who have the right to be present may be present.

## **Section 11 (149/2004)**

### **Compliance with a particular procedure specified in the request**

If use of a particular form or procedure is requested in the request for legal assistance, the request shall be complied with, unless this is contrary to the fundamental principles of the Finnish

legislation and if not otherwise separately provided by law or international obligations binding on Finland.

If the request cannot be executed in compliance with the procedure specified in the request, the authority of the requesting foreign state shall without delay be notified of this. At the same time, the authority of the requesting state shall be informed of the conditions under which the request could be executed and inquired whether the request shall be executed under these conditions.

### **Section 11a (301/2014)**

#### **Hearing via video conference**

If a request for legal assistance made by a foreign authority concerns hearing of a witness, expert or injured party via video conference or another suitable technical means of communication where the participants have an audio and visual connection with each other, the condition for executing the request is that this cannot be deemed contrary to the fundamental principles of the Finnish legislation.

The hearing may be conducted by the competent authority of the requesting state or under the lead of the said authority.

The chairperson of a district court or the criminal investigation authority shall verify the identity of the person to be heard and supervise compliance with the fundamental principles of the Finnish legislation. If the competent authority considers that these principles are being violated in the hearing, the authority shall immediately take measures to ensure that the hearing is resumed in compliance with the said principles or suspend the hearing.

A protocol shall be drawn up on the hearing. The protocol shall indicate the time and place of the hearing, the identity of the person heard, the identity and status of all other persons having participated in the hearing in Finland, the oaths taken or affirmations given, and the technical circumstances in which the hearing was conducted. The protocol shall be submitted to the competent authority of the requesting state.

In addition to what is provided in subsections 1–4, the provisions of sections 20–22 shall be observed when conducting a hearing.

## **Section 11b (301/2014)**

### **Hearing of a defendant or suspect via video conference**

A defendant in a criminal matter or a criminal suspect may be heard following the procedure referred to in section 11a, if such hearing would be allowed under Finnish law in a corresponding situation. A further condition is that the defendant or the suspect consents to the procedure. The consenting shall be recorded.

A defendant or a suspect who is to be heard in accordance with this section has the right to legal counsel, and a defence counsel shall, upon request, be appointed for the person for the purposes of the hearing and the related consenting. The court shall order a reasonable remuneration to be paid from state funds to the defence counsel. In all other respects, the provisions of chapter 2 of the Criminal Procedure Act (689/1997) apply to the appointment of a defence counsel.

Before asking for the defendant's or suspect's consent to conducting a hearing via video conference, the defendant or suspect shall be informed of their right to legal counsel and the right to have a defence counsel appointed for them.

## **Section 11c (301/2014)**

### **Hearing by telephone**

A hearing referred to in sections 11a and 11b may also be conducted by telephone. The condition is that the person to be heard consents to the procedure. The consenting shall be recorded.

## **Section 12**

### **Mandatory grounds for refusal**

Legal assistance shall be refused if the execution of a request could violate the sovereignty of Finland or compromise the security or other essential interests of Finland.

Legal assistance shall be refused if the execution of a request would conflict with the principles of human rights and fundamental freedoms or otherwise be contrary to Finnish public policy.



## **Section 13**

### **Discretionary grounds for refusal**

Legal assistance may be refused, if:

- 1) the offence motivating the request is to be deemed a political offence or an offence under military law;
- 2) the offence motivating the request has been committed by a person who under Finnish law could no longer be prosecuted due to limitation, pardon or another corresponding reason;
- 3) the offence motivating the request is subject to a criminal investigation in Finland or in a third state, the matter is being considered by a prosecution authority, or judicial proceedings have been initiated in the matter;
- 4) in respect of the offence motivating the request, a decision has been issued in Finland or in a third state not to conduct a criminal investigation, to waive charges, or not to sentence the defendant to a punishment, or any other measures have been waived;
- 5) a judgment sentencing the defendant to a punishment for the offence motivating the request or a judgment dismissing charges for the offence has been passed in judicial proceedings initiated in Finland or in a third state; or
- 6) the execution of the request would, with regard to the nature of the offence, require an unreasonable amount of resources.

The execution of a request may be postponed, if the execution of the request would harm or delay a criminal investigation or judicial proceedings in Finland.

## **Section 14**

### **Decision to refuse legal assistance and appeal**

A decision to refuse legal assistance on grounds specified in section 12, subsection 1 is made by the Ministry of Justice. In other cases, the decision to refuse legal assistance is made by the authority competent to execute the request. Where the request for legal assistance has been sent

to the Ministry of Justice acting as the Central Authority, the Ministry may, without forwarding the request to the competent authority, decide that assistance is refused, if it is evident that legal assistance cannot be afforded in the matter.

If a district court has decided that legal assistance will not be afforded, the Ministry of Justice may submit the matter to a court of appeal for consideration, without declaring intent to appeal and in compliance with the provisions on appeal against a district court decision, where applicable. If a court of appeal has decided that legal assistance will not be afforded, the Ministry of Justice may submit the matter to the Supreme Court for consideration, without applying for leave to appeal and in compliance with the provisions on appeal against a decision of a court of appeal. In other cases, a decision to refuse legal assistance is not subject to appeal.

## **Section 15**

### **Restrictions on the use of coercive measures**

If coercive measures are requested or if the execution of a request for legal assistance otherwise requires use of coercive measures referred to in the Coercive Measures Act (806/2011), such measures shall not be used, if they would not be allowed under Finnish law if the offence motivating the request was committed in Finland under corresponding circumstances. (823/2011)

The provisions of subsection 1 do not, however, apply to execution of a request relating to a money laundering offence in a situation where the person suspected of the offence referred to in the request is an accomplice to the offence by which the property was gained from another or which produced the proceeds, or to a data retention order referred to in chapter 8, section 24 of the Coercive Measures Act. (823/2011)

A suspect or a defendant in criminal proceedings pending in the requesting state, who is requested to be heard in Finland in a criminal investigation or in court, shall not be arrested, remanded or subjected to a travel ban due to the offence motivating the request.

If service of an invitation to appear before a foreign authority is requested, the Finnish authority shall not oblige the invited person to comply with the invitation nor use any coercive measures due to their failure to appear. Provisions on the duty of witnesses and injured parties to comply with an invitation to appear in court issued by a court of another Nordic country are laid down in the Act on the Duty to Appear before the Court of Another Nordic Country in Certain Cases (349/1975).

## **Section 16**

### **Refusal of assistance due to absence of reciprocity**

The Ministry of Justice may decide to refuse assistance, if the requesting state does not afford corresponding assistance upon a request for assistance made by a Finnish authority.

## **Chapter 3**

### **Miscellaneous provisions on the provision of legal assistance**

## **Section 17**

### **Service of documents**

Service of a document is effected following the procedure that shall be followed in the service of corresponding documents under Finnish law, or following a particular procedure specified in the request, unless such a procedure is deemed to be contrary to the fundamental principles of the Finnish legislation. Proof of service shall be given by means of a certificate indicating the date, place and method of service, the person on whom the document was served and the person to whom the document was delivered. (149/2004)

Service of a document is effected in accordance with subsection 1, if the document to be served is drawn up in Finnish or Swedish or accompanied by a translation to either of these languages. In other cases, the service may be effected only by personal delivery of the document to the addressee, if the addressee accepts it voluntarily. However, service of a document may be effected in accordance with subsection 1, if it is evident that the addressee has a sufficient understanding of the language of the document or the accompanying translation.

Further provisions on the procedure to be followed in the service of documents are issued by decree.

## **Section 18**

### **Refusal to serve a summons or an invitation**

Service of a summons or an invitation may be refused, if the invitation and the accompanying documents to be served have not been submitted to the requested Finnish authority early enough

to allow a reasonable time for the invited person to appear in the hearing. Service may, however, be effected, if the person on whom the document is to be served accepts it voluntarily.

## **Section 19**

### **Institution of criminal prosecution on the basis of a request made by a foreign authority**

On the basis of a request made by a foreign authority in accordance with this Act, criminal prosecution may be instituted in Finland in compliance with the provisions on the bringing of charges separately laid down by Finnish law.

## **Section 20**

### **Taking of evidence and hearing of parties in a general court of first instance**

If the request for legal assistance made by a foreign authority concerns hearing of witnesses or experts, presentation of documents, conduct of a site visit or taking of other evidence or hearing of parties, and the execution of the measure falls within the jurisdiction of a court of law, a general court of first instance shall take the evidence or hear the parties, if:

- 1) proceedings in the criminal matter in question are pending in a court of the requesting foreign state; or
- 2) the taking of evidence or hearing of parties has been requested to take place in court.

Evidence shall be taken or parties heard in the court of first instance of the judicial district where the person to be heard is domiciled or habitually resident, or where the evidence can otherwise be taken in an appropriate manner. The prosecutor shall be present at the hearing, if this is deemed necessary by the court. In all other respects, the provisions governing criminal proceedings shall be observed, as appropriate, in the procedure. (454/2011)

## **Section 21**

### **Obtaining of evidence and reports and hearing of parties in criminal investigation**

In cases other than those referred to in section 20, evidence and reports shall be obtained and parties and other persons heard by the competent criminal investigation authority. The provisions

governing the criminal investigation of an offence shall be observed in the procedure, as appropriate.

## **Section 22**

### **Right of a witness, expert and person to be heard in criminal investigation to refuse to testify**

A person to be heard as a witness or expert in a Finnish court or a person who appears before a criminal investigation authority to be heard, pursuant to a request made by a foreign authority, has the right to refuse to testify or make a statement, if this person under Finnish law or the law of the requesting state has the right or duty to refuse to testify or make a statement. The law of the foreign state shall be taken into account, if the right or duty to refuse to testify has been stated in the request for legal assistance made by the foreign state or if such information is confirmed by the requesting foreign authority upon the request of a Finnish court or criminal investigation authority, or if the right or duty otherwise is known to the court or to the criminal investigation authority.

## **Section 23**

### **Use of coercive measures to obtain evidence or to secure the enforcement of a confiscation order**

Pursuant to a request for legal assistance made by a foreign authority, the Finnish authorities may, in order to obtain evidence, take the following measures if this has been requested in the request for legal assistance or if this is necessary for the execution of the request: conduct a search; carry out seizure; enforce a data retention order; conduct telecommunications interception or traffic data monitoring; collect data other than through telecommunications interception; collect location data in order to locate a suspect or sentenced person; collect base station data; conduct extended surveillance, covert intelligence collection, technical surveillance, undercover activities, pseudo purchases and controlled deliveries; and take personal identifying characteristics. (301/2014)

At the request of a foreign authority, coercive measures may be used for the purpose of securing the enforcement in Finland of a confiscation order issued or to be issued in the requesting foreign state due to an offence, if the confiscation order could be enforced in Finland.

The provisions of section 15, subsection 1 of this Act and the provisions of the Coercive Measures Act apply to the conditions for the use of coercive measures and the procedure to be followed when using them. (149/2004)

### **Section 23a (301/2014)**

#### **Right of foreign public officials to engage in undercover activities or pseudo purchases**

On the basis of a request for legal assistance made by a Finnish competent authority to a foreign state, a competent public official of the foreign state in question may under the conditions and in accordance with the procedure laid down in chapter 10 of the Coercive Measures Act be given the right, under the immediate supervision of a police officer in charge of the undercover activities or the pseudo purchase, to engage in such an individual undercover activity or pseudo purchase measure referred to in chapter 10 of the Coercive Measures Act that has been specified in a written plan drawn up on the undercover activities or the pseudo purchase.

### **Section 24 (471/2021)**

#### **Disclosure of criminal record information**

Upon the request of a foreign authority, information extracted from the criminal record may, in accordance with this Act, be disclosed to the requesting authority for criminal proceedings under the same conditions as to Finnish authorities. The decision to disclose criminal record information is made by the Legal Register Centre. When information received from another Member State of the European Union is disclosed to a third country, the Legal Register Centre shall set as a condition for the disclosure that the information may only be used in those criminal proceedings for which they have been requested, unless otherwise separately provided by law or in international obligations binding on Finland. When disclosing information received from the United Kingdom, the Legal Register Centre shall comply with the provisions of Article 651(4) of the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of the Great Britain and Northern Ireland, of the other part.

Provisions on the disclosure of criminal record information to the competent authority of another Member State of the European Union are also laid down in the Act on the Storage and Transmission of Information Extracted from Criminal Records between Finland and Other Member States of the European Union (214/2012), and provisions on the disclosure of criminal record

information to the competent authority of the United Kingdom are also laid down in the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of the Great Britain and Northern Ireland, of the other part, as well as in the Act on the Application of Provisions on Extradition and Exchange of Criminal Record Information Laid Down in the Trade and Cooperation Agreement between the European Union and the United Kingdom (470/2021).

### **Section 25 (301/2014)**

#### **Costs and expenses for legal assistance**

No reimbursement for costs or expenses incurred in the execution of a request for legal assistance may be claimed from the requesting foreign state.

Reimbursement for the costs and expenses referred to in subsection 1 may, however, be claimed, if the costs and expenses are considerable or exceptional or if separate provisions governing this are laid down in international obligations binding on Finland.

### **Section 25a (849/2001)**

#### **Disclosure of non-disclosable information**

Notwithstanding the non-disclosure obligation laid down in the Act on the Openness of Government Activities (621/1999) or any other act, documents containing non-disclosable information may, on the basis of a request for legal assistance made by a foreign state, be disclosed for use as evidence in a criminal matter, unless disclosing the information or document to a foreign state or using it as evidence is prohibited or restricted under law.

However, the right referred to in subsection 1 does not apply to information obtained by its holder on the basis of an authorisation for the purpose of scientific research, compilation of statistics or planning and reporting duties of public authorities.

### **Section 25b (301/2014)**

#### **Liability for damages of a foreign public official**

If a public official of a foreign state, who under an international agreement or another international obligation performs surveillance, pursuit or criminal investigation tasks or who

pursuant to a request for legal assistance made or accepted by a Finnish authority performs the above-mentioned or other tasks, causes damage in the territory of Finland during the performance of these tasks, the liability for damages is determined in accordance with the provisions governing the liability for damages of Finnish public officials.

## **Chapter 4**

### **Miscellaneous provisions on requesting legal assistance from a foreign state**

#### **Section 26**

##### **Declaration of reciprocity**

When making a request for legal assistance to an authority of a foreign state, the Ministry of Justice may, where necessary, declare that Finnish authorities will in a corresponding case provide legal assistance to the requested foreign state.

#### **Section 27**

##### **Non-disclosure, obligation to remain silent and restrictions on the use of information**

Where a Finnish authority makes a request for legal assistance to a foreign authority, the provisions of Finnish law apply to the non-disclosure of documents and other recordings, the obligation to remain silent, and parties' and authorities' right of access to information.

In addition to what is provided in subsection 1, the provisions of an agreement in force between Finland and a foreign state and the conditions set by the foreign state on non-disclosure, obligation to remain silent, restrictions on the use of information and the return or destruction of the material provided by the requested state shall be complied with.

#### **Section 28**

##### **Right of a witness, expert and person to be heard in criminal investigation to refuse to testify**

A person who arrives from a foreign state to be heard as a witness or expert in a Finnish court or to be questioned in a criminal investigation in Finland, upon an invitation served on the person in accordance with a request for legal assistance made by a Finnish authority, has the right to refuse to testify or make a statement, if the person has the right or duty to refuse to testify or make a



statement under Finnish law or the law of the requested foreign state. The law of the foreign state shall be taken into account, if the right or duty has been stated in the foreign authority's reply to the Finnish authority's request for legal assistance, or if such information is confirmed by the requested foreign authority upon the request of a Finnish court or criminal investigation authority, or if the right or duty is otherwise known to the court or the criminal investigation authority.

The provisions of the Act on the Immunity of Persons Participating in Judicial Proceedings and Criminal Investigations in Certain Cases (11/1994) apply to the immunity of witnesses, experts, injured parties, other persons to be heard in a criminal matter, defendants in a criminal matter, and criminal suspects who have arrived from a foreign state upon an invitation issued by a Finnish authority.

## **Chapter 5**

### **Further provisions and entry into force**

#### **Section 29**

##### **Further provisions**

Further provisions on the implementation and application of this Act are issued by decree. In addition, the Ministry of Justice may, where necessary, issue further provisions on the provision of and requesting for international legal assistance in criminal matters.

#### **Section 30**

##### **Entry into force**

This Act enters into force on 15 January 1994.

Notwithstanding the provisions of this Act, international legal assistance in criminal matters shall also be afforded as separately provided or agreed elsewhere.

The provisions of this Act do not affect communication between Finnish and foreign authorities in criminal matters via the International Criminal Police Organisation (Interpol) or via diplomatic channels.