

FINLAND

Act on the Jurisdiction of the International Tribunal for the Prosecution of Persons Responsible for Crimes Committed in the Territory of the Former Yugoslavia and on Legal Assistance to the International Tribunal (5 January 1994/12)

Section 1 Scope of Application

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

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

Section 2 Duties of the Ministry of Justice Concerning Co-operation and Legal Assistance

The Ministry of Justice shall receive the requests and notifications made by the Tribunal in a criminal matter falling within the jurisdiction of the Tribunal, including requests for the surrender of offenders and for the enforcement of decisions made by the Tribunal, and shall execute the requests either itself or through competent courts or other competent authorities.

Any replies, depositions and notifications to be sent to the Tribunal shall be submitted through the Ministry of Justice, even where the Ministry of Justice has not itself executed the request, unless otherwise provided for in the request.

Subsections 1 and 2 notwithstanding, the Tribunal can be in direct contact with competent Finnish authorities or communicate through diplomatic channels or the International Criminal Police Organisation (Interpol).

Section 3 Jurisdiction of the Tribunal and Finnish Courts and the Recognition in Finland of the Decisions of the Tribunal

Criminal matters, referred to in Articles 2 to 5 of the Statute of the Tribunal, which involve grave breaches against the Geneva Conventions of 1949 for the Protection of Victims of War (Finnish Treaty Series 7 and 8/55), violations of the laws or customs of war, as well as genocide and crimes against humanity, committed in the territory of the former Yugoslavia after 31 December 1990, fall within the jurisdiction of the Tribunal as provided for by articles 6 to 10 of the Statute.

Proceedings in a matter pending before the Tribunal or in a matter which the Tribunal has already decided upon, may not be initiated in a Finnish court.

Subsection 1 notwithstanding, a Finnish court can, however, exercise jurisdiction in a criminal matter according to Finnish law and its procedural rules unless the Tribunal has, prior to the institution of proceedings or subsequently, notified that it shall assume the exclusive jurisdiction under Article 9, paragraph 2 of its Statute.

Section 4 Surrender of Offenders

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

The Extradition Act (456/70) shall, *mutatis mutandis*, be applicable to the procedure to be followed in the surrender.

Section 5 Taking into Custody to Safeguard the Transit of Offenders

A defendant or a suspect for a crime who has been summoned by the Tribunal from a foreign state to be heard before the Tribunal may be taken into custody in Finland according to sections 19 and 20 of the Extradition Act to safeguard the transit through the territory of Finland.

Section 6 Service of Documents, Taking of Evidence and Other Legal Assistance

Finnish courts and other competent authorities shall provide such legal assistance as the Tribunal requests in the service of invitations, summons, decisions and other documents, the hearing of witnesses and experts, as well as in the taking of other evidence, and shall provide any other legal assistance in a criminal matter falling within the jurisdiction of the Tribunal.

Legal assistance shall be provided in accordance with the procedure provided for by the International Legal Assistance in Criminal Matters Act (4/94), where applicable, unless otherwise indicated in the request. Coercive means may be used in connection with the provision of legal assistance according to the Coercive Measures Act (450/87).

Section 7 Taking of Evidence and Carrying Out Investigations in the Territory of Finland

The Tribunal may, in the territory of Finland, hear persons suspected of crimes and witnesses and victims of crime, carry out investigations, as well as obtain any necessary legal assistance from Finnish courts and other competent authorities as prescribed in section 6.

Section 8 Duties of Witnesses and Experts

A witness or an expert who is in Finland and has been summoned to appear before the Tribunal, is under a duty to comply with the summons.

A witness summoned by the Tribunal according to subsection 1 who fails to appear before the Tribunal without good excuse, leaves the Tribunal without permission or refuses to give oath or solemn declaration or refuses to act as witness or to answer questions, shall have a fine imposed on

him and, where necessary, under penalty of fine or sentence, shall be ordered to fulfil his duties as provided for in sections 36 and 37 of Chapter 17 of the Code of Procedure.

A witness or expert who, while being heard before the Tribunal, wilfully and contrary to his knowledge, gives a false statement or unlawfully conceals something that he knew had been material in the issue, shall be punished for perjury as provided for in section 1 of Chapter 17 of the Penal Code.

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

Section 9 Advance Payment

A witness or an expert summoned in Finland to appear before the Tribunal shall, upon request, be granted advance payment according to, where applicable, the Act on Advance Payment by the State for Costs Incurred from Taking of Evidence (666/72).

The request for an advance payment shall be made to the district court having served the summons upon the witness or the expert concerned. The Ministry of Justice shall decide upon the granting of the advance payment upon the submission by the district court.

The advance payment may only be recovered from a witness or expert who fails to appear before the Tribunal or otherwise fails to fulfil his duties. Recovery of an advance payment shall be decided upon by the district court referred to in subparagraph 2, on the submission by the Ministry of Justice.

Section 10 Immunity and Free Transit of Persons Summoned

A witness, an expert and a party as well as any other person summoned in a foreign State to appear before the Tribunal, shall in the territory of Finland be entitled to free transit and the right to immunity according to the provisions, where applicable, of the Immunities of Persons Participating in Proceedings or Pre-trial Investigations Act (11/1994). A defendant and a suspect summoned by the Tribunal may, however, be taken into custody as provided for by section 5.

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

Section 11 Enforcement of Sentences in Finland

A sentence imposed by the Tribunal which involves deprivation of liberty shall, upon the request of the Tribunal, be enforced in Finland in accordance with the provisions relating to international co-operation in the Enforcement of Certain Penal Sanctions Act (21/87). In the enforcement of the sentence, the provisions on the prerequisites for the enforcement of section 3 of the said Act shall not apply.

The enforcement of the sentence shall take place by issuing the necessary enforcement orders (continued enforcement) according to section 7 of the Act referred to in subsection 1.

Pardon, commutation of sentence and release of the convicted person shall be decided by the Tribunal as provided for in Article 28 of the Statute.

Section 12

Return of Property and Proceeds of Crime

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

Any property and proceeds obtained from a crime shall be returned by the order of the Ministry of Justice as provided for in the request by the Tribunal.

Section 13

Supplementary Provisions

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

Section 14

Entry Into Force

This Act shall enter into force on 15 January 1994.

Helsinki, 15 January 1994

Mauno Koivisto

Tasavallan Presidentti

Hannele Pokka

Minister of Justice