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Act on the Jurisdiction of the International Tribunal for the Prosecution of Persons Responsible for Crimes Committed in the Territory of the Former Yugoslavia and on Legal Assistance to the International Tribunal (12/1994; amendments to 747/2015 included)

Section 1—Scope of application of the Act

For the purpose of implementing the obligations based on resolution no. 827 (1993) of the United Nations Security Council, relating to the creation of an International Tribunal for the prosecution of persons responsible for crimes committed in the territory of the former Yugoslavia (*Tribunal*) and on the Statute of the Tribunal adopted by the resolution, this Act shall govern:

- (1) the exercise of jurisdiction by the Tribunal and by Finnish courts;
- (2) the recognition and implementation in Finland of decisions made by the Tribunal;
- (3) the surrender of offenders in a case falling within the jurisdiction of the Tribunal; as well as
- (4) other international legal assistance to the Tribunal and co-operation between the Tribunal and Finnish courts and other competent authorities.

Section 2—Duties of the Ministry of Justice concerning co-operation and legal assistance

- (1) The Ministry of Justice shall receive the requests and notifications made by the Tribunal in a criminal case falling within the jurisdiction of the Tribunal, including requests for the surrender of offenders and for the implementation of decisions made by the Tribunal, and shall execute the requests either itself or through competent courts or other competent authorities.
- (2) Any replies, depositions and notifications to be sent to the Tribunal shall be submitted through the Ministry of Justice even where the Ministry of Justice has not itself executed the request, unless otherwise provided for in the request.
- (3) Paragraphs (1) and (2) notwithstanding, the Tribunal may be in direct contact with competent Finnish authorities or communicate through diplomatic channels or the International Criminal Police Organization (*Interpol*).

Section 3—Jurisdiction of the Tribunal and of Finnish courts, and the recognition in Finland of the decisions of the Tribunal

- (1) Criminal cases referred to in Articles 2 to 5 of the Statute of the Tribunal, which involve grave breaches against the Geneva Conventions of 1949 for the Protection of Victims of War (Finnish Treaty Series 7—8/1955), violations of the

laws or customs of war as well as genocide and crimes against humanity, committed in the territory of the former Yugoslavia after 31 December 1990, fall within the jurisdiction of the Tribunal as provided for by Articles 6 to 10 of the Statute. A case pending before the Tribunal or already decided by the Tribunal may not be heard by a Finnish court.

(2) Paragraph (1) notwithstanding, a Finnish court may, however, exercise jurisdiction in a criminal case according to Finnish law and its procedural rules unless the Tribunal has, prior to the initiation of the case or subsequently, notified that it shall assume exclusive jurisdiction under Article 9(2) of the Statute.

Section 4—*Surrender of offenders*

(1) A person who is present in Finland and who is suspected of an offence referred to in section 3, subsection 1 or who has been sentenced to imprisonment by the Tribunal shall be surrendered, on the request of the Tribunal, to the Tribunal as provided for in the request.

(2) The Extradition Act (456/1970) shall otherwise apply, as appropriate, to the procedure to be followed in the surrender.

Section 5—*Taking into custody to safeguard the transit of offenders*

A defendant or a suspect in an offence who has been summoned by the Tribunal from a foreign state to be heard before the Tribunal, may be taken into custody in Finland as provided under sections 19 and 20 of the Extradition Act in order to safeguard transit through the territory of Finland.

Section 6—*Service of documents, taking of evidence and other legal assistance*

(1) Finnish courts and other competent authorities shall provide such legal assistance as the Tribunal requests in the service of subpoenas, summons, decisions and other documents, the hearing of witnesses and expert witnesses as well as in the taking of other evidence, and provide any other legal assistance in a criminal case falling within the jurisdiction of the Tribunal.

(2) Legal assistance shall be provided in accordance with the procedure provided for in the Act on International Legal Assistance in Criminal Matters (4/1994), as appropriate, unless otherwise indicated in the request. Coercive means may be used in connection with the provision of legal assistance in accordance with the Coercive Measures Act (450/1987).

Section 7—*Taking of evidence and the conduct of investigations in the territory of Finland*

The Tribunal may, in the territory of Finland, hear persons suspected of an offence, witnesses and victims of offences, conduct investigations as well as

obtain any necessary legal assistance from Finnish courts and other competent authorities as provided in section 6.

Section 8—*Duties of witnesses and experts* (747/2015)

(1) A witness or an expert witness who in Finland has been summoned by the Tribunal to appear before the Tribunal, is obliged to comply with the summons.

(2) A witness summoned by the Tribunal according to paragraph (1) who fails to appear before the Tribunal without legal excuse, leaves the Tribunal without permission or refuses to swear the witness's oath or give the witness's affirmation or refuses to testify or answer questions, shall be sentenced to a fine and, where necessary, ordered to fulfil his or her obligations under threat of a fine or imprisonment. Chapter 17, sections 62 and 63 of the Code of Judicial Procedure apply to the threat of a fine and imprisonment.

(3) A witness or an expert witness who, while being heard before the Tribunal, has given a false statement or unlawfully concealed something that he or she knew would have been material in the case, shall be sentenced for perjury as provided for in Chapter 15 of the Criminal Code (39/1889).

(4) The public prosecutor shall bring charges for refractoriness by a witness or expert witness or for perjury upon the notification of the Tribunal and by the order of the Ministry of Justice, in the court of the accused person's place of residence, temporary place of residence or in the court of the district where the person has been apprehended.

Section 9—*Advance payment*

(1) A witness or an expert witness summoned in Finland to appear before the Tribunal, shall upon request be granted advance payment according to, as appropriate, the State Compensation for Witnesses Act (666/1972).

(2) The request for an advance payment shall be made to the District Court that had served the summons upon the witness or the expert witness concerned. The Ministry of Justice decides on the granting of the advance payment upon the submission of the District Court.

(3) The advance payment may be recovered only from a witness or an expert witness who fails to appear before the Tribunal or otherwise fails to fulfil his or her duties. Recovery of an advance payment shall be decided upon by the District Court referred to in paragraph 2, on the submission of the Ministry of Justice.

Section 10—*Immunity and free transit of persons summoned to be heard*

(1) A witness, an expert witness and a party as well as any other person summoned in a foreign State by the Tribunal to appear before the Tribunal shall be entitled to free transit and the right to immunity in the territory of Finland according to the provisions, as appropriate, of the Act on the Immunities of Persons Participating in Proceedings or Pre-Trial Investigations (11/1994). A

defendant and a suspect summoned by the Tribunal may, however, be taken into custody as provided for by section 5.

(2) The right to free transit and immunity shall be in force as long as is necessary for an appropriate arrangement of transit.

Section 11— *Enforcement of a sentence of imprisonment in Finland*

(1) A sentence imposed by the Tribunal which involves deprivation of liberty shall upon the request of the Tribunal be enforced in Finland in accordance with the provisions relating to the Act on International Co-operation in the Enforcement of Certain Penal Sanctions (21/1987). In the enforcement of the sentence, the provisions on the prerequisites for the enforcement of section 3 of the said Act shall not apply.

(2) The enforcement of the sentence shall take place by issuing the necessary enforcement orders (*continued enforcement*) as provided by section 7 of the Act referred to in paragraph (1).

(3) Pardon, commutation of sentence and release of the convicted person on parole shall be decided upon by the Tribunal as provided for in Article 28 of the Statute.

Section 12— *Return of property and proceeds of crime*

(1) An order by the Tribunal on the forfeiture and return of any property or proceeds of crime shall be enforced in Finland in accordance with the Act on International Co-operation in the Enforcement of Certain Penal Sanctions, where applicable. In the enforcement of the sanction, the provisions on the prerequisites for the enforcement in section 3 of the said Act shall not apply.

(2) Any property and proceeds of crime shall be returned by the order of the Ministry of Justice as provided for in the request by the Tribunal.

Section 13— *Supplementary provisions*

Supplementary provisions on the application and implementation of this Act shall, where necessary, be issued by a Decree.

Section 14— *Entry into force*

This Act shall enter into force on 15 January 1994.