

NB: Unofficial translation
Ministry of Justice, Finland

**Act on Extradition¹ On the Basis of an Offence Between Finland
and Other Member States of the European Union**

Issued in Helsinki on 30 December 2003
(1286/2003)

The following is enacted in accordance with the decision of Parliament, reached in the manner prescribed in section 95(2) of the Constitution Act:

Chapter 1 — **General provisions**

Section 1 — *The scope of application of the Act*

In accordance with this Act a person staying in Finland may be extradited from Finland to another Member State of the European Union for prosecution or for the enforcement of a custodial sentence and a request may be made for the extradition of a person staying in another Member State of the European Union to Finland.

¹ Translator's note: Finnish legal terminology has only one term, *luovutus*, to denote the process of turning an alleged fugitive or convicted offender over to another state. In the process of implementing in Finland the Council Framework Decision on the European arrest warrant and the surrender procedures between Member States, it was noted that the English version of the Framework Decision uses the concept of *surrender*. The deliberate position taken in Finland was that there was no need for a new term in Finnish to match the term of *surrender*, since the underlying process was essentially the same as extradition.

Another terminological point has to do with deprivation of liberty. The basic term used in the English version for the original request is "EU arrest warrant". This is generally rendered in the present Finnish text as "request for apprehension and extradition." Finnish law distinguishes between *kiinniottaminen* (apprehension), *säilöönottaminen* (taking into custody), *pidättäminen* (arrest) and *vangitseminen* (remand to prison).

Chapter 2 – **Extradition from Finland to another Member State**

General conditions

Section 2 – *Extradition on the condition of dual criminality*

- (1) A request for extradition is granted if the act on which the request is based is punishable by the law of the requesting State by a custodial sentence of at least one year and the act, if committed in corresponding circumstances in Finland, is or would be an offence according to the law of Finland.
- (2) If a person has been sentenced to a custodial sentence, the request for extradition is granted if the penalty imposed is a custodial sentence of at least four months and the act, if committed in corresponding circumstances in Finland, is or would be an offence according to the law of Finland.

Section 3 — *Extradition without verification of double criminality*

- (1) Regardless of whether the act on which the request is based is an offence according to the law of Finland, the request for extradition shall be granted if according to the law of the requesting Member State the act is an offence referred to in paragraph 2 and the maximum penalty for the act provided by the law of said Member State is a custodial sentence for a maximum period of at least three years. Extradition for the enforcement of a custodial sentence further requires that the sanction imposed is a custodial sentence of at least four months.
- (2) The offences referred to above in paragraph 1 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) bribery;
- 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 (Treaty Series 85/2002);
- 9) laundering of the proceeds of crime;
- 10) counterfeiting currency, including of the euro;
- 11) computer network 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) deliberate homicide, serious assault and serious causing of 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) offences within the jurisdiction of the International Criminal Court;
- 31) unlawful seizure of aircraft and ships;

32) sabotage.

Section 4 — *Accessory offences*

If the request encompasses several acts and the prerequisites referred to in sections 2 or 3 are present for some acts, the request may be granted also in respect of those other acts that are or would be offences according to the law of Finland.

Grounds for refusal

Section 5 — *Grounds for mandatory refusal*

(1) Extradition shall be refused if:

- 1) the offence on which the request is based is covered by a general amnesty enacted in accordance with article 105(2) of the Constitution of Finland, and in accordance with chapter 1 of the Criminal Code (39/1889) the law of Finland applies to the offence;
- 2) the requested person has been convicted in a legally final manner in Finland or in another Member State for the offence on which the request is based, on the prerequisite that if he or she has been sentenced to punishment, he or she has served or is serving this sentence or in accordance with the law of the Member State that has sentenced the person the sentence may no longer be enforced;
- 3) the requested person had not reached the age of fifteen years at the time of commission of the offence on which the request is based;
- 4) the request refers to the enforcement of a custodial sentence and the requested person is a citizen of Finland and requests that he or she may serve the custodial sentence in Finland; the custodial sentence shall be enforced in Finland as separately provided;

- 5) the act on which the offence is based is deemed in accordance with chapter 1 of the Criminal Code to have been committed in full or in part in Finland or on a Finnish vessel or in a Finnish aircraft and:
 - a) the act or the corresponding act is not punishable in Finland;
 - b) the right to bring charges, according to the law of Finland, has become time-barred or punishment may no longer be imposed or enforced;
 - 6) there is justifiable ground to suspect that the requested person is threatened by capital punishment, torture or other degrading treatment or that he or she would be subjected, on the basis of origin, membership in a certain social group, religion, belief or political opinion, to persecution that threatens his or her life or liberty or to other persecution, or there is justifiable cause to assume that he or she would be subjected to a violation of his or her human rights or constitutionally protected due process, freedom of speech or freedom of association.
- (2) A request for extradition shall also be refused if the extradition, in view of the age, state of health or other personal circumstances or special circumstances of the person in question would be unreasonable on humanitarian grounds and this unreasonableness cannot be avoided by postponing execution on the basis of section 47.

Section 6 — *Grounds for optional refusal*

- (1) Extradition may be refused if:
- 1) the requested person is being prosecuted in Finland for the same act on which the request is based;
 - 2) a decision has been taken in Finland not to prosecute for the offence on which the request is based or to abandon prosecution that has been initiated;

- 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) in accordance with chapter 1 of the Criminal Code the act on which the request is based is deemed to have been committed in full or in part in Finland or on a Finnish vessel or aircraft and it is more appropriate to consider the case in Finland;
- 5) prosecution of the offence is statute-barred according to the law of Finland or punishment may no longer be imposed or enforced and in accordance with chapter 1 of the Criminal Code, the law of Finland applies to the act;
- 6) the request pertains to the enforcement of a custodial sentence, the requested person has his or her permanent residence in Finland and requests that he or she may 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 is to be enforced in Finland in accordance with what is separately enacted on this;
- 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 he or she has been sentenced, the sentence has been served or is currently being served or may no longer be executed under the law of the sentencing country;
- 8) the act on which the request is based has been committed outside of the territory of the requesting Member State and in accordance with chapter 1 of the Criminal Code in a corresponding situation in Finland the law of Finland does not apply.

Section 7 — *Consent to extradition*

Even if the requested person consents to the extradition, the request may be refused on the grounds provided in section 6, subparagraph 1 or 4.

Conditions

Section 8 — *Condition relating to the return of the extradited person*

- (1) Extradition of a Finnish citizen for prosecution shall be subject to the condition that he or she shall be returned to Finland immediately after the judgment becomes final in order to serve a possible custodial sentence imposed on him or her, if he or she has requested in connection with the consideration of the extradition that he or she be allowed to serve the sentence in Finland.
- (2) If the requested person has his or her permanent residence in Finland, the condition referred to in paragraph 1 may be set if the requested person has requested in connection with the consideration of the extradition that he or she be allowed to serve the sentence in Finland and in view of his or her personal circumstances or another special reason there is justification for his or her serving a possible custodial sentence in Finland.
- (3) The custodial sentences referred to above in paragraphs 1 and 2 shall be enforced in Finland in accordance with what is separately enacted on this.

Section 9 — *Condition relating to a decision rendered in absentia*

- (1) If extradition has been requested for the enforcement of a custodial sentence imposed by a decision rendered in absentia and the person concerned has not been summoned in person or otherwise informed of the date and place of the hearing which led to the decision rendered in absentia, extradition is subject to the condition that that requesting Member State gives an assurance

that the requested person has the opportunity to apply for a retrial in said Member State and to be present at the retrial.

- (2) The assurance referred to above in paragraph 1 is to be issued before the decision on the extradition is taken.

Section 10 — *Condition relating to a custodial life sentence*

- (1) If the act on which the request is based is punishable in the requesting Member State by a custodial life sentence, the extradition may be subject to the condition that the requesting Member State gives an assurance that the sentence imposed may, according to its legislation or legal practice, be amended or an application may be made for clemency.
- (2) The assurance referred to above in paragraph 1 is to be issued before the decision on the extradition is taken.

Competent authorities

Section 11 — *Competent courts*

- (1) The following decide on extradition and keeping the person in detention:
 - 1) the Helsinki District Court if the requested person has been apprehended or otherwise found within the ambit of the Helsinki or Kouvola Court of Appeal;
 - 2) the Kuopio District Court if the requested person has been apprehended or otherwise found within the ambit of the Eastern Finland Court of Appeal;
 - 3) the Oulu District Court if the requested person has been apprehended or otherwise found within the ambit of the Rovaniemi Court of Appeal;
 - 4) the Tampere District Court if the requested person has been apprehended or otherwise found within the ambit of the Turku or Vaasa Court of Appeal.
- (2) For special reason a district court referred to in paragraph 1 may

decide on extradition and keeping the person in detention regardless of in the jurisdiction of which Court of Appeal the requested person has been apprehended or found.

Section 12 — *Competent prosecutors*

- (1) Unless otherwise provided in this Act, the district prosecutors working in the judicial districts of the Helsinki, Kuopio, Oulu and Tampere district courts are competent to carry out the prosecutorial duties based on this Act.
- (2) Also a prosecutor other than one referred to in paragraph 1 may, for a special reason, be competent.

Submission and content of the request

Section 13 — *Order of contacts*

- (1) The competent authority of the requesting Member State submits the request for arrest and extradition to the information system referred to in the Convention implementing the Schengen Agreement on the gradual abolition of controls at common borders (Treaties of Finland 23/2001) or to a corresponding system.
- (2) When the location in Finland of the requested person is known, the request may be made directly or through international channels of communication to the competent prosecutor.
- (3) 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 the request*

- (1) The request for arrest and extradition shall contain the following information:
 - 1) the identity and nationality of the requested person;
 - 2) the name, address, telephone and fax number and e-mail address of the competent authority submitting the request;

- 3) a statement on whether there is an enforceable judicial decision or judgment coming within the scope of sections 2 or 3;
 - 4) the nature and legal classification of the offence, particularly in respect of the acts referred to in section 3(2);
 - 5) a description of the circumstances in which the offence was committed, including the time, place and degree of participation in the offence of the requested person;
 - 6) the penalty imposed, if there is a final judgment, or the scale of penalties for the offence under the law of the Member State submitting the request;
 - 7) if possible, other consequences of the offence.
- (2) The request may be submitted in writing, as an electronic message or in another manner capable of producing written records.

Section 15 — *Language and translations*

- (1) The request shall be made in Finnish, Swedish or English, or a translation into one of these languages shall be appended to the request.
- (2) The competent authority in Finland may grant the request even if it has been submitted in a language other than Finnish, Swedish or English if there are otherwise no bars to granting the request.
- (3) If the request is submitted in a language other than Finnish or Swedish the National Bureau of Investigation shall be responsible for the translation of the request into Finnish or Swedish.

Apprehension and taking into custody

Section 16 — *Apprehension*

- (1) A police officer may apprehend a person whose extradition has been requested on the basis of this Act and who has been ordered taken into custody.
- (2) A police officer may apprehend a person whose extradition has

been requested on the basis of this Act even without a decision on the taking into custody, if the execution of the request for apprehension and extradition may otherwise be endangered. The provisions in the Coercive Means Act (450/1987) apply as appropriate to apprehension.

- (3) The National Bureau of Investigation and the competent prosecutor shall be informed of the apprehension without delay. The National Bureau of Investigation shall notify the competent authority of the requesting Member State of the apprehension of the person whose extradition has been requested.

Section 17 — *Taking into custody*

- (1) In order to ensure the extradition, an official with the power of arrest may decide to take the requested person into custody. The documents pertaining to the taking into custody shall immediately be submitted to the competent prosecutor. Should the prosecutor decide on the continuation of custody, he or she shall inform the competent district court thereon.
- (2) The provisions on remand custody apply as appropriate to the keeping of a person in custody.
- (3) A travel ban may be imposed on the requested person as an alternative to taking him or her into custody. The provisions in the Coercive Measures Act on a travel ban and the provisions in this Act on the taking into custody apply as appropriate to the travel ban.

Section 18 — *Keeping the person in detention*

- (1) On being notified that the requested person has been taken into custody the district court shall without delay take a decision on keeping the person in detention in accordance with, as appropriate, the provisions of the Coercive Measures Act on the consideration of a request for remand. The prosecutor presents the

request for the continuation of custody to the district court.

- (2) The court shall decide to keep the person in detention if there is cause to suspect that the execution of the request for apprehension and extradition would otherwise be endangered. The prosecutor shall notify the National Bureau of Investigation of the decision of the district court.

Section 19 — *Complaint regarding a decision on keeping the person in detention*

The person taken into custody may, regardless of a time limit, submit a complaint to the Supreme Court on the grounds of a procedural error in respect of the decision of the district court on keeping him or her in detention.

Counsel and defender

Section 20 — *The right to counsel and defender*

- (1) The requested person has the right to counsel.
- (2) The requested person has the right to a defender on request. The court shall order the payment of a reasonable remuneration to the defender, which shall be borne by the State. The provisions of chapter 2 of the Criminal Procedure Act (689/1997) apply to the appointment of a defender ex officio as well as otherwise to the defender as appropriate.
- (3) The police shall inform without delay the requested person who has been apprehended or otherwise found in Finland of his or her right to counsel and that a defender may be assigned to him or her.

Preparation of the question of extradition

Section 21 — *Notices and inquiries to the requested person*

- (1) When a requested person has been taken into custody or otherwise found in Finland, the National Bureau of Investigation

shall without delay certifiably give the requested person service of the request for apprehension and extradition and explain its contents. The requested person shall be notified that he or she has the possibility of consenting to the extradition, of consenting to prosecution, sentencing or detention in the requesting Member State for an offence committed prior to the extradition, other than that for which the extradition to another Member State is requested, and of consenting to being subsequently extradited to another Member State. The requested person shall also be informed of the consequences of consent. The requested person shall be asked whether or not he or she intends to consent to the extradition or whether he or she is of the view that the grounds for refusal or the conditions provided in this Act may apply in his or her case. If necessary the requested person shall also be asked whether he or she requests to serve the custodial sentence in Finland.

- (2) The notices and inquiries referred to above in paragraph 1 shall be made in a language that the requested person understands. The Language Act (423/2003) applies to the use of Finnish and Swedish.
- (3) A formal record shall be made of the measures taken including notations of what measures were taken and what information was received. The National Bureau of Investigation shall submit the formal record and the other documents to the competent prosecutor.

Section 22 — *Adherence to time limits*

On receiving in accordance with section 17 the documents regarding the taking into custody the prosecutor shall ensure that the question of extradition is considered with delay so that the court is able to adhere to the time limits provided in this Act.

Section 23 — *Request for supplementary information*

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

Section 24 — *Submission of the request to the district court*

- (1) The prosecutor shall submit the request to the district court for the decision on extradition. The request shall be in writing. The prosecutor shall submit a copy of the request to the requested person in a language that this person understands.
- (2) The request shall contain the following:
 - 1) the time when the requested person was apprehended or otherwise found in Finland;
 - 2) whether the requested person has been taken into custody and the time when he or she has been taken into custody;
 - 3) a statement on the prerequisites for extradition, grounds for refusal and conditions;
 - 4) whether the requested person has stated that he or she intends to consent to the extradition or give other consent referred to in this Act; and
 - 5) whether other requests have been made for the extradition of the requested person.
- (3) In addition, the request shall indicate the name and contact information of the requested person and his or her counsel. The request for apprehension and extradition, additional information that may possibly have been supplied and the formal record prepared by the National Bureau of Investigation shall be appended to the request.

Consideration of the question of extradition

Section 25 — Other applicable provisions

Unless otherwise provided in this Act, the provisions on the consideration of criminal cases in the district court apply to the consideration of the question of extradition in district court.

Section 26 — Adherence to time limits in the district court

The district court shall ensure that the question of extradition is considered without delay so that the court can adhere to the time limits provided in this Act.

Section 27 — Composition and session of the district court

- (1) In considering the question of extradition the district court is competent to decide also when it consists of the chairman alone. The session may be held also at a time and place other than what is provided for regarding sessions of the general court of first instance.
- (2) The question of extradition may be considered in the same district court session as the question of keeping the person in detention. Unless the district court finds this manifestly unnecessary, the question may be considered at a separate session.
- (3) On receiving the request of the prosecutor the district court shall give service to the prosecutor and the requested person of the time and place at which the session considering the question is to be held. In addition, if the requested person has not been taken into custody he or she shall be informed of the possible consequences of not attending the session.

Section 28 — Presence at the session

- (1) The prosecutor shall be present at the district court session and present the contents of his or her request. The prosecutor shall

safeguard the interests of the requesting Member State.

- (2) If the requested person has been taken into custody he or she shall be brought to the district court session and be heard on the contents of the request of the prosecutor.
- (3) If the requested person has not been taken into custody he or she shall be reserved an opportunity to be heard on the contents of the request of the prosecutor. If the requested person is absent from the consideration of the matter without a lawful excuse, the question may be examined and decided despite his or her absence.

Section 29 — *Notification of consent*

- (1) The requested person shall personally state at the district court session whether he or she consents to the extradition or to prosecution, sentencing or detention in the requesting Member State for an offence committed prior to the extradition other than that for which the extradition is requested, or that he or she may be subsequently extradited to another Member State.
- (2) Before receiving the consent the district court shall notify the requested person of the consequences of the consent referred to in paragraph 1.
- (3) A notation shall be made in the formal record of the consent referred to above in paragraph 1 and the notice referred to in paragraph 2.

Section 30 — *Revocation of consent*

- (1) The requested person may revoke the consent referred to in this Act up to the time at which the decision on extradition has been executed.
- (2) If the requested person revokes his or her consent to the extradition the court shall take up the question of extradition for reconsideration. The period between the date of consent and that of its revocation shall not be taken into consideration in

establishing the time limits provided in this Act.

Section 31 — *Request for supplementary information*

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

Section 32 — *Time limits*

In cases where the requested person has consented to the extradition, the district court shall decide on the extradition within three days after consent has been given. However, in any case the district court shall decide on the question of extradition 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 taken within the said time limits, it shall be taken as soon as possible.

Section 33 — *The decision of the district court*

- (1) If a condition according with sections 8 through 10 is set on the extradition, it shall be incorporated in the decision of the district court. In addition the decision of the district court shall note the possible consent given by the requested person. If the district court grants the request for extradition, the decision shall also note that the requesting Member State has the duty to comply with the provisions of articles 27 and 28 of the Council Framework Decision on the European arrest warrant and the extradition procedures between Member States (2002/584/YOS, framework decision).
- (2) If the district court grants the request for extradition, the requested person shall be kept in detention unless the court

orders otherwise. Of the district court refuses extradition, it may, having heard the prosecutor and the requested person on the matter, order that the requested person be kept in detention until the decision on extradition has become legally final or the Supreme Court decides otherwise.

- (3) Paragraph 2 applies as appropriate also to a travel ban.

Section 34 — *Multiple requests*

- (1) If several Member States have requested the extradition of the same person, the court shall at the same time as deciding on the extradition decide also to which Member State the person is to be extradited. In taking the decision the court shall give consideration to all the relevant circumstances, especially the type and place of commission of the offences on which the requests are based, when the requests were made and whether the request is made for the purposes of prosecution or for the execution of a custodial sentence.
- (2) If the requests refer to different offences, the court may order at the same time that the person extradited to a certain Member State shall be subsequently extradited to another Member State in accordance with the conditions of this Act.
- (3) If both a Member State and a State that is not a Member State of the European Union or a Nordic country requests the extradition of the same person and the court finds that the request of the Member State may be granted under this Act, and the Ministry of Justice deems that the request submitted to it may be granted, the Ministry of Justice decides in accordance with section 25 of the Extradition on the Basis of an Offence Act (456/1970) to which state the person is to be extradited. The court postpones execution of its legally final decision and forwards the decision to the Ministry of Justice for a decision on the matter.
- (4) If both a Member State and the International Criminal Court request the extradition of the same person, consideration of the

request under this Act by the court shall be postponed until the Ministry of Justice has taken a decision on the request submitted to it.

Section 35 — *Delay*

- (1) If a legally final decision has not been taken on the question of extradition within a period of 60 days after the requested person has been apprehended, the prosecutor shall inform the competent authority of the requesting Member State of the delay and the reasons for the delay.
- (2) In cases where the requested person has consented to the extradition and a legally final decision has not been taken on the matter within a period of ten days after consent has been given, the prosecutor shall correspondingly give the notice referred to in paragraph 1.
- (3) In cases where a legally final decision has not been taken on the question of extradition within 30 days of the conclusion of the time limits referred to in paragraphs 1 and 2, the prosecutor shall inform Eurojust of the delay and the reason for the delay.

Section 36 — *Notification of the decision*

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

Appeal

Section 37 — Right of appeal

The decision of the district court on extradition is subject to appeal to the Supreme Court without a request for leave of appeal.

Section 38 — Lodging of an appeal

A person who intends to appeal the decision of the district court on extradition shall within a period of seven days after the decision submit to the district court a letter of appeal addressed to the Supreme Court. An appeal that has not been submitted within the time limit shall not be taken up for examination.

Section 39 — Responding to an appeal

The party opposing the appellant has the right to respond in writing to the appeal. The opposing party shall for the preparation of the response receive from the district court copies of the letter of appeal and the appended documents. The time limit for the provision of a response is seven days after the conclusion of the period of appeal. The opposing party shall submit a written response to the district court within the stated time limit. The appellant shall receive from the district court a copy of the response and the appended documents.

Section 40 — Submission of documents to the Supreme Court

The district court shall submit the letter of appeal with appendixes to the Supreme Court without delay on its arrival. The file of documents relating to the matter and a copy of the decision of the district court shall be submitted at the same time. Correspondingly, the letter of response with appendixes shall be submitted to the Supreme Court without delay on its arrival.

Section 41 — *Urgent nature of the consideration*

- (1) The Supreme Court shall consider the matter with urgency and decide on the extradition at the latest within a period of twenty days of the conclusion of the time limit for the provision of a response.
- (2) If for a special reason the decision cannot be taken within the time limit provided in paragraph 1, it shall be taken as soon as possible.

Section 42 — *Other provisions*

Subject to provisions elsewhere in law, the provisions of chapter 30 of the Judicial Procedure Code dealing with appeal from a matter considered by the Court of Appeals as the first instance shall otherwise apply as appropriate to the appeal. The provisions of this Act on consideration of the matter in the district court apply as appropriate also to the consideration of the matter in the Supreme Court.

Section 43 — *Release of the person*

If the Supreme Court refuses to extradite the person, it shall order that the person kept detention shall be released immediately or shall revoke the travel ban issued.

Execution

Section 44 — *The authority responsible for execution*

The National Bureau of Investigation is responsible for execution of the decision on extradition.

Section 45 — *Execution of the decision*

- (1) The decision on extradition shall be executed when it becomes legally final.
- (2) The requested person may inform the district court in writing that he or she does not intend to appeal the decision of the district

court. With the consent of the competent prosecutor the decision may thereupon be executed before it becomes legally final.

Section 46 — *Time limits for execution*

- (1) The requested person shall be extradited to the competent authorities of the requesting Member State as soon as possible on a date agreed between the competent authorities. However, said person shall be extradited no later than ten days after the decision on extradition becomes legally final.
- (2) If the extradition of the requested person within the period laid down in paragraph 1 is prevented by circumstances beyond the control of Finland or the requesting Member State, the competent authorities shall agree on a new extradition date. The requested person shall be extradited within ten days of the new date thus agreed.

Section 47 — *Stay of execution*

The court may stay execution of the extradition decision if circumstances exist in which the extradition would be unreasonable on humanitarian grounds. The execution of the extradition decision shall take place as soon as these grounds have ceased to exist. The competent authorities shall then agree on the new extradition date. The requested person shall be extradited within ten days of the new date thus agreed.

Section 48 — *Release from custody*

If the requested person is still in custody at the end of the time limits referred to in sections 46 and 47, he or she shall be released from custody.

Section 49 — *Postponement of execution and temporary extradition*

- (1) The court may postpone the execution of the decision on

extradition if the requested person may be prosecuted in Finland for an act other than the one on which the request for apprehension and extradition is based or, if he or she has already been sentenced, so that he or she may serve the sentence passed.

- (2) Instead of postponing the execution of the extradition the court may conditionally extradite the requested person to the requesting Member State under conditions to be determined by mutual agreement between the competent authorities. The agreement shall be made writing.

The rule of speciality and subsequent extradition

Section 50 — Requesting permission

On the request of a Member State requesting apprehension and extradition, permission may be granted for the prosecution, sentencing or detention in said Member State of a person extradited from Finland for an offence committed prior to the extradition, other than that for which he or she was extradited, or to subsequent extradition 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 of permission

- (1) The provisions of this Act on the consideration of the question of extradition apply as appropriate to the procedure for the granting of permission referred to above in section 50. Counsel referred to in section 20 shall be assigned to the requested person and said counsel shall be heard at a session of the district court before the permission is granted. If necessary the district court may reserve also the requested person an opportunity to be heard in writing.
- (2) The district court grants permission if extradition would be permitted in accordance with this Act. The district court shall if necessary stipulate the conditions provided in sections 8 through

10.

The decision shall be taken within 30 days of the date on which the prosecutor receives the request. If for a special reason the decision cannot be taken within the said time limits, it shall be taken as soon as possible.

Section 52 — *Appeal*

The decision of the district court referred to in section 51 is subject to appeal to the Supreme Court, applying as appropriate what is provided in sections 37 through 43 on appeal.

Chapter 3 – **Extradition from another Member State to Finland**

General conditions

Section 53 — *Prerequisites for the presentation of a request*

- (1) A request may be made for the apprehension and extradition to Finland for prosecution of a person staying in another Member State, if the act that is the basis for the request is punishable under the law of Finland by imprisonment for a maximum period of at least one year. The request shall be based on a decision on remand.
- (2) A request may be made for the apprehension and extradition to Finland for enforcement of a custodial sentence, if an enforceable judgment has been passed in Finland for the act that is the basis for the request and the sentence imposed is imprisonment for at least four months.
- (3) If the maximum sentence in Finland for the act that is the basis for the request is imprisonment for at least three years and the offence is mentioned in section 3(2), notice thereof shall be given in the request to the Member State for apprehension and extradition.

- (4) If the act that is the basis for the request fulfils the prerequisites provided in paragraph 1 or 2, extradition may be requested also for acts that do not fulfil the prerequisites provided in either paragraph.

Procedure

Section 54 — Competent authorities

The request for extradition for prosecution referred to above in section 53(1) shall be made by the prosecutor who is competent to bring charges in the criminal case in question. The request for extradition for enforcement of a custodial sentence referred to in section 53(2) shall be made by the Criminal Sanctions Agency.

Section 55 — Order of contacts

- (1) The competent authority referred to above in section 54 submits the request to the information system referred to in the Convention implementing the Schengen Agreement on the gradual abolition of controls at common borders (Treaties of Finland 23/2001) or to a corresponding system.
- (2) When the location of the requested person is known, the competent authority referred to in section 54 may make the request directly or through international channels of communication to the competent authority of another Member State.
- (3) The competent authority referred to above in section 54 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 the request

The request for apprehension and extradition shall contain the information referred to in section 14(1) and it shall be made in the matter referred to in section 14(2).

Section 57 — *Language and translations*

- (1) When the whereabouts of the requested person is known, the request shall be made in the language of the requested Member State. If said Member State has given notice that it accepts requests also in other languages, the request may be made in a language accepted by the Member State.
- (2) The National Bureau of Investigation is responsible for the preparation of translations in accordance with paragraph 1 and for their delivery to the requested Member State.

The rule of speciality and conditions

Section 58 — *Compliance with the rule of speciality*

- (1) A person extradited from a Member State to Finland may not be prosecuted or punished nor may he or she be deprived of his or her liberty for an offence committed before the extradition other than the offence on which the request is based.
- (2) The prohibition referred to above in paragraph 1 does not apply if:
 - 1) the person extradited 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 give rise to the application of a measure restricting the personal liberty of the extradited person;
 - 4) the extradited person is liable to a penalty or measure not involving the deprivation of liberty, including a financial penalty or a measure in lieu thereof, even if the penalty or measure may give rise to a restriction of his or her personal liberty;
 - 5) he or she has consented to the extradition and has renounced referral to the prohibition referred to in paragraph 1;

- 6) the person, after his or her extradition, has expressly renounced referral to the prohibition referred to in paragraph 1 with regard to specific acts preceding his or her extradition; such renunciation is submitted to the district court in the manner referred to in section 29;
 - 7) the Member State that had extradited the person consents to an exception from the prohibition; or
 - 8) the Member State that had extradited the person has notified the General Secretariat of the Council of the European Union that its consent to an exception from the prohibition is presumed to have been given, unless in a particular case the competent authority states otherwise.
- (3) The consent referred to above in paragraph 2, subparagraph 7 may be requested by the prosecutor who is competent to bring charges for the criminal case in question. A decision on remand referred to in section 60 shall be the basis for the request, and appended to the request shall be the written statement on the request of the person extradited to Finland. The Criminal Sanctions Agency may request consent to enforcement of a custodial sanction imposed on the basis of paragraph 2, subparagraph 3. The requests referred to in this paragraph shall contain the information referred to in section 14(1).

Section 59 — *Compliance with conditions*

The conditions attached to the decision on extradition in accordance with the framework decision shall be complied with in respect of a person extradited to Finland.

Section 60 — *Prerequisites for a decision on remand*

- (1) If a person extradited to Finland is suspected with probable cause of an offence other than that referred to in the request for extradition and that may lead to a sentence of imprisonment and

was committed before he or she had been extradited to Finland, the court may on the request of an official with powers of arrest, order that he or she be remanded for said offence in order for the consent of another Member State to be obtained for his or her prosecution. However, the suspect for the offence may not be deprived of his or her liberty on the basis of this decision on remand until said Member State has given its consent to the bringing of charges for the act referred to in the decision on remand. The decision on remand shall miscarry if the Member State does not give its consent to the bringing of charges.

- (2) If another Member State has given the consent referred to in paragraph 1 and the suspect has been detained on the basis of the decision on remand referred to in the paragraph, the question of the remand of the suspect on the basis of chapter 1, section 8 of the Coercive Measures Act shall be submitted to the court for a decision following as appropriate the provisions of sections 13 and 14 of said chapter. If the suspect has been detained for another reason, the decision on remand shall be submitted to the consideration of the court without delay after the Member State has given its consent.
- (3) The provisions of the Coercive Measures Act on the consideration of the question of remand apply otherwise as appropriate to the situations referred to above in paragraphs 1 and 2.

Subsequent extradition

Section 61 — *Prohibition against subsequent extradition*

- (1) A person extradited from a Member State to Finland may not be subsequently extradited to another Member State or to a state that is not a member of the European Union.
- (2) The prohibition referred to above in paragraph 1 does not apply to subsequent extradition to another Member State of a person extradited from a Member State to Finland if:

- 1) the person extradited 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) he or she has consented to the extradition and has renounced referral to the prohibition referred to in paragraph 1;
 - 3) the person, after his or her extradition, has expressly renounced referral to the prohibition referred to in paragraph 1 with regard to specific acts preceding his or her extradition; such renunciation is submitted to the district court in the manner referred to in section 29;
 - 4) the Member State that had extradited the person consents to an exception from the prohibition; or
 - 5) the Member State that had extradited the person has notified the General Secretariat of the Council of the European Union that its consent to an exception from the prohibition is presumed to have been given, unless in a particular case the competent authority states otherwise.
- (3) The prohibition referred to above in paragraph 1 does not apply to the subsequent extradition of a person extradited from a Member State to Finland, on to a state that is not a member of the European Union, if the Member State that had extradited him or her consents to an exception from the prohibition.

Section 62 — *Request for subsequent extradition*

If a Member State requests that a person extradited from another Member State to Finland be subsequently extradited to said Member State and subsequent extradition is not possible under section 61(2), subparagraphs 1 through 3 or 5, the competent prosecutor shall request the consent of the Member State from which the person had been extradited to Finland, to the subsequent extradition. The request shall contain the information referred to in section 14(1).

Chapter 4 – **Miscellaneous provisions**

Section 63 — *Hearing before the decision on extradition*

- (1) If the request of a Member State for apprehension and extradition has been made for prosecution, the authority that is competent in accordance with the Act on Mutual Legal Assistance in Criminal Cases (4/1994) shall, on the request of the requesting Member State, consent to the hearing of the request person in accordance with said Act before the taking of the decision on extradition.
- (2) The competent authority referred to above in paragraph 1 may correspondingly request the hearing of a person to be extradited from another Member State to Finland.

Section 64 — *Elimination of conditions*

- (1) If the 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 the conditions pertaining to said extradition, he or she may not be extradited to another Member State without the consent of the state from which he or she had been extradited to Finland.
- (2) In the situation referred to in paragraph 1 above the competent authority requests the consent to the extradition of the State from which the person has been extradited to Finland. The time limits referred to in this Act do not begin until the conditions no longer apply.

Section 65 — *Privileges and immunities*

Where the requested person from Finland enjoys a privilege or immunity related to trial or enforcement, the time periods provided in this Act shall not start running until the competent authority has been informed of the fact that the privilege or immunity has been waived.

Section 66 — *Search, seizure and transfer of property*

- (1) The authority that is competent in accordance with the Act on Mutual Legal Assistance in Criminal Matters may, even though the Member State that had requested the apprehension and extradition had not requested this, and subject to the prerequisites provided in said Act, carry out a search and seizure in accordance with the separate provisions that apply to this.
- (2) The court may order in the decision on extradition that a seized object or confiscated property is to be transferred to the Member State that had requested the extradition, in accordance with what is separately enacted.
- (3) The competent authority referred to above in paragraph 1 may correspondingly request that a search and confiscation in another Member State and the transfer of the property to Finland.

Section 67 — *Deduction of the period of detention served*

- (1) The court shall deduct the period of detention served by the person extradited to Finland as a consequence of the extradition proceedings from the penalty that may be imposed in accordance with chapter 6, section 13 of the Criminal Code.
- (2) If the extradition to Finland has taken place for the enforcement of a penalty, the warden of the prison deducts the period of detention served by the person extradited as a consequence of the extradition proceedings from the custodial penalty to be served following as appropriate the provisions of chapter 6, section 13 of the Criminal Code.

Section 68 — *Expenses*

Expenses incurred for the execution of the request of another Member State are not to be collected from said Member State.

Transit

Section 69 — Granting of permission for transit

- (1) The Ministry of Justice, in accordance with section 33 of the Act on Extradition on the Basis of an Offence, grants permission to the transport of the requested person from a Member State or from a state that is not a member of the European Union, through Finland, to another Member State, if the Ministry of Justice has been notified of:
 - 1) his or her identify and citizenship;
 - 2) the existence of a request for extradition;
 - 3) the nature and legal classification of the offence; and
 - 4) a description of the circumstance in which the offence was committed, including the time and place.
- (2) Permission shall not be granted if the requested person is a citizen of Finland and the extradition would occur for enforcement of a custodial sentence and the requested person has not consented to transit through Finland.
- (3) If the requested person is a Finnish citizen and the extradition is requested for the purpose of prosecution, it shall be imposed as a condition for the permission that the requested person immediately when the judgment becomes legally final is returned to Finland to serve the possible custodial sentence in Finland, if he or she requests permission to serve the sentence in Finland. The custodial sentence shall be enforced in Finland as separately provided.
- (4) The request for transit may be sent to the Ministry of Justice in any manner that is capable of producing a written record. The Ministry of Justice shall serve notice of its decision using the same procedure.

Section 70 — Request for transit

If a requested person is to be transported 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(1), subparagraphs 1 through 4, and it is submitted in the manner referred to in section 69(4).

Section 71 — *Transport by air*

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

Section 72 — *Power to issue decrees*

Further provisions on the implementation of this Act may be issued by Government Decree.

Chapter 5 – **Entry into force**

Section 73 — *Provisions on entry into force and transitory provisions*

- (1) This Act enters into force on 1 January 2004.
- (2) The Act applies to requests for apprehension and extradition that have been submitted after it has entered into force. The law in force before this Act enters into force apply to requests for extradition to another Member State pending in Finland at the time that this Act enters into force.
- (3) If another Member State has given notice that as the requested Member State it applies the provisions in force before the legislation on implementation of the framework decision to acts committed before a date that it specifies, also Finland as the requesting Member State applies the law in force before this Act enters into force.
- (4) If another Member State, after this Act enters into force, applies legislation other than that given to implement the framework decision to extradition on the basis of an offence, Finland correspondingly applies the law in force before this Act enters into

force, in respect of such Member State.
