

Translation from Finnish
Legally binding only in Finnish and Swedish
Ministry of Justice, Finland

Act on Surrender Procedures between Finland and Other Member States of the European Union

(1286/2003; amendments up to 329/2019 included)

By decision of Parliament, issued as provided in section 95, subsection 2 of the Constitution, the following is enacted:

Chapter 1
General provisions

Section 1
Scope of application

Under this Act, a person staying in Finland may be surrendered from Finland to another Member State of the European Union and a request may be made for the surrender of a person staying in another Member State of the European Union to Finland for the purpose of prosecution or enforcement of a custodial sentence.

Chapter 2
Surrender from Finland to another Member State

General prerequisites

Section 2
Surrender when double criminality requirement is met

Surrender shall be granted, if the most severe punishment for the act on which the request is based, under the law of the requesting Member State, is a custodial sentence of at least one year and the act, if committed in corresponding circumstances in Finland, constitutes or would constitute an offence under Finnish law. Provisions on the surrender of a person subject to supervision measures, as referred to in the Act on the National Implementation of the Provisions of a Legislative Nature of the Framework Decision on Supervision Measures as an Alternative to Provisional Detention and on the Application of the Framework Decision (620/2012), are laid down in section 8 of the said Act. (621/2012)

Where a person has been sentenced to a custodial sentence, surrender shall be granted if the sanction imposed is a custodial sentence of at least four months and the act constitutes or would

constitute an offence under Finnish law if it had been committed in corresponding circumstances in Finland.

Section 3

Surrender without verification of double criminality

Regardless of whether the act on which the request is based constitutes an offence under Finnish law, surrender shall be granted, if the act under the law of the requesting Member State is an act referred to in subsection 2 and the most severe punishment for the act under the law of the said Member State is a custodial sentence of at least three years. Furthermore, surrender for the purpose of enforcing a custodial sentence requires that the sanction imposed is a custodial sentence of at least four months.

The acts referred to in subsection 1 above are:

- 1) participation in a criminal organisation;
- 2) terrorism;
- 3) trafficking in human beings;
- 4) sexual exploitation of children and child pornography;
- 5) illicit trafficking in narcotic drugs and psychotropic substances;
- 6) illicit trafficking in weapons, munitions and explosives;
- 7) corruption;
- 8) fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention on the protection of the European Communities' financial interests (Finnish Treaty Series 85/2002);
- 9) laundering of the proceeds of crime;
- 10) counterfeiting currency, including of the euro;
- 11) computer-related crime;
- 12) environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties;
- 13) facilitation of unauthorised entry and residence;
- 14) murder, grievous bodily injury;
- 15) illicit trade in human organs and tissue;
- 16) kidnapping, illegal restraint and hostage-taking;
- 17) racism and xenophobia;
- 18) organised and armed robbery;
- 19) illicit trafficking in cultural goods, including antiques and works of art;

- 20) swindling;
- 21) racketeering and extortion;
- 22) counterfeiting and piracy of products;
- 23) forgery of administrative documents and trafficking therein;
- 24) forgery of means of payment;
- 25) illicit trafficking in hormonal substances and other growth promoters;
- 26) illicit trafficking in nuclear or radioactive materials;
- 27) trafficking in stolen vehicles;
- 28) rape;
- 29) arson;
- 30) crimes within the jurisdiction of the International Criminal Court;
- 31) unlawful seizure of aircraft and ships;
- 32) sabotage.

Section 4 ***Accessory offences***

If a request for surrender includes several acts and the prerequisites laid down in section 2 or 3 are present for one of the acts, the request may be agreed to also in respect of the other acts, if these acts or acts that correspond to these acts constitute offences under Finnish law.

Grounds for refusal

Section 5 ***Mandatory grounds for refusal***

Surrender shall be refused, if:

- 1) the act on which the request is based is in Finland covered by general amnesty, provided by law in accordance with section 105, subsection 2 of the Constitution, and the Finnish law could be applied to the act under chapter 1 of the Criminal Code (39/1889);
- 2) the requested person has been finally judged in Finland or in another Member State in respect of the act on which the request is based, provided that, where the person has been sentenced to a punishment, the punishment has been served or is currently being served or may no longer be enforced under the law of the sentencing Member State;
- 3) the requested person had not reached the age of fifteen years at the time of commission of the act on which the request is based;

- 4) the request concerns the enforcement of a custodial sentence and the requested person is a Finnish citizen and requests permission to serve the custodial sentence in Finland; the custodial sentence shall be enforced in Finland as separately provided;
- 5) the act on which the request is based is, under chapter 1 of the Criminal Code, deemed to have been committed in whole or in part in Finland or on board a Finnish vessel or aircraft, and;
 - a) the act or a corresponding act is not punishable in Finland; or
 - b) the right to bring charges, under Finnish law, has become time-barred, or a punishment could no longer be imposed or enforced;
- 6) there are reasonable grounds to suspect that the requested person is in danger of being subject to capital punishment, torture or other treatment violating human dignity or to persecution threatening his or her life or liberty or to other persecution because of his or her origin, membership in a particular social group, religion, belief or political opinion, or there are reasonable grounds to assume that the person would be subjected to a violation of his or her human rights or constitutional legal protection, freedom of expression, or freedom of association.

Surrender shall also be refused if it would, in view of the age, health or other personal circumstances or special circumstances of the person concerned, be unreasonable for humanitarian reasons and this unreasonableness cannot be avoided by delaying the execution under section 47.

Section 6

Discretionary grounds for refusal

Surrender may be refused, if:

- 1) the requested person is being prosecuted in Finland for the act on which the request is based;
- 2) a decision not to prosecute for the act on which the request is based or a decision to dismiss charges already brought has been issued in Finland;
- 3) a final decision other than a judgment, which prevents the bringing of charges, has been issued in a Member State regarding the act on which the request is based;
- 4) the act on which the request is based is deemed, under chapter 1 of the Criminal Code, to have been committed in whole or in part in Finland or on board a Finnish vessel or aircraft, and it is more appropriate to consider the case in Finland;
- 5) the right to bring charges has become time-barred under Finnish law or a punishment could no longer be imposed or enforced and, under chapter 1 of the Criminal Code, Finnish law may be applied to the act;

6) the request concerns enforcement of a custodial sentence, the requested person is habitually resident in Finland and requests permission to serve the custodial sentence in Finland, and on the basis of his or her personal circumstances or another special reason it is justified that he or she serves the custodial sentence in Finland; the custodial sentence shall be enforced in Finland as separately provided;

7) the requested person has been finally judged in a state other than a Member State of the European Union or by the International Criminal Court in respect of the act on which the request is based, provided that, where the person has been sentenced to a punishment, the punishment has been served or is currently being served or may no longer be enforced under the law of the sentencing state;

8) the act on which the request is based has been committed outside the territory of the requesting Member State and the Finnish law could not, in a corresponding situation in Finland, be applied to the act under chapter 1 of the Criminal Code.

Section 6a (23/2011)

Grounds for refusal due to a judgment rendered in absentia

Surrender may be refused if the request concerns enforcement of a custodial sentence that has been passed in the absence of the defendant.

Surrender is, however, granted, if the requested person:

1) had been personally served with the summons in due time and thereby informed of the scheduled date and place of the court hearing which led to the judgment and was informed that a decision may be rendered even if he or she does not appear in the hearing;

2) had by other means effectively received official information on the scheduled date and place of the court hearing which led to the judgment, in such a manner that it can be unequivocally established that he or she was aware of the hearing, and was informed that a decision may be rendered even if he or she does not appear in the hearing;

3) being aware of the trial, had given a mandate to a legal counsel, who was either appointed by the person concerned or by the state, to defend him or her at the trial, and had indeed been defended by the said counsel at the trial;

4) has expressly stated that he or she will not contest the judgment or, after being served with the judgment and being expressly informed of the right to request a retrial or a review of the judgment, did not request a retrial or a review within the applicable time frame; in that case, a further requirement is that the person would have had the right to participate in the retrial or

review, the merits of the case could have been re-examined, new evidence could have been admitted, and the retrial or review could have led to the original judgment being reversed; or 5) was not personally served with the judgment but will be personally served with it without delay after the surrender and will expressly be informed of his or her right to request a retrial or a review of the judgment and of the time frame within which he or she has to request such a retrial or review; in that case, a further requirement is that the person has the right to participate in the retrial or review, the merits of the case may be re-examined, new evidence may be admitted, and the retrial or review may lead to the original judgment being reversed.

Section 7

Consent to surrender

Even if a requested person consents to surrender, surrender may be refused on the grounds laid down in section 6, paragraph 1 or 4.

Conditions

Section 8

Condition concerning return of surrendered person

Surrender of a Finnish citizen for the purpose of prosecution shall be made subject to the condition that the person shall be returned to Finland, immediately after the judgment has become final, to serve a possible custodial sentence imposed on him or her, if the person has, in connection with the consideration of the surrender matter, requested permission to serve the sentence in Finland.

If the requested person is habitually resident in Finland, the condition referred to in subsection 1 may be set, if the requested person has, in connection with the consideration of the surrender matter, requested permission to serve the sentence in Finland, and it is justified, in view of his or her personal circumstances or another special reason, to allow him or her to serve the possible custodial sentence in Finland.

The custodial sentences referred to in subsections 1 and 2 above shall be enforced in Finland as separately provided.

Section 9 (23/2011)

Section 9 was repealed by Act 23/2011.

Section 10

Condition concerning life sentence

If the act on which the request is based is punishable in the requesting Member State by a custodial life sentence, surrender may be made subject to the condition that the requesting Member State shall give an assurance that the sentence imposed may, under its legislation or case law, be reviewed or an application for pardon may be made.

The assurance referred to in subsection 1 above shall be given before the decision on surrender is made.

Competent authorities

Section 11 (658/2015)

Competent court

The Helsinki District Court decides on surrender and continuation of keeping in custody.

Section 12 (658/2015)

Competent prosecutors

Unless otherwise provided in this Act, the District Prosecutors and Senior Specialised Prosecutors serving in the judicial district of the Helsinki District Court are competent to perform the prosecutorial duties under this Act. (41/2019)

For special reasons, also other prosecutors than those referred to in subsection 1 may be competent.

Submission and content of a request

Section 13

Order of contacts

The competent authority of the requesting Member State shall submit a request for apprehension and surrender to the information system referred to in the Convention implementing the Schengen Agreement on the gradual abolition of checks at common borders (Finnish Treaty Series 23/2001) or to another corresponding system.

If the location of the requested person in Finland is known, the request may be submitted directly or through international channels of communication to the competent prosecutor.

The prosecutor shall inform the National Bureau of Investigation of a request that has not been submitted through the National Bureau of Investigation.

Section 14 ***Content and form of a request***

A request for apprehension and surrender shall contain the following information:

- 1) the identity and nationality of the requested person;
- 2) the name, address, telephone and fax number and email address of the requesting competent authority;
- 3) a statement on whether an enforceable judicial decision or judgment meeting the requirements laid down in section 2 or 3 exists;
- 4) the nature and legal classification of the offence, particularly in respect of the acts referred to in section 3, subsection 2;
- 5) a description of the circumstances in which the offence was committed, including the time, place and degree of participation in the offence by the requested person;
- 6) the penal scale for the offence under the law of the requesting Member State or, if there is a final judgment, the punishment imposed, and, if surrender is requested on the basis of a judgment referred to in section 6a, subsection 2, paragraph 5, the time frame within which the requested person shall request a retrial or a review of the judgment; (23/2011)
- 7) where feasible, other consequences of the offence.

A request may be submitted in writing, as an electronic message or by any other means capable of producing written records.

Section 15 ***Language and translations***

A request shall be drawn up in Finnish, Swedish or English, or a translation into one of these languages shall be appended to the request.

The competent authority in Finland may execute a request even if it has been drawn up in a language other than Finnish, Swedish or English, if there are no other impediments to the execution of the request.

If a request has been drawn up in a language other than Finnish or Swedish, the National Bureau of Investigation is responsible for the translation of the request into Finnish or Swedish, depending on which of these languages is to be used in the consideration of the surrender matter.

(1174/2011)

Apprehension and taking into custody

Section 16

Apprehension

A police officer may apprehend a person whose surrender has been requested under this Act and who has been ordered to be taken into custody.

A police officer may apprehend a person whose surrender has been requested under this Act even without the existence of a decision on taking into custody, if the execution of the request for apprehension and surrender could otherwise be endangered. The provisions on apprehension laid down in the Coercive Measures Act (806/2011) apply to apprehension, as appropriate. (827/2011)

The National Bureau of Investigation and the competent prosecutor shall, without delay, be informed of the apprehension. The National Bureau of Investigation shall inform the competent authority of the requesting Member State of the apprehension of a person whose surrender has been requested.

Section 17

Taking into custody

In order to secure surrender, a public official with the power of arrest may decide to take a requested person into custody. The documents pertaining to the taking into custody shall immediately be submitted to the competent prosecutor. If the prosecutor decides to continue to keep the person in custody, he or she shall inform the competent district court of this.

The provisions governing remand imprisonment apply to keeping in custody, as appropriate.

Instead of taking a requested person into custody, a travel ban may be imposed on him or her. The provisions of the Coercive Measures Act on the travel ban and the provisions of this Act on taking into custody apply to the travel ban, as appropriate.

Section 18

Continuation of keeping in custody

After being informed that a requested person has been taken into custody, the district court shall, without delay, take the matter concerning the continuation of the keeping in custody up for consideration in compliance with the provisions of the Coercive Measures Act on the consideration of a request for remand, as appropriate. The prosecutor shall present the claim for the continuation of the keeping in custody at the district court.

The court shall decide that the decision on taking into custody remains in effect, if there is reason to suspect that the execution of the request for apprehension and surrender would otherwise be endangered. The prosecutor shall inform the National Bureau of Investigation of the decision of the district court.

Section 19

Complaint against a decision on continuation of keeping in custody

A person taken into custody may, regardless of any time limit, file a complaint with the Supreme Court against a district court decision on the continuation of the keeping in custody.

Legal counsel, defence counsel and written notice of rights

Section 20

Right to legal counsel and defence counsel

A person whose surrender is requested has the right to be assisted by a legal counsel.

A defence counsel shall be appointed for a requested person, if the person so requests. The court orders a reasonable remuneration to be paid to the defence counsel from state funds, which shall be borne by the State. The provisions of chapter 2 of the Criminal Procedure Act (689/1997) apply, as appropriate, to the appointment of a defence counsel by virtue of office and to the defence counsel also in all other respects.

Subsection 3 was repealed by Act 824/2014.

Section 20a (329/2019)
Written notice of rights

The police shall, without delay, inform a person whose surrender is requested or who has been apprehended or otherwise found in Finland of his or her right to:

- 1) obtain information on the contents of the request for apprehension and surrender;
- 2) be assisted by a legal counsel;
- 3) have a defence counsel appointed for him or her, if the person whose surrender is requested so requests;
- 4) interpretation as well as translation of the request for apprehension and surrender as provided in section 21, subsections 2 and 3;
- 5) decide whether he or she consents to the surrender;
- 6) be heard at a district court concerning the contents of the request for surrender; and
- 7) obtain information on a judgment rendered in absentia, on which the request for surrender is based, if he or she so requests.

In addition to what is provided in subsection 1, a requested person under 18 years of age shall be informed of:

- 1) the fact that the rights of the requested person are also communicated to his or her legal representative;
- 2) the right of his or her legal representative to be present in the preparation of the surrender matter as provided in section 21c and in the court hearing concerning the surrender matter;
- 3) the right to have a matter concerning taking into custody reconsidered in a new hearing in accordance with chapter 3, section 15 of the Coercive Measures Act;
- 4) the available alternatives for taking into custody;
- 5) the fact that the provision of information on visual and audio recordings may be restricted in order to protect privacy as provided in section 13, subsection 2 of the Act on the Publicity of Court Proceedings in General Courts (370/2007), and that the matter may be considered in court without the public being present under the conditions laid down in section 15, subsection 5 of that Act;
- 6) the right to healthcare and medical treatment referred to in chapter 6, section 1 of the Remand Imprisonment Act (768/2005).

The person whose surrender is requested shall be provided with a written notice of the rights referred to in subsections 1 and 2 in a language that he or she understands.

Section 20b (897/2016)
Waiver of right to legal counsel

If the person whose surrender is requested does not wish to exercise his or her right to legal counsel, the police shall, where necessary, ensure that the requested person has sufficient knowledge of his or her right to be assisted by a legal counsel and have a defence counsel appointed for him or her. The requested person shall be informed that he or she has the right to subsequently revoke the waiver of the right to legal counsel.

Preparation of surrender matter

Section 21 (779/2013)
Notifications and inquiries to the requested person

When a requested person has been taken into custody or otherwise found in Finland due to a request for surrender, the National Bureau of Investigation shall, without delay, serve the requested person with the request for apprehension and surrender in a verifiable manner and explain its contents. The requested person shall also be notified that he or she has the possibility of consenting to surrender, of consenting to prosecution, punishment or deprivation of liberty in the requesting Member State for an offence committed prior to surrender other than the one for which surrender to another Member State is requested, and of consenting to being subsequently surrendered to another Member State. Furthermore, the consequences of giving such consents shall be explained to the requested person. The requested person shall be inquired whether he or she intends to consent to surrender or whether he or she considers that any of the grounds for refusal or conditions laid down in this Act may be applied in his or her case. If necessary, the requested person shall also be inquired whether he or she intends to request permission to serve the possible custodial sentence in Finland.

The notifications and inquiries referred to in subsection 1 above shall be made in a language that the requested person understands. The provisions of chapter 4, section 12 of the Criminal Investigation Act (805/2011) on a party's right to interpretation apply to a requested person's right to interpretation. The requested person has the right to receive a written translation of the request for apprehension and surrender into a language he or she understands. The provisions of the Language Act (423/2003) apply to the use of Finnish and Swedish.

By derogation from subsection 2, a request for apprehension and surrender or a summary of the request may be translated orally, if the legal protection of the requested person does not require

that the request be translated in writing. Furthermore, the provisions of chapter 4, section 13 of the Criminal Investigation Act on the translation of a document that is part of the criminal investigation documentation and essential from the point of view of the matter apply also to the translation of a request for apprehension and surrender.

A protocol including entries on which measures have been taken and what information has been received shall be drawn up. The National Bureau of Investigation shall submit the protocol and other relevant documents to the competent prosecutor.

Section 21a (23/2011)

Right to obtain information on a judgment rendered in absentia

If a request for surrender is based on a judgment referred to in section 6a, subsection 2, paragraph 5 and the requested person has not previously been provided with official information on the criminal procedure concerning him or her, the person may, upon being informed of the contents of the request for surrender, request that a copy of the judgment be submitted to him or her prior to surrender. The competent authority of the requesting Member State shall, immediately after being informed of this request, submit a copy of the judgment to the requested person via the competent authority under this Act.

The request to receive a copy of the judgment must not delay the surrender procedure or the process for issuing a decision on surrender. The judgment is submitted solely for information purposes, and it must not be considered an official service of the judgment; the period for submitting a request for retrial or review must not be considered to begin to run from the submission of the judgment.

Section 21b (897/2016)

Notice of right to appoint legal counsel in the requesting Member State

In addition to the provisions of section 21 on the notices to be given to the requested person, the National Bureau of Investigation shall, without delay, inform the requested person of his or her right to appoint a legal counsel in the requesting Member State. The provisions of section 21, subsections 2 and 4 apply to the notice.

If the requested person wishes to exercise the right referred to in subsection 1, the National Bureau of Investigation shall, without delay, inform the competent authority of the requesting Member State of this.

Section 21c (329/2019)

Preparation of a surrender matter concerning a requested person under 18 years of age

The provisions of chapter 7, section 14 of the Criminal Investigation Act on the presence in the questioning of a criminal suspect under 18 years of age apply, as appropriate, to the presence of a legal representative of a requested person under 18 years of age or another adult close to the requested person in the preparation of a surrender matter.

If the rights referred to in section 20a of this Act cannot be communicated to the legal representative of the requested person, they shall be communicated to another adult close to the requested person.

Section 22

Adherence to time limits

After having received the documents concerning taking into custody in accordance with section 17, the prosecutor shall ensure that the surrender matter is considered without delay so that the court is able to adhere to the time limits laid down in this Act.

Section 23

Request for supplementary information

The prosecutor and the police may, where necessary, request supplementary information from the competent authority of the requesting Member State. A time limit may be set for the submission of the information.

Section 24

Submission of a request to district court

The prosecutor shall submit a request to issue a decision on surrender to the district court. The request shall be made in writing. The prosecutor shall submit a copy of the request to the requested person in a language that he or she understands.

The request shall indicate the following:

- 1) the time when the requested person was apprehended or otherwise found in Finland;
- 2) whether the requested person is kept in custody and the time when he or she was taken into custody;

- 3) an account of the prerequisites for surrender, grounds for refusal and conditions for surrender;
- 4) whether the requested person has stated that he or she intends to consent to surrender or give other consents referred to in this Act; and
- 5) whether other requests have been made for surrender of the requested person.

Furthermore, the request shall indicate the name and contact information of the requested person and his or her legal counsel. The request for apprehension and surrender, any supplementary information that may possibly have been supplied and the protocol drawn up by the National Bureau of Investigation shall be appended to the request.

Consideration of a surrender matter

Section 25

Other legislation to be complied with

Unless otherwise provided in this Act, the provisions governing the criminal procedure in a district court apply, where appropriate, to the consideration of a surrender matter in a district court.

Section 26

Adherence to time limits in district court

The district court shall ensure that surrender matters are considered without delay so that the court is able to adhere to the time limits laid down in this Act.

Section 27

Composition and session of district court

When considering a surrender matter, the district court has a quorum also in single-judge formation. A session may be held also at another time and in another place than those specified in the provisions governing the sessions of a general court of first instance.

A surrender matter may be considered in the same district court session as the question of continuation of keeping in custody. Unless the district court finds this manifestly unnecessary, the matter may also be considered in a separate session.

After having received the prosecutor's request, the district court shall inform the prosecutor and the requested person of the time and place of the session in which the matter will be considered.

Furthermore, if the requested person has not been taken into custody, he or she shall be informed of the possible consequences of not appearing in the session.

Section 28
Presence in session

The prosecutor shall be present in the district court session and present the contents of his or her request. The prosecutor shall advocate the interests of the requesting Member State.

If the requested person has been taken into custody, he or she shall be heard on the contents of the prosecutor's request in the district court session. (658/2015)

If the requested person has not been taken into custody, he or she shall be given an opportunity to be heard on the contents of the prosecutor's request. If the requested person is absent from the consideration of the matter without a valid excuse, the matter may be heard and decided regardless of his or her absence.

Section 29
Declaration of consent

The requested person shall declare in the district court session whether he or she consents to surrender or to prosecution, punishment or deprivation of liberty in the requesting Member State for an offence committed prior to surrender other than the one for which surrender is requested, or to possible subsequent surrender to another Member State. (658/2015)

Before receiving the consent, the district court shall inform the requested person of the consequences of giving the consents referred to in subsection 1.

An entry shall be made in the protocol of the consent referred to in subsection 1 and of the provision of information referred to in subsection 2 above.

Section 30
Revocation of consent

A requested person may revoke the consents referred to in this Act until the decision on surrender has been enforced.

If the requested person revokes his or her consent to surrender, the court shall take the surrender matter up for reconsideration. The period between the date of giving the consent and the date of its revocation are not taken into consideration when counting the time limits laid down in this Act.

Section 30a (658/2015)
Hearing via video connection

If the district court deems this appropriate, video conference or another suitable technical means of communication where the participants have an audio and visual connection with each other may be used in the consideration of a surrender matter. If the district court deems it necessary, the requested person shall, however, be brought to the district court.

Section 31
Request for supplementary information

The district court may, where necessary, before making a decision, request supplementary information from the competent authority of the requesting Member State. A time limit may be set for the submission of the information. The requested person shall be heard concerning the information received as provided in section 28.

Section 32
Time limits

In cases where the requested person has consented to surrender, the district court shall decide on the surrender within a period of three days after the consent has been given. The district court shall, however, in any case decide on the surrender within a period of 26 days after the requested person has been apprehended or otherwise found in Finland. If, for a special reason, the decision cannot be made within the said time limits, it shall be made as soon as possible.

Section 33
Decision of district court

If a condition referred to in sections 8–10 is set for surrender, it shall be recorded in the decision of the district court. Furthermore, the decision of the district court shall indicate the possible consents given by the requested person. If the district court agrees to surrender, the decision shall also mention that the requesting Member State is obliged to comply with the provisions of Articles 27 and 28 of the Council Framework Decision on the European arrest warrant and the surrender procedures between Member States (2002/584/JHA, framework decision).

If the district court agrees to surrender, the requested person shall be kept in custody unless the court orders otherwise. If the district court refuses surrender, it may, having heard the prosecutor and the requested person on the matter, order that the requested person shall be kept in custody until the decision on surrender has become final or the Supreme Court decides otherwise.

The provisions of subsection 2 apply also to travel ban, as appropriate.

Section 34 ***Multiple requests***

If several Member States have requested surrender of the same person, the court shall, when deciding on the surrender, also decide to which Member State the person will be surrendered. When making the decision, the court shall take into consideration all the relevant circumstances, especially the nature and place of commission of the acts on which the requests are based, the dates on which the requests were presented, and whether a given request has been issued for the purpose of prosecution or execution of a custodial sentence.

Subsection 2 was repealed by Act 1385/2007.

If both a Member State and a non-member state that is not a Nordic country request the surrender or extradition of the same person and the court considers that the request of the Member State may be agreed to under this Act, and the Ministry of Justice considers that the request submitted to it may be agreed to, the Ministry of Justice shall decide, in accordance with section 25 of the Extradition Act (456/1970), to which state the person will be surrendered or extradited. The court shall postpone the enforcement of its final decision and forward it to the Ministry of Justice for a decision in the matter.

If both a Member State and the International Criminal Court request surrender or extradition of the same person, the consideration of the request referred to in this Act at the court shall be postponed until the Ministry of Justice has made a decision on the request submitted to it.

Section 35

Delays

If a final decision has not been made in a surrender matter within 60 days from the date on which the requested person was apprehended, the prosecutor shall inform the competent authority of the requesting Member State of the delay and the reasons for it.

In cases where the requested person has consented to surrender and a final decision has not been made in the matter within ten days after the consent was given, the prosecutor shall, correspondingly, provide the competent authority of the requesting Member State with the information referred to in subsection 1.

In cases where a final decision has not been made in the surrender matter within 30 days after the expiry of the time limits referred to in subsections 1 and 2, the prosecutor shall inform Eurojust of the delay and the reasons for it.

Section 36

Notification of decision

The prosecutor shall immediately notify the competent authority of the requesting Member State and the National Bureau of Investigation of the final decision on surrender. If surrender has been refused, the requesting Member State shall also be informed of the grounds for the refusal. The requesting Member State shall also be informed of how long the requested person has been deprived of his or her liberty in Finland due to the request for apprehension and surrender.

Request for review

Section 37 (658/2015)

Right to request a review

A judicial review of a district court decision on surrender may be requested, by appeal, at the Supreme Court, if the Supreme Court grants leave to appeal under chapter 30, section 3 of the Code of Judicial Procedure.

Section 38 (658/2015)

Lodging of appeal

A person who wishes to appeal against a district court decision on surrender shall, within a period of seven days after the decision, submit an appeal document to the district court. The appeal

document shall be addressed to the Supreme Court and include an application for leave to appeal and the appeal. An appeal that has not been lodged within the set time limit is not taken up for consideration.

Section 39 (658/2015)
Responding to appeal

The opposing party of the appellant has the right to submit a written response to the appeal. The opposing party shall, for the preparation of the response, receive copies of the appeal document and the appended documents from the district court. The response shall be given within seven days from the expiry of the appeal period. The opposing party shall submit a written response to the district court within the said time limit. The appellant shall receive a copy of the response and the appended documents from the district court.

Section 40 (658/2015)
Submission of documents to the Supreme Court

The district court shall submit the appeal document and its appendices to the Supreme Court immediately after they have arrived. The dossier of the case and a copy of the district court decision shall be submitted to the Supreme Court at the same time. Correspondingly, the district court shall submit a response and its appendices to the Supreme Court immediately after they have arrived.

Section 41 (658/2015)
Quorum and urgent consideration

At the Supreme Court, a surrender matter may be considered and decided by a division consisting of three members.

The Supreme Court shall consider a surrender matter urgently. The matter shall be decided within 20 days from the expiry of the period reserved for submitting a response to the appeal.

If the time limit laid down in subsection 2 cannot, for special reasons, be adhered to, the matter shall be decided as soon as possible.

Section 42 (658/2015)

Other provisions

Unless otherwise provided elsewhere by law, the provisions of chapter 30 of the Code of Judicial Procedure governing appeal in a case heard by a court of appeal as an appellate court apply to the appeal in all other respects. The provisions of this Act on the consideration of matters in a district court apply, as appropriate, also to the consideration of matters in the Supreme Court.

Section 43

Release of a person

If the Supreme Court refuses surrender, it shall order that a person kept in custody shall immediately be released or that an imposed travel ban shall be revoked.

Enforcement

Section 44

Authority responsible for enforcement

The National Bureau of Investigation is responsible for the enforcement of a decision on surrender.

Section 45

Enforcement of decision

A decision on surrender is enforced after it has become final.

The requested person may inform the district court in writing that he or she does not intend to request a review of the decision of the district court. With the consent of the competent prosecutor, the decision may in that case be enforced even before it has become final.

Section 46

Time limits for enforcement

The requested person shall be handed over to the competent authorities of the requesting Member State as soon as possible on a date agreed between the competent authorities. However, the person shall be handed over no later than ten days after the decision on surrender has become final.

If the surrender of the requested person within the period specified in subsection 1 is prevented by circumstances beyond the control of Finland or the requesting Member State, the competent authorities shall agree on a new surrender date. The requested person shall be handed over within ten days of the new date thus agreed.

Section 47
Delay of enforcement

The court may delay the enforcement of a surrender decision if there exist circumstances that make the surrender unreasonable for humanitarian reasons. The surrender decision shall be enforced as soon as these circumstances have ceased to exist. The competent authorities shall then agree on a new surrender date. The requested person shall be handed over within ten days of the new date thus agreed.

Section 48
Release from custody

If the requested person is still being kept in custody when the time limits referred to in sections 46 and 47 expire, he or she shall be released.

Section 49 (1174/2011)
Postponement of enforcement and temporary surrender

The court may postpone the enforcement of a decision on surrender for the purpose of prosecuting the requested person in Finland for an act other than the one on which the request for apprehension and surrender is based, or, if the person has already been sentenced, for the purpose of him or her serving the sentence passed. The competent authority referred to in section 12 decides on the commencement of the enforcement of the surrender decision after the postponement.

The court may, instead of postponing the enforcement of a surrender decision, surrender the requested person temporarily to the requesting Member State. A person serving a sentence of imprisonment in Finland may be surrendered only for court proceedings pending in the requesting Member State. The time limit within which a temporarily surrendered person shall be returned to Finland and the other conditions for the temporary surrender shall be recorded in the district court decision. The decision shall also contain a statement that the requesting state is obliged to comply with the conditions set for the temporary surrender. The enforcement of a decision on temporary

surrender may be commenced after the competent authority of the requesting state has declared in writing that it undertakes to comply with the conditions set by the district court.

Speciality rule and subsequent surrender

Section 50

Requesting permission

At the request of a Member State requesting apprehension and surrender, permission may be granted for the prosecution, punishment or deprivation of liberty in the said Member State of a person surrendered from Finland for an offence committed prior to the surrender other than the one for which the person was surrendered or for subsequent surrender of the person to another Member State. The request shall be submitted to the competent prosecutor and it shall contain the information referred to in section 14.

Section 51

Granting permission

The provisions of this Act on the consideration of a surrender matter apply, where appropriate, to the procedure for granting permission referred to in section 50 above. A defence counsel referred to in section 20 shall be appointed for the surrendered person, and the said counsel shall be heard in a district court session before permission is granted. If necessary, the district court may give also the surrendered person an opportunity to be heard in writing.

The district court grants permission if surrender would be allowed under this Act. The district court shall, if necessary, set the conditions laid down in sections 8–10 for the surrender.

The decision shall be made within 30 days from the date on which the prosecutor has received the request. If, for a special reason, the decision cannot be made within the said time limit, it shall be made as soon as possible.

Section 52

Request for review

A judicial review of a district court decision referred to in section 51 may be requested, by appeal, at the Supreme Court in compliance with the provisions of sections 37–43 concerning request for a review, where appropriate.

Chapter 3

Surrender from another Member State to Finland

General prerequisites

Section 53

Prerequisites for making a request

Apprehension and surrender of a person staying in another Member State to Finland may be requested for the purpose of prosecution, if the most severe punishment under Finnish law for the act on which the request is based is imprisonment for at least one year. The request shall be based on a decision on remand.

A request may be made for the apprehension and surrender to Finland for enforcement of a custodial sentence, if an enforceable judgment has been issued in Finland for the act on which the request is based and the sanction imposed is imprisonment for at least four months.

If the most severe punishment for the act on which the request is based is, under Finnish law, imprisonment for at least three years and the offence is one of those mentioned in section 3, subsection 2, the requested Member State shall be informed of this in the request for apprehension and surrender.

If the request is based on an act which fulfils the prerequisites laid down in subsection 1 or 2, surrender may be requested also for acts that do not fulfil the prerequisites laid down in either subsection.

Procedure

Section 54 (189/2017)

Competent authorities

A request for surrender for the purpose of prosecution, referred to in section 53, subsection 1 above, is made by the prosecutor who is competent to prosecute the criminal case in question. A request for surrender for the purpose of enforcement of a custodial sentence, referred to in section 53 subsection 2 above, is made by the prosecutor upon proposal of the Central Administration of the Criminal Sanctions Agency.

Section 55
Order of contacts

The competent authority referred to in section 54 above shall submit the request to the information system referred to in the Convention implementing the Schengen Agreement on the gradual abolition of checks at common borders or to another corresponding system.

If the location of the requested person is known, the competent authority referred to in section 54 may submit the request directly or through international channels of communication to the competent authority of the other Member State.

The competent authority referred to in section 54 above shall inform the National Bureau of Investigation of a request that has not been submitted through the National Bureau of Investigation.

Section 56
Content and form of a request

A request for apprehension and surrender shall contain the information referred to in section 14, subsection 1 and it may be submitted in the manner referred to in section 14, subsection 2.

Section 57
Language and translations

When the location of the requested person is known, the request shall be made in the language of the requested Member State. If the said Member State has declared that it accepts requests also in other languages, the request may be made in a language accepted by the Member State.

The National Bureau of Investigation is responsible for the translations required under subsection 1 and for their delivery to the requested Member State.

Section 57a (897/2016)
Submission of information for appointment of a legal counsel

If the competent authority of another Member State informs the competent authority referred to in section 54 that a requested person wishes to appoint a legal counsel in Finland, the competent authority referred to in section 54 shall, without undue delay, submit information facilitating the

appointment of a counsel to the requested person. The information shall be submitted to the competent authority of the other Member State as provided in section 55.

Speciality rule and conditions

Section 58

Compliance with the speciality rule

A person surrendered from a Member State to Finland must not be prosecuted or punished nor may he or she be deprived of his or her liberty for an offence committed prior to the surrender other than the one on which the request for surrender was based.

The prohibition referred to in subsection 1 above does not apply, if:

- 1) the surrendered person has had an opportunity to leave Finland and he or she has not done so within 45 days of his or her final discharge, or has returned to Finland after leaving Finland;
- 2) the offence is not punishable by a custodial sentence;
- 3) the criminal proceedings do not lead to a measure restricting the liberty of the surrendered person;
- 4) a punishment or measure not involving deprivation of liberty will be imposed on the surrendered person, in particular a financial punishment or a measure imposed in lieu of such a punishment, even if the punishment or measure may restrict the liberty of the person;
- 5) the person has consented to surrender and has renounced entitlement to invoke the prohibition referred to in subsection 1;
- 6) the person has, after his or her surrender, expressly renounced entitlement to invoke the prohibition referred to in subsection 1 with regard to certain specific acts preceding the surrender; such renunciation shall be declared in the district court in the manner referred to in section 29;
- 7) the Member State that has surrendered the person gives its consent to derogation from the prohibition; or
- 8) the Member State that has surrendered the person has notified the General Secretariat of the Council of the European Union that its consent to derogation from the prohibition is presumed to have been given, unless the competent authority in a particular case states otherwise.

The consent referred to above in subsection 2, paragraph 7 may be requested by the prosecutor who is competent to prosecute the criminal case in question or, for special reasons, by another prosecutor. The request shall be based on a decision on remand referred to in section 60, and a written opinion of the person surrendered to Finland, concerning the request, shall be appended to the request. Consent to the enforcement of a sentence of imprisonment may be requested by the

prosecutor. The requests referred to in this subsection shall contain the information referred to in section 14, subsection 1. (189/2017)

Section 59
Compliance with conditions

In respect of a person surrendered to Finland, the conditions set in the surrender decision in accordance with the framework decision shall be complied with.

Section 60
Prerequisites for a decision on remand

If a person surrendered from a Member State to Finland is with probable cause suspected of an offence other than the one referred to in the request for surrender, which may lead to a sentence of imprisonment and was committed before he or she was surrendered to Finland, the court may, at the request of a public official with the power of arrest, order that the person shall be remanded for the said offence in order to obtain consent of the Member State to his or her prosecution. However, the suspect must not be deprived of his or her liberty by virtue of this decision on remand until the Member State in question has given its consent to the bringing of charges for the act referred to in the decision on remand. The decision on remand shall lapse if the Member State does not give its consent to the bringing of charges.

If a Member State has given the consent referred to in subsection 1 and the suspect has been deprived of his or her liberty by virtue of a decision on remand referred to in the subsection, the question of remanding the suspect under chapter 2, section 11 of the Coercive Measures Act shall be referred to a court for decision in compliance with the provisions of chapter 3, sections 4 and 5 of the said Act, as appropriate. If the suspect has been deprived of his or her liberty for another reason, the decision on remand shall be referred to a court for consideration without delay once the Member State has given its consent. (827/2011)

In all other respects, the provisions of the Coercive Measures Act on the remand hearing apply in situations referred to in subsections 1 and 2 above, as appropriate.

Subsequent surrender and extradition

Section 61

Prohibition against subsequent surrender and extradition

A person surrendered from a Member State to Finland must not be subsequently surrendered to another Member State or extradited to a state that is not a member of the European Union.

The prohibition referred to above in subsection 1 does not apply to subsequent surrender of a person surrendered from a Member State to Finland to another Member State, if:

- 1) the surrendered person has had an opportunity to leave Finland and he or she has not done so within 45 days of his or her final discharge, or has returned to Finland after leaving Finland;
- 2) the person has consented to surrender and has renounced entitlement to invoke the prohibition referred to in subsection 1;
- 3) the person has, after his or her surrender, expressly renounced entitlement to invoke the prohibition referred to in subsection 1 with regard to certain specific acts preceding the surrender; such renunciation shall be declared in the district court in the manner referred to in section 29;
- 4) the Member State that has surrendered the person gives its consent to derogation from the prohibition; or
- 5) the Member State that has surrendered the person has notified the General Secretariat of the Council of the European Union that its consent to derogation from the prohibition is presumed to have been given, unless the competent authority in a particular case states otherwise.

The prohibition referred to in subsection 1 above does not apply to subsequent extradition of a person surrendered from a Member State to Finland to a state that is not a member of the European Union, if the Member State that had surrendered the person gives its consent to derogation from the prohibition.

Section 62

Request for subsequent surrender

If a Member State requests that a person surrendered from another Member State to Finland shall be subsequently surrendered to the said Member State and subsequent surrender is not possible under section 61, subsection 2, paragraphs 1–3 or 5, the competent prosecutor shall request the Member State from which the person was surrendered to Finland to give its consent to the subsequent surrender. The request shall contain the information referred to in section 14, subsection 1.

Chapter 4

Miscellaneous provisions

Section 63

Hearing before decision on surrender

If a request of another Member State for apprehension and surrender has been made for the purpose of prosecution, the competent authority under the Act on International Legal Assistance in Criminal Cases (4/1994) shall, at the request of the requesting Member State, consent to hear the requested person in accordance with the said Act before deciding on the surrender.

The competent authority referred to subsection 1 above may, correspondingly, request another Member State to hear a person whose surrender to Finland has been requested.

Section 64

Elimination of conditions

If a requested person has been extradited to Finland from a state other than a Member State of the European Union and he or she is subject to conditions set for the said extradition, the person must not be subsequently surrendered to another Member State without the consent of the state from which he or she was extradited to Finland.

In a situation referred to in subsection 1 above, the competent authority shall request consent to surrender from the state from which the person was extradited to Finland. The time limits referred to in this Act begin to run only after the conditions have ceased to apply.

Section 65

Privileges and immunities

If a person whose surrender from Finland is requested enjoys a privilege or immunity related to court proceedings or enforcement, the time limits laid down in this Act begin to run only after the competent court has been informed of the fact that the privilege or immunity has been waived.

Section 66

Search, seizure and transfer of property

The competent authority under the Act on International Legal Assistance in Criminal Matters may, even if the Member State presenting a request for apprehension and surrender has not requested

this, conduct a search and seizure under the conditions laid down in the said Act, as separately provided.

The court may in its surrender decision order that a seized object or forfeit property shall be transferred to the requesting Member State as separately provided.

The competent authority referred to in subsection 1 above may, correspondingly, request that a search and seizure be conducted in another Member State and that the property be transferred to Finland.

Section 67 ***Deduction of period of loss of liberty***

The court shall deduct the period of loss of liberty served by a person surrendered to Finland as a consequence of the surrender procedure from the punishment to be possibly imposed on the person in accordance with chapter 6, section 13 of the Criminal Code.

If surrender to Finland has occurred for the purpose of enforcing a punishment, the public official in charge of enforcement at a regional prison deducts the period of loss of liberty served by the surrendered person as a consequence of the surrender procedure from the custodial sentence to be served in compliance with the provisions of chapter 6, section 13 of the Criminal Code, as appropriate. (1385/2007)

Section 68 ***Costs and expenses***

Reimbursement for costs and expenses incurred for the execution of a request of another Member State shall not be claimed from the said Member State.

Transit

Section 69 ***Granting of permission for transit***

In accordance with section 33 of the Extradition Act, the Ministry of Justice shall permit transit of a requested person from a Member State or from a state that is not a member of the European Union, through the territory of Finland, to another Member State, if the Ministry of Justice has been given information on:

- 1) the identity and citizenship of the requested person;
- 2) the existence of a request for surrender or extradition;
- 3) the nature and legal classification of the offence; and
- 4) the description of the circumstances of the offence, including the date and place.

Permission must not be granted if the requested person is a Finnish citizen and the surrender or extradition would occur for the purpose of enforcing a custodial sentence and the requested person has not consented to transit through Finland.

If the requested person is a Finnish citizen and the surrender or extradition would occur for the purpose of prosecution, the permission shall be made subject to the condition that the requested person shall, immediately after the judgment has become final, be returned to Finland to serve the possible custodial sentence, if the person requests permission to serve the sentence in Finland. The custodial sentence shall be enforced in Finland as separately provided.

A transit request may be sent to the Ministry of Justice by any means capable of producing written records. The Ministry of Justice shall serve its decision following the same procedure.

Section 70

Transit request

If a requested person is to be transited to Finland through the territory of another Member State, the competent authority shall request permission for transit. The request shall contain the information referred to in section 69, subsection 1, paragraphs 1–4, and it shall be sent in the manner referred to in section 69, subsection 4.

Section 71

Transport by air

Transport by air without a scheduled stopover is not deemed a transit. Should, however, a stopover take place before the final destination, sections 69 and 70 apply.

Section 72

Authority to issue decrees

Further provisions on the implementation of this Act may be issued by government decree.

Chapter 5

Entry into force

Section 73

Entry into force and transitional provisions

This Act enters into force on 1 January 2004.

This Act applies to requests for apprehension and surrender that have been submitted after its entry into force. The Act in force before the entry into force of this Act applies to requests for extradition to another Member State pending in Finland at the time of the entry into force of this Act.

If another Member State has given notice that it will, in the capacity of the requested Member State, apply to acts committed before a specified date the provisions in force before the entry into force of the legislation implementing the framework decision, Finland will, in the capacity of the requesting Member State, apply the Act in force before the entry into force of this Act.

If another Member State, after the entry into force of this Act, applies to extradition other legislation than the legislation implementing the framework decision, Finland shall, correspondingly, apply the Act in force before the entry into force of this Act in respect of such a Member State.