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This information sheet has been prepared by the Cybercrime Programme Office (C-PROC) of the Council of Europe in view of facilitating international cooperation. It does not necessarily reflect official positions of the State covered or of the Council of Europe.

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1. Categories of Data (subscriber information, traffic data, content data)

1. Definitions under national legislation

Subscriber Information The Police Act Chapter 4, Section 3 paragraph 2	<p>Subscriber information has not been specifically defined in our legislation.</p> <p>In individual cases, the police has the right to obtain from a telecommunications operator and a corporate or association subscriber on request contact information about a network address that is not listed in a public directory or data identifying a network address or terminal end device if the information is needed to carry out police duties. Similarly, the police has the right to obtain postal address information from organisations engaged in postal services</p>
Traffic Data The Coercive Measures Act Chapter 10 Section 6	<p>(1)<i>Traffic data monitoring</i> refers to the obtaining of identifying data regarding a message that has been sent from or received by a network address or terminal end device connected to a telecommunications network referred to in section 3, the obtaining of location data regarding the network address or the terminal end device, or the temporary prevention of the use of the network address or terminal end device. <i>Identifying data</i> refers to data referred to in section 2, paragraph 8 of the Act on the Protection of Privacy in Electronic Communications that can be connected to the subscriber or user and that is processed in telecommunications networks in order to transmit or distribute messages or keep messages available.</p>
Content Data The Coercive Measures Act Chapter 10 Section 3	<p>Telecommunications interception refers to the monitoring, recording and other processing of a message sent to or transmitted from a network address or terminal end device through a public communications network or a communications network connected thereto, in order to determine the contents of the message and the identifying data connected to it.</p> <p>Telecommunications interception may be directed only at a message that originates from or is intended for a suspect in an offence.</p>

<General comment as to whether Domestic law distinguishes subscriber information from that of traffic and / or content data, whether the same or different rules of procedure apply to obtaining of all types of data>

2. Procedures for preservation requests of stored computer data

2.1. Expedited preservation of stored computer data (Art. 29)

General remarks

The Act on International Legal Assistance in Criminal Matters

Section 23 - Use of coercive measures to obtain evidence or to secure the enforcement of a confiscation order

(1) Search, seizure, data retention order, telecommunications interception, traffic data monitoring, the obtaining of information other than through telecommunications interception, obtaining location data in order to contact a suspect or convicted person, obtaining base station data, extended surveillance, covert collection of intelligence, technical surveillance, covert activity, pseudo-purchase, controlled delivery and taking of personal identifying characteristics in order to obtain evidence may be carried out pursuant to a request for assistance made by an authority of a foreign State, if this has been requested or deemed necessary in the execution of the request.

Section 12 - Mandatory grounds for refusal

(1) Assistance shall be refused, where the execution of the request would prejudice the sovereignty, the security or other essential interests of Finland.

(2) Assistance shall be refused, where the execution of the request would be contrary to the principles of human rights and fundamental freedoms or otherwise contrary to Finnish public policy (*ordre public*).

Section 13 - Discretionary grounds for refusal

(1) Assistance may be refused, where:

- (1) the request relates to an offence that is of a political character or an offence under military law only;
- (2) the request relates to an offence, committed by a person who according to Finnish law could no longer be prosecuted by reason of lapse of time, pardon or by any other reason;
- (3) the request relates to an offence which in Finland or in a third State is subject to criminal investigations or under consideration of a prosecution authority or where court proceedings have been initiated;
- (4) the request relates to an offence for which the criminal investigations, prosecution or punishment, or any other punitive sanctions have been waived in Finland or in a third State;
- (5) the request relates to an offence in respect of which the offender has been sentenced or acquitted in Finland or in a third State; or
- (6) the execution of the request would, having regard to the nature of the offence, impose an unreasonable burden on the resources available.

(2) The execution of the request may be postponed, if the execution of the request would cause inconvenience or delay in a criminal investigation, criminal investigations or court proceedings in Finland.

Section 15 - Restrictions on coercive measures

(1) Where coercive measures are requested or where the request otherwise involves the use of coercive measures under the Coercive Measures Act (806/2011), such measures shall not be used, where not permitted under Finnish law had the offence to which the request relates been committed in Finland in similar circumstances.

According to paragraph 2 (no translation available) the provision in paragraph 1 is not applicable to data retention order.

Procedures in place

In Finland, our Communication Centre (located at National Bureau of Investigation) handles all incoming requests 24/7. Communication Centre is also SPOC for Budapest Convention. All urgent requests to Finland should be pointed to Communication Centre by using Interpol, Siena or SIRENE channels.

In office hours all urgent requests are handled by the back office. In these cases, a specific handler (case officer) is been pointed to handle the incoming case. If the urgent request comes out of office hours, it will be handled by the staff of our Communication Center.

2.2. Expedited disclosure for stored traffic data (Art. 30)

General remarks

The Act on International Legal Assistance in Criminal Matters

Section 23 - Use of coercive measures to obtain evidence or to secure the enforcement of a confiscation order

(1) Search, seizure, data retention order, telecommunications interception, traffic data monitoring, the obtaining of information other than through telecommunications interception, obtaining location data in order to contact a suspect or convicted person, obtaining base station data, extended surveillance, covert collection of intelligence, technical surveillance, covert activity, pseudo-purchase, controlled delivery and taking of personal identifying characteristics in order to obtain evidence may be carried out pursuant to a request for assistance made by an authority of a foreign State, if this has been requested or deemed necessary in the execution of the request.

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 - (3) the request relates to an offence which in Finland or in a third State is subject to criminal investigations or under consideration of a prosecution authority or where court proceedings have been initiated;
 - (4) the request relates to an offence for which the criminal investigations, prosecution or punishment, or any other punitive sanctions have been waived in Finland or in a third State;
 - (5) the request relates to an offence in respect of which the offender has been sentenced or acquitted in Finland or in a third State; or
 - (6) the execution of the request would, having regard to the nature of the offence, impose an unreasonable burden on the resources available.
- (2) The execution of the request may be postponed, if the execution of the request would cause inconvenience or delay in a criminal investigation, criminal investigations or court proceedings in Finland.

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In office hours all urgent requests are handled by the back office. In these cases, a specific handler (case officer) is been pointed to handle the incoming case. If the urgent request comes out of office hours, it will be handled by the staff of our Communication Center.

3. Procedures for mutual legal assistance

3.1. Requests for stored computer data: subscriber, traffic, content data (Art. 31)

The Act on International Legal Assistance in Criminal Matters (Section 23 - Use of coercive measures to obtain evidence or to secure the enforcement of a confiscation order)

(1) Search, seizure, data retention order, telecommunications interception, traffic data monitoring, the obtaining of information other than through telecommunications interception, obtaining location data in order to contact a suspect or convicted person, obtaining base station data, extended surveillance, covert collection of intelligence, technical surveillance, covert activity, pseudo-purchase, controlled delivery and taking of personal identifying characteristics in order to obtain evidence may be carried out pursuant to a request for assistance made by an authority of a foreign State, if this has been requested or deemed necessary in the execution of the request.

Section 12 - Mandatory grounds for refusal

(1) Assistance shall be refused, where the execution of the request would prejudice the sovereignty, the security or other essential interests of Finland.

(2) Assistance shall be refused, where the execution of the request would be contrary to the principles of human rights and fundamental freedoms or otherwise contrary to Finnish public policy (ordre public).

Section 13 - Discretionary grounds for refusal

(1) Assistance may be refused, where:

(1) the request relates to an offence that is of a political character or an offence under military law only;

(2) the request relates to an offence, committed by a person who according to Finnish law could no longer be prosecuted by reason of lapse of time, pardon or by any other reason;

(3) the request relates to an offence which in Finland or in a third State is subject to criminal investigations or under consideration of a prosecution authority or where court proceedings have been initiated;

(4) the request relates to an offence for which the criminal investigations, prosecution or punishment, or any other punitive sanctions have been waived in Finland or in a third State;

(5) the request relates to an offence in respect of which the offender has been sentenced or acquitted in Finland or in a third State; or

(6) the execution of the request would, having regard to the nature of the offence, impose an unreasonable burden on the resources available.

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Section 15 - Restrictions on coercive measures

(1) Where coercive measures are requested or where the request otherwise involves the use of coercive measures under the Coercive Measures Act (806/2011), such measures shall not be used, where not permitted under Finnish law had the offence to which the request relates been committed in Finland in similar circumstances.

According to paragraph 2 (no translation available) the provision in paragraph 1 is not applicable to data retention order.

The Coercive Measures Act

Chapter 8 - A search of data contained in a device/remote search

Law enforcement authorities are empowered also to make a search of data contained in a device.

A search may be conducted if:

- there is reason to suspect that an offence has been committed and the most severe punishment provided for the offence is imprisonment for at least six months, or if the matter being investigated involves circumstances connected to the imposition of a corporate fine; and
- it may be presumed that the search can lead to the discovery of a document or data to be confiscated or to a document to be copied and that is connected with the offence under investigation.

When required by the appropriate conduct of a criminal investigation or by the urgency of the matter, a search of data contained in a device may be conducted as a remote search.

Definition of a remote search= the search of data is conducted without using the device that is in the premises or in the possession of the person who is the subject of the search.

An official with the power of arrest decides on a search of data contained in a device. In an urgent situation a police officer may make the decision.

Chapter 7 - Confiscation of a document

According to the Coercive Measures Act, a document may be confiscated if there are grounds to suspect that:

- it may be used as evidence in a criminal case;
- it has been taken from someone in an offence; or
- it may be ordered forfeited.

The same conditions also apply to information that is contained in a technical device or in another corresponding information system or in its recording platform (*data*).

An official with the power of arrest decides on confiscation or copying of a document. The court may decide on this when considering the charges.

It should be also noted that Finnish law enforcement authorities has to also follow the following procedural rule when deciding on seizure on the basis of the request of a foreign state for mutual legal assistance:

The Coercive Measures Act Chapter 7 Section 21 – Deciding on seizure on the basis of the request of a foreign state for mutual legal assistance

(1) An object, property, document or data may be seized at the request of a foreign authority if it may be used as evidence in a criminal case being considered by a foreign authority or if has been taken from someone through an offence. An object, property or document may be seized if, by a judgment of a court in a foreign state, it has been ordered forfeited on the basis of an offence or if it can justifiably be assumed that, in a case considered by a foreign state, the object shall be ordered forfeited on the basis of an offence.

(2) The authority who decided on the seizure shall, within a week of the decision, submit the decision on seizure for affirmation of the district court with jurisdiction over where the seizure was carried out. The court affirming the seizure shall at the same time establish the period of validity of the seizure. The court may, on the request of the authority who decided

on the seizure, submitted before the end of the period of validity of seizure, decide to extend said period. Also the court considering the case and referred to in section 66, subsection 2 of the Act on Extradition on the Basis of an Offence Between Finland and Other Member States of the European Union (1286/2003) or section 63, subsection 2 of the Act on Extradition on the Basis of an Offence Between Finland and Other Nordic Countries (1383/2007) may decide on seizure. The prosecutor shall, when necessary, inform an authority that had earlier considered the question of seizure about the decision on seizure.

(3) If an object, property or document has been seized to be used as evidence in a criminal case being considered by an authority of a foreign state, the court may decide, on the request of the authority that had decided on the seizure, that the object of the seizure may if necessary be transferred to the authority of the foreign state that had made the request, with the requirement that the object be returned after it is no longer needed as evidence in the case. The court may, however, order that the object, property or document need not be returned if return would clearly be inappropriate.

(4) The provisions in sections 1–13, section 14, subsection 1, section 15, sections 17 and 22, section 23, subsections 3 and 4, and section 25 of this Chapter, in Chapter 3, section 1, subsection 2 and sections 5 and 6, as well as in the Act on Mutual Legal Assistance in Criminal Matters otherwise apply as appropriate to seizure in accordance with this section. The provisions in this Chapter on copies of documents may apply if this is possible in accordance with the request for mutual legal assistance or with the provisions on the granting of mutual legal assistance.

(5) In lieu of subsections 1, 2 and 4, the provisions of the Act on Enforcement Within the European Union of Decisions From Other European Union Member States on the Freezing of Property or Evidence apply to enforcement of decisions on freezing referred to in said Act. In such a case, a criminal investigation authority or prosecutor may submit the request referred to in subsection 3 to the court.

(6) A request referred to in subsections 2 and 3 in respect of an order received from another Member State of the European Union for the surrender of evidence is submitted to the court referred to in section 10, subsection 2 of the Act on the National Enforcement and Application of the Framework Decision on the European Evidence Warrant for the Purpose of Obtaining Objects, Documents and Data for Use in Proceedings in Criminal Matters (729/2010). Paragraphs 2 and 3 are applicable as such without legislative provisions.

Procedures in place

Law enforcement authorities can obtain any kind of evidence by using different coercive measures possible by law or by requests to service providers – including evidence in the form of electronic data. Law enforcement authorities can under national law: make a request for information to service providers, confiscate/copy a document, make a search of data contained in a device/remote search and request a warrant for a traffic data monitoring or for a telecommunications interception.

Go to [Subscriber information](#) | [Traffic Data](#) | [Content Data](#)

- Requests for subscriber information

General remarks

Law enforcement authorities can obtain subscriber information by requests to service providers or by using different coercive measures possible by law:

- make a search of data contained in a device/remote search
- confiscate/copy a document

A request to ISP (Police Act Chapter 4, Section 3 paragraph 2)

According to the Police Act, the police have the right to obtain any information necessary to prevent or investigate an offence, notwithstanding business, banking or insurance secrecy binding on members, auditors, managing directors, board members and employees of an organisation. A commanding police officer must make the request.

In individual cases, the police has the right to obtain from a telecommunications operator and a corporate or association subscriber on request contact information about a network address that is not listed in a public directory or data identifying a

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network address or terminal end device if the information is needed to carry out police duties. Similarly, the police has the right to obtain postal address information from organisations engaged in postal services

Competent Authorities

For the MLA requests to Finland from other EU member states the National Bureau of Investigation is the central contact point. MLA requests to Finland from countries outside the EU shall be sent to the Ministry of Justice as the central authority (Unit for International Judicial Administration). Urgent requests via Interpol channels are accepted in accordance with Article 15 of the European Convention on Mutual Assistance in Criminal Matters.

The leader of the investigation sends requests for MLA when the content of the request has been agreed on with the prosecutor. The LEA and prosecutors have an obligation to act in a close cooperation and the LEA has to comply with orders and instructions by the prosecutor as provided for in Chapter 5 of the Preliminary Investigation Act.

MLA request from Finland to other EU member states are sent directly. The National Bureau of Investigation is the national central contact point for the investigation authorities. The requests are checked by NBI International Affairs unit before they are translated and sent to the concerned country.

For MLA request from Finland to countries outside EU, the Ministry of Justice is the central authority. Urgent requests can be sent also via Interpol channels in accordance with the European Convention on Mutual Assistance in Criminal Matters, Article 15, point 5, if accepted by the addressee.

The prosecution authorities use as a rule direct contacts with judicial authorities in other EU member states. EJN and Eurojust are contacted in need of assistance.

Relevant contact points

Pursuant to Article 35, paragraph 1 of the Budapest Convention, Finland has designated as the point of contact available on a twenty-four hour, seven-day-a-week basis the National Bureau of Investigation.

Prior consultations

If needed, all prior consultations can be done by using Siena- or Interpol channels. In addition, liaison officers from different countries have a contact point at the National Bureau of Investigation as do Financial Intelligent Unit from different countries as well.

Accepted legal basis / mechanisms for MLA requests

Finland follows the legal basis of the European Investigation Order with all the countries that have implemented the treaty. Other important MLA treaties that we follow are:

- European Convention on Mutual Legal Assistance in Criminal Matters (1959 Convention)
- Convention on Mutual Legal Assistance in Criminal Matters between the Member States of the European Union (MLA 2000 Convention)
- Budapest Convention on Cybercrime

- Framework Decision on the European Arrest Warrant

In addition, regarding our legislation Finland may render assistance to a foreign state even in the absence of an international legal obligation.

Content of the request

In general level these main information themes should be included when requesting subscriber information:

- receiver (usually National Bureau of Investigation)
- urgency
- parties involved
- modus operandi (description of the criminal act charged) including the facts that promotes the criminal suspicion, timeline for requested information and the profile or other particulars in electronic form (can be copied).
- penal provision
- requested measures
- confidentiality clause (if there is need to keep the request in secret)
- contact information for requesting party
- (possible attachments)

Applicable legal requirements

The subscriber information can be obtained by sending request through Siena- or Interpol channels. In some cases, we can also obtain the subscriber information by the request through liaison officers.

Confidentiality requirements

The Finnish legislation (the Act on Openness of the Government Activities) gives the possibility to include the non-disclosure order in our official request to service providers, if the documents relating to this particular case shall be kept secret, since disclosure of information would compromise the solving of the offence and the outcome of the investigation.

Urgent requests

In urgent cases it is required that the urgency is clearly visible in the request. All threats against life or health will be prioritized.

In office hours all urgent requests are handled by the back office. In these cases, a specific handler (case officer) is been pointed to handle the incoming case. If the urgent request comes out of office hours, it will be handled by the staff of the Communication Center.

Translation

All requests can be send in English language. Finnish and Swedish languages are accepted as well.

Limitations

The double criminality is needed in all requests.

- Requests for Traffic Data

General remarks

There is a specific provision in Coercive Measure Act that prohibits confiscate and copy traffic data, which is in the possession of a telecommunications operator, or corporate or association subscriber:

Prohibition of confiscation and copying connected to telecommunications interception, electronic surveillance and base station data (the Coercive Measures Act Chapter 7 Section 4)

(1) A document or data in the possession of a telecommunications operator referred to in section 2, paragraph 21 of the Telecommunications Services Act (393/2003) (*telecommunications operator*) or a corporate or association subscriber referred to in section 2, paragraph 11 of the Act on the Protection of Privacy in Electronic Communications (516/2004) (*corporate or association subscriber*) may not be confiscated or copied, if it contains data related to a message referred to in Chapter 10, section 3, subsection 1 of this Act, or identifying data referred to in Chapter 10, section 6, subsection 1, or base station data referred to in Chapter 10, section 10, subsection 1.

(2) Chapter 10, section 4, subsection 1 provides for an exception to the prohibition of confiscation referred to in subsection 1.

Because of that clear prohibition in the Coercive Measure Act, law enforcement authorities can obtain traffic data mainly by using a warrant for a traffic data monitoring. If the traffic data is in the device which is not in the possession of a telecommunications operator or corporate/association subscriber, data can be obtained by using above mentioned coercive measures (A search of data contained in a device/remote search and confiscation a document).

A warrant for a traffic data monitoring (the Coercive Measures Act Chapter 10 Section 6)

Traffic data monitoring refers to

- the obtaining of identifying data regarding a message that has been sent from or received by a network address or terminal end device connected to a telecommunications network,
- the obtaining of location data regarding the network address or the terminal end device, or
- the temporary prevention of the use of the network address or terminal end device.

Identifying data refers to data that can be connected to the subscriber or user and that is processed in telecommunications networks in order to transmit or distribute messages or keep messages available.

A criminal investigation authority may be issued a warrant for traffic data monitoring of a network address or terminal end device in the possession of or otherwise presumably used by a suspect in an offence, when there are grounds to suspect the said person of

- 1) an offence for which the most severe punishment is imprisonment for at least four years;
- (2) an offence committed with the use of the network address or terminal end device, for which the most severe punishment provided is imprisonment for at least two years;
- (3) unauthorized use, damage to property, message interception or computer break-in directed at an automatic data processing system and committed with the use of a network address or terminal end device;
- (4) exploitation of a person subjected to the sex trade, solicitation of a child for sexual purposes or pandering;
- (5) a narcotics offence;
- (6) preparation of an offence committed with terrorist intent;
- (7) an aggravated customs offence;
- (8) aggravated concealment of illegally obtained goods;
- (9) preparation of the taking of a hostage; or
- (10) preparation of aggravated robbery.

The court decides on traffic data monitoring referred on the request of an official with the power of arrest.

If the matter does not brook delay, an official with the power of arrest may decide on traffic data monitoring and on the obtaining of location data until such time as the court has decided on the request for the issuing of the warrant. The matter shall be submitted for the decision of the court as soon as possible, but at the latest within 24 hours of the initiation of the use of the coercive measure.

The decision may be made for at most one month at a time and the warrant or decision may be issued to extend also to the period prior to the issuing of the warrant or the making of the decision, which may be longer than one month.

Competent Authorities

For the MLA requests to Finland from other EU member states the National Bureau of Investigation is the central contact point. MLA requests to Finland from countries outside the EU shall be sent to the Ministry of Justice as the central authority (Unit for International Judicial Administration). Urgent requests via Interpol channels are accepted in accordance with Article 15 of the European Convention on Mutual Assistance in Criminal Matters.

The leader of the investigation sends requests for MLA when the content of the request has been agreed on with the prosecutor. The LEA and prosecutors have an obligation to act in a close cooperation and the LEA has to comply with orders and instructions by the prosecutor as provided for in Chapter 5 of the Preliminary Investigation Act.

MLA request from Finland to other EU member states are sent directly. The National Bureau of Investigation is the national central contact point for the investigation authorities. The requests are checked by NBI International Affairs unit before they are translated and sent to the concerned country.

For MLA request from Finland to countries outside EU, the Ministry of Justice is the central authority. Urgent requests can be sent also via Interpol channels in accordance with the European Convention on Mutual Assistance in Criminal Matters, Article 15, point 5, if accepted by the addressee.

The prosecution authorities use as a rule direct contacts with judicial authorities in other EU member states. EJN and Eurojust are contacted in need of assistance.

Relevant contact points

Pursuant to Article 35, paragraph 1, of the Budapest Convention, Finland has designated as the point of contact available on a twenty-four hour, seven-day-a-week basis the National Bureau of Investigation.

Prior consultations

If needed, all prior consultations can be done by using Siena- or Interpol channels. Liaison officers from different countries have a contact point at the National Bureau of Investigation as do Financial Intelligent Unit from different countries as well.

Accepted legal basis / mechanisms for MLA requests

Finland follows the legal basis of the European Investigation Order with all the countries that have implemented the treaty. Other important MLA treaties that we follow are:

- European Convention on Mutual Legal Assistance in Criminal Matters (1959 Convention)
- Convention on Mutual Legal Assistance in Criminal Matters between the Member States of the European Union (MLA 2000 Convention)
- Budapest Convention on Cybercrime
- Framework Decision on the European Arrest Warrant

In addition, regarding our legislation Finland may render assistance to a foreign state even in the absence of an international legal obligation.

Content of the request

The content of the requests depends on the legal instrument one is using. However, in general level these main information themes should be included:

- receiver (usually National Bureau of Investigation or Ministry of Justice)
- the treaty one enforces
- urgency
- parties involved
- modus operandi (description of the criminal act charged) including the facts that promotes the criminal suspicion. We also need the timeline for requested information and the profile or other particulars in electronic form (can be copied). In property cases, the estimated benefit of crime or amount of loss belongings is needed.
- penal provision
- requested measures
- description of jurisdiction (requesting party)
- confidentiality clause (if there is need to keep the request in secret)
- contact information for requesting party
- signature
- (possible attachments)

Applicable legal requirements

EIO or MLA process is needed. In urgent cases, EIO or MLA may be sent via the Interpol channel in order to prepare the requested measures.

Confidentiality requirements

The Finnish legislation (the Act on Openness of the Government Activities) gives us the possibility to include the non-disclosure order in our official request to service providers, if the documents relating to this particular case shall be kept secret, since disclosure of information would compromise the solving of the offence and the outcome of the investigation.

However, according to the Finnish Coercive Measures Act, a person subjected to a coercive measure, e.g. a criminal suspect, must be informed about the use of certain coercive measures after the coercive measure in question has been taken.

According to the Finnish law, giving notice of the use of covert coercive measures to the suspect may be postponed for example, for reasons relating to the criminal investigation. In case giving notice of the use of the coercive measure is in contradiction with requested party laws, we kindly ask you to give us an explanation about the reasons and to send us a decision about not to give notice of the use of the coercive measure to the criminal suspect.

Urgent requests

In urgent cases, it is required that the urgency is clearly visible in the request. All threats against life or health will be prioritized.

In office hours, all urgent requests are handled by the back office. In these cases, a specific handler (case officer) is been pointed to handle the incoming case. If the urgent request comes out of office hours, it will be handled by the staff of our Communication Center.

In urgent cases, EIO or MLA can be sent through the Interpol channel, so we can start to prepare the requested measures in advance.

Translation

All requests can be send in English language. Finnish and Swedish languages are accepted as well.

Limitations

The double criminality is needed in all requests.

- **Requests for Content Data**

General remarks

Law enforcement authorities can obtain content data by using different coercive measures possible by law:

- make a search of data contained in a device/remote search
- confiscate/copy a document
- make a a warrant for the obtaining of information other than through telecommunications interception.

A search of data contained in a device/remote search and confiscation a document can be done by following the above requirements of the Coercive Measures Act (3.1 Requests for stored computer data: subscriber, traffic, content data).

There is a specific provision in the Coercive Measures Act that prohibits confiscate and content data, which is in the possession of a telecommunications operator, or corporate/association subscriber:

Prohibition of confiscation and copying connected to telecommunications interception, electronic surveillance and base station data (the Coercive Measures Act Chapter 7 Section 4)

(1) A document or data in the possession of a telecommunications operator referred to in section 2, paragraph 21 of the Telecommunications Services Act (393/2003) (*telecommunications operator*) or a corporate or association subscriber referred to in section 2, paragraph 11 of the Act on the Protection of Privacy in Electronic Communications (516/2004) (*corporate or association subscriber*) may not be confiscated or copied, if it contains data related to a message referred to in Chapter 10, section 3, subsection 1 of this Act, or identifying data referred to in Chapter 10, section 6, subsection 1, or base station data referred to in Chapter 10, section 10, subsection 1.

(2) Chapter 10, section 4, subsection 1 provides for an exception to the prohibition of confiscation referred to in subsection 1.

Because of that clear prohibition in the Coercive Measures Act, law enforcement authorities can obtain content data, which is in possession of telecommunication operator, mainly by using a warrant for *the obtaining of information other than through telecommunications interception*. The prerequisites for the obtaining of this kind of content data are same as for the telecommunications interception. (*See more detailed 3.3 Interception for content data*)

If the traffic data is in the device which is not in the possession of a telecommunications operator or corporate/association subscriber, data can be obtained by using above mentioned coercive measures (*A search of data contained in a device/remote search and confiscation a document*).

Competent Authorities

For the MLA requests to Finland from other EU member states the National Bureau of Investigation is the central contact point. MLA requests to Finland from countries outside the EU shall be sent to the Ministry of Justice as the central authority (Unit for International Judicial Administration). Urgent requests via Interpol channels are accepted in accordance with Article 15 of the European Convention on Mutual Assistance in Criminal Matters.

The leader of the investigation sends requests for MLA when the content of the request has been agreed on with the prosecutor. The LEA and prosecutors have an obligation to act in a close cooperation and the LEA has to comply with orders and instructions by the prosecutor as provided for in Chapter 5 of the Preliminary Investigation Act.

MLA request from Finland to other EU member states are sent directly. The National Bureau of Investigation is the national central contact point for the investigation authorities. The requests are checked by NBI International Affairs unit before they are translated and sent to the concerned country.

For MLA request from Finland to countries outside EU, the Ministry of Justice is the central authority. Urgent requests can be sent also via Interpol channels in accordance with the European Convention on Mutual Assistance in Criminal Matters, Article 15, point 5, if accepted by the addressee.

The prosecution authorities use as a rule direct contacts with judicial authorities in other EU member states. EJN and Eurojust are contacted in need of assistance.

Relevant contact points

Pursuant to Article 35, paragraph 1, of the Budapest Convention, Finland has designated as the point of contact available on a twenty-four hour, seven-day-a-week basis the National Bureau of Investigation.

Prior consultations

If needed, all prior consultations can be done by using Siena- or Interpol channels. Liaison officers from different countries have a contact point at the National Bureau of Investigation as do Financial Intelligent Unit from different countries as well.

Accepted legal basis / mechanisms for MLA requests

Finland follows the legal basis of the European Investigation Order with all the countries that have implemented the treaty. Other important MLA treaties that we follow are:

- European Convention on Mutual Legal Assistance in Criminal Matters (1959 Convention)
- Convention on Mutual Legal Assistance in Criminal Matters between the Member States of the European Union (MLA 2000 Convention)
- Budapest Convention on Cybercrime
- Framework Decision on the European Arrest Warrant

In addition, regarding our legislation Finland may render assistance to a foreign state even in the absence of an international legal obligation.

Content of the request

The content of the requests depends on the legal instrument one is using. However, in general level these main information themes should be included:

- receiver (usually National Bureau of Investigation or Ministry of Justice)
- the treaty one enforces
- urgency
- parties involved

- modus operandi (description of the criminal act charged) including the facts that promotes the criminal suspicion. We also need the timeline for requested information and the profile or other particulars in electronic form (can be copied). In property cases, the estimated benefit of crime or amount of loss belongings is needed.
- penal provision
- requested measures
- description of jurisdiction (requesting party)
- confidentiality clause (if there is need to keep the request in secret)
- contact information for requesting party
- signature
- (possible attachments)

Applicable legal requirements

EIO or MLA process is needed. In urgent cases EIO or MLA may be sent via the Interpol channel in order to prepare the requested measures.

Confidentiality requirements

The Finnish legislation (the Act on Openness of the Government Activities) gives us the possibility to include the non-disclosure order in our official request to service providers, if the documents relating to this particular case shall be kept secret, since disclosure of information would compromise the solving of the offence and the outcome of the investigation.

However, according to the Coercive Measures Act, a person subjected to a coercive measure, e.g. a criminal suspect, must be informed about the use of certain coercive measures after the coercive measure in question has been taken.

According to the Finnish law, giving notice of the use of covert coercive measures to the suspect may be postponed for example, for reasons relating to the criminal investigation. In case giving notice of the use of the coercive measure is in contradiction with requested party laws, we kindly ask you to give us an explanation about the reasons and to send us a decision about not to give notice of the use of the coercive measure to the criminal suspect.

Urgent requests

In urgent cases, it is required that the urgency is clearly visible in the request. All threats against life or health will be prioritized.

In office hours all urgent requests are handled by the back office. In these cases, a specific handler (case officer) is been pointed to handle the incoming case. If the urgent request comes out of office hours, it will be handled by the staff of our Communication Center.

Translation

All requests can be send in English language. Finnish and Swedish languages are accepted as well.

Limitations

The double criminality is needed in all requests.

3.2. Requests for real time collection of traffic data (Art. 33)

General remarks

Law enforcement authorities can make requests for a real time collection of traffic data by using a warrant for a traffic data monitoring.

A warrant for a traffic data monitoring (the Coercive Measures Act Chapter 10 Section 6)

Traffic data monitoring refers to

- the obtaining of identifying data regarding a message that has been sent from or received by a network address or terminal end device connected to a telecommunications network,
- the obtaining of location data regarding the network address or the terminal end device, or
- the temporary prevention of the use of the network address or terminal end device.

Identifying data refers to data that can be connected to the subscriber or user and that is processed in telecommunications networks in order to transmit or distribute messages or keep messages available.

A criminal investigation authority may be issued a warrant for traffic data monitoring of a network address or terminal end device in the possession of or otherwise presumably used by a suspect in an offence, when there are grounds to suspect the said person of

- 1) an offence for which the most severe punishment is imprisonment for at least four years;
- (2) an offence committed with the use of the network address or terminal end device, for which the most severe punishment provided is imprisonment for at least two years;
- (3) unauthorized use, damage to property, message interception or computer break-in directed at an automatic data processing system and committed with the use of a network address or terminal end device;
- (4) exploitation of a person subjected to the sex trade, solicitation of a

- child for sexual purposes or pandering;
- (5) a narcotics offence;
- (6) preparation of an offence committed with terrorist intent;
- (7) an aggravated customs offence;
- (8) aggravated concealment of illegally obtained goods;
- (9) preparation of the taking of a hostage; or
- (10) preparation of aggravated robbery.

The court decides on traffic data monitoring referred on the request of an official with the power of arrest.

If the matter does not brook delay, an official with the power of arrest may decide on traffic data monitoring and on the obtaining of location data until such time as the court has decided on the request for the issuing of the warrant. The matter shall be submitted for the decision of the court as soon as possible, but at the latest within 24 hours of the initiation of the use of the coercive measure.

The decision may be made for at most one month at a time and the warrant or decision may be issued to extend also to the period prior to the issuing of the warrant or the making of the decision, which may be longer than one month.

Competent Authorities

For the MLA requests to Finland from other EU member states the National Bureau of Investigation is the central contact point. MLA requests to Finland from countries outside the EU shall be sent to the Ministry of Justice as the central authority (Unit for International Judicial Administration). Urgent requests via Interpol channels are accepted in accordance with Article 15 of the European Convention on Mutual Assistance in Criminal Matters.

The leader of the investigation sends requests for MLA when the content of the request has been agreed on with the prosecutor. The LEA and prosecutors have an obligation to act in a close cooperation and the LEA has to comply with orders and instructions by the prosecutor as provided for in Chapter 5 of the Preliminary Investigation Act.

MLA request from Finland to other EU member states are sent directly. The National Bureau of Investigation is the national central contact point for the investigation authorities. The requests are checked by NBI International Affairs unit before they are translated and sent to the concerned country.

For MLA request from Finland to countries outside EU, the Ministry of Justice is the central authority. Urgent requests can be sent also via Interpol channels in accordance with the European Convention on Mutual Assistance in Criminal Matters, Article 15, point 5, if accepted by the addressee.

The prosecution authorities use as a rule direct contacts with judicial authorities in other EU member states. EJN and Eurojust are contacted in need of assistance.

Relevant contact points

Pursuant to Article 35, paragraph 1, of the Budapest Convention, Finland has designated as the point of contact available on a twenty-four hour, seven-day-a-week basis the National Bureau of Investigation.

Prior consultations

If needed, all prior consultations can be done by using Siena- or Interpol channels. Liaison officers from different countries have a contact point at the National Bureau of Investigation as do Financial Intelligent Unit from different countries as well.

Accepted legal basis / mechanisms for MLA requests

Finland follows the legal basis of the European Investigation Order with all the countries that have implemented the treaty. Other important MLA treaties that we follow are:

- European Convention on Mutual Legal Assistance in Criminal Matters (1959 Convention)
- Convention on Mutual Legal Assistance in Criminal Matters between the Member States of the European Union (MLA 2000 Convention)
- Budapest Convention on Cybercrime
- Framework Decision on the European Arrest Warrant

In addition, regarding our legislation Finland may render assistance to a foreign state even in the absence of an international legal obligation.

Content of the request

The content of the requests depends on the legal instrument one is using. However, in general level these main information themes should be included:

- receiver (usually National Bureau of Investigation or Ministry of Justice)
- the treaty one enforces
- urgency
- parties involved
- modus operandi (description of the criminal act charged) including the facts that promotes the criminal suspicion. We also need the timeline for requested information and the profile or other particulars in electronic form (can be copied). In property cases, the estimated benefit of crime or amount of loss belongings is needed.
- penal provision
- requested measures
- description of jurisdiction (requesting party)
- confidentiality clause (if there is need to keep the request in secret)

- contact information for requesting party
- signature
- (possible attachments)

Applicable legal requirements

EIO or MLA process is needed. In urgent cases EIO or MLA may be sent via the Interpol channel in order to prepare the requested measures.

Confidentiality requirements

The Finnish legislation (the Act on Openness of the Government Activities) gives us the possibility to include the non-disclosure order in our official request to service providers, if the documents relating to this particular case shall be kept secret, since disclosure of information would compromise the solving of the offence and the outcome of the investigation.

However, according to the Coercive Measures Act, a person subjected to a coercive measure, e.g. a criminal suspect, must be informed about the use of certain coercive measures after the coercive measure in question has been taken.

According to the Finnish law, giving notice of the use of covert coercive measures to the suspect may be postponed for example, for reasons relating to the criminal investigation. In case giving notice of the use of the coercive measure is in contradiction with requested party laws, we kindly ask you to give us an explanation about the reasons and to send us a decision about not to give notice of the use of the coercive measure to the criminal suspect.

Urgent requests

In urgent cases, it is required that the urgency is clearly visible in the request. All threats against life or health will be prioritized.

In office hours all urgent requests are handled by the back office. In these cases, a specific handler (case officer) is been pointed to handle the incoming case. If the urgent request comes out of office hours, it will be handled by the staff of our Communication Center.

Translation

All requests can be send in English language. Finnish and Swedish languages are accepted as well.

Limitations

The double criminality is needed in all requests.

3.3. Requests for interception of content data (Art. 34)

General remarks

The law enforcement authorities can request for interception of content data by using a warrant for a telecommunications interception.

A warrant for a telecommunication interception (*the Coercive Measures Act Chapter 10 Section 3*)

Telecommunications interception refers to the monitoring, recording and other processing of a message sent to or transmitted from a network address or terminal end device through a public communications network or a communications network connected thereto, in order to determine the contents of the message and the identifying data connected to it.

Telecommunications interception may be directed only at a message that originates from or is intended for a suspect in an offence.

A criminal investigation authority may receive permission for telecommunications interception directed at a network address or terminal end device in the possession of or otherwise presumably used by a suspect in an offence, when there are grounds to suspect him or her of

- (1) genocide, preparation of genocide, a crime against humanity, an aggravated crime against humanity, a war crime, an aggravated war crime, torture, violation of a prohibition against chemical weapons, violation of a prohibition against biological weapons, violation against a prohibition against anti-infantry mines;
- (2) endangerment of the sovereignty of Finland, incitement to war, treason, aggravated treason, espionage, aggravated espionage, disclosure of a national secret, unlawful gathering of intelligence;
- (3) high treason, aggravated high treason, preparation of high treason;
- (4) aggravated distribution of a sexually offensive picture depicting a child;
- (5) sexual abuse of a child, aggravated sexual abuse of a child;
- (6) manslaughter, murder, homicide, preparation of an aggravated offence directed against life or health as referred to in Chapter 21, section 6a of the Criminal Code and in accordance with sections 1, 2 and 3 of said Chapter;
- (7) arrangement of aggravated illegal entry into the country, aggravated deprivation of liberty, trafficking in persons, aggravated trafficking in persons, kidnapping, preparation of kidnapping;
- (8) aggravated robbery, preparation of aggravated robbery, aggravated extortion;
- (9) aggravated concealment of illegally obtained goods, professional concealment of illegally obtained goods, aggravated money laundering;
- (10) criminal mischief, criminal traffic mischief, aggravated sabotage, aggravated endangerment of health, a nuclear device offence, hijacking;
- (11) an offence committed with terrorist intent, preparation of an offence committed with terrorist intent, directing of a terrorist group, promotion of the activity of a terrorist group, provision of training for the commission of a terrorist offence, recruitment for the commission of a terrorist offence, financing of terrorism, as referred to in Chapter 34(a), section 1, subsection 1, paragraphs 2-7 or subsection 2 of the Criminal Code;
- (12) aggravated damage to property;

- (13) aggravated fraud, aggravated usury;
- (14) aggravated counterfeiting;
- (15) aggravated impairment of the environment; or
- (16) an aggravated narcotics offence.

The court decides on telecommunications interception on the request of an official with the power of arrest.

A warrant for telecommunications interception may be issued also when there are grounds to suspect a person of the following in connection with commercial or professional activity:

- (1) aggravated giving of a bribe;
- (2) aggravated embezzlement;
- (3) aggravated tax fraud, aggravated assistance fraud;
- (4) aggravated forgery;
- (5) aggravated dishonesty by a debtor, aggravated dishonesty by a debtor;
- (6) aggravated taking of a bribe, aggravated abuse of public office;
- (7) aggravated regulation offence;
- (8) aggravated abuse of insider information, aggravated market price distortion; or
- (9) an aggravated customs offence

The warrant for telecommunications interception may be given for at most one month at a time.

Competent Authorities

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Translation

All requests can be send in English language. Finnish and Swedish languages are accepted as well.

Limitations

If the used legal instrument (treaty) says otherwise, the double criminality is needed in all requests.