

Unofficial translation

Ministry of Justice, Finland

Coercive Measures Act

(806/2011; entry into force on 1 January 2014)

(amendments up to 1146/2013 included)

Chapter 1 – General provisions

Section 1 – Scope of application of the Act

This Act applies to the use of and the prerequisites for the use of coercive measures, unless provided otherwise in another Act.

Section 2 – Principle of proportionality

Coercive measures may be used only when they may be deemed justifiable with consideration to the seriousness of the offence under investigation, the importance of clarifying the offence, the degree to which the use of the coercive measures infringes on the rights of the suspect in the offence or of others, and the other circumstances in the case.

Section 3 – Principle of minimum intervention

(1) The use of a coercive measure may not infringe on the rights of anyone beyond what is necessary in order to achieve the purpose for which it is used.

(2) The use of a coercive measure may not cause anyone undue loss or impediment.

Section 4 – Principle of sensitivity

In the use of coercive measures, the arousing of undue attention shall be avoided and also otherwise conduct shall be discrete.

Section 5 – *Self-help*

(1) The assistance of a competent authority shall be used to recover personal property that has been lost through an offence or that has otherwise been lost. However, measures of self-help in the recovery of such property are permissible if:

(1) the property has been lost through an offence and measures to recover the property have been undertaken immediately after the offence has been committed; or

(2) the lost property in other cases is recovered from a person who has it in his or her possession without right, and sufficient and timely assistance of the authorities is not available.

(2) In the situations referred to above, the necessary measures of force to recover property may be taken that can be deemed justified when viewed as a whole, taking into consideration the manifest nature of the violation of rights and the extent and probability of the threatened loss of rights.

(3) Chapter 17, section 9 of the Criminal Code (39/1889) contains provisions on punishable self-help.

Chapter 2 – Apprehension, arrest and remand

Apprehension

Section 1 – A police officer's right of apprehension

(1) A police officer may, for the purpose of clearing an offence, apprehend a suspect in the offence who is caught in the act or trying to escape.

(2) A police officer may also apprehend a suspect in an offence whose arrest or remand has been ordered. In addition, a police officer may, during the main hearing of a court or during the consideration of the decision, apprehend a defendant whose remand has been requested in connection with the judgment, if the remand is necessary in order to prevent him or her from leaving.

(3) If the prerequisites exist for arrest, a police officer may apprehend a suspect in an offence also without an arrest warrant if the arrest may otherwise be endangered. The police officer shall notify without delay an official with the power of arrest of this apprehension. Said official with the power of arrest shall decide, within 24 hours of the apprehension, whether the apprehended person

is to be released or arrested. Continuation of the apprehension for more than 12 hours requires the existence of the prerequisites for arrest.

Section 2 – The general right of apprehension

(1) Any person may apprehend a suspect in an offence who has been caught in the act or trying to escape, if the offence is punishable by imprisonment or if the offence is petty assault, petty theft, petty embezzlement, petty unauthorized use, petty, petty stealing of a motor vehicle for temporary use, petty damage to property or petty fraud.

(2) Any person may apprehend also a person for whom an authority has issued an arrest warrant or a remand warrant.

(3) The person who has been apprehended shall be turned over without delay to a police officer.

Section 3 – Use of forcible means

(1) If, in connection with the exercise of a general right of apprehension, the person being apprehended resists or escapes, the person apprehending him or her may use the forcible means that are necessary to apprehend him or her and that can be deemed justifiable in view of the whole, taking into consideration the nature of the offence, the conduct of the person being apprehended and the situation also in other respects.

(2) Chapter 4, section 6, subsection 3 and section 7 of the Criminal Code contain provisions on excessive use of forcible means.

Section 4 – Notice of apprehension

(1) The person apprehended shall be informed without delay of the reason for the apprehension.

(2) Chapter 2, section 2, subsection 2 of the Act on the Treatment of Persons in Police Custody (841/2006) contains provisions on notification to a person close to the apprehended person or to another person.

Arrest

Section 5 – Prerequisites for arrest

(1) A person suspected on probable grounds in an offence may be arrested if:

(1) no punishment less severe than imprisonment for two years has been provided for the offence;

(2) punishment less severe than imprisonment for two years has been provided for the offence, but the most severe punishment provided exceeds imprisonment for one year, and having regard to the personal circumstances of the suspect or other factors there is reason to suspect that the suspect will:

(a) abscond or otherwise evade criminal investigation, trial or enforcement of punishment;

(b) hinder the clarification of the matter by destroying, defacing, altering or concealing evidence or influencing a witness, an injured party, an expert or an accomplice; or

(c) continue his or her criminal activity;

(3) the identity of the suspect is unknown and he or she refuses to divulge his or her name or address or gives evidently false information regarding this; or

(4) the suspect does not have a permanent residence in Finland and it is probable that he or she will evade criminal investigation, trial or the enforcement of punishment by leaving the country.

(2) Where there is reason to suspect a person in an offence, he or she may be arrested even though there are no probable grounds for the suspicion, but the other prerequisites for arrest provided in subsection 1 are fulfilled and the arrest of the suspect is very important in view of anticipated additional evidence.

(3) A person suspected of having committed a criminal act under the age of 15 years may not be arrested.

Section 6 – *Prohibition of unreasonable arrest*

No one may be arrested where this would be unreasonable having regard to the particulars of the case or the age or other personal circumstances of the suspect.

Section 7 – Release of a person under arrest

(1) A person under arrest shall be released immediately when the prerequisites for arrest are no longer fulfilled. A person under arrest shall be released at the latest at the end of the period provided for the submission of a request for remand, unless his or her remand has been requested.

(2) The decision on the release of a person under arrest is made by an official with the power of arrest. However, if a request for remand has been submitted, the decision on release is made by the court.

Section 8 – Re-arrest

A person arrested or remanded for an offence and released may not be re-arrested for the same offence on the basis of a circumstance of which the authority was aware when deciding on arrest or remand.

Section 9 – Official with the power of arrest

(1) An official with the power of arrest decides on arrest. The following officials have the power of arrest:

(1) the National Police Commissioner, the Deputy National Police Commissioner, a chief superintendent and a superintendent, a police chief, a deputy police chief, the Chief and Deputy Chief of the National Bureau of Investigation, the Chief of the Security Intelligence Service, a deputy chief appointed to criminal investigation duties, a head of department appointed to criminal investigation duties, a superintendent and chief inspector appointed to criminal investigation duties, a detective chief superintendent, a detective superintendent, a detective chief inspector, a chief inspector, a detective inspector and an inspector;

(2) the head of the Investigations Office in the National Board of Customs, the head of a unit responsible for investigation in the National Board of Customs, the head of investigations of a customs district as well as a senior supervisor whom the head of the Investigations Unit has appointed as a head investigator;

(3) the Chief and Deputy Chief of the Border Guard, the Chief of the Border and Coast Guard Division of the Border Guard Headquarters, the Chief, Deputy Chief, the head of the Investigations Office, a chief senior administrator, a senior administrator, the detective chief superintendent

and detective superintendent of the legal division of the Border Guard Headquarters, the commander and deputy commander of a border guard district and coast guard district, the chief of the operational office of a border guard district and coast guard district, the chief and deputy chief of the Helsinki Border Control Department of the Gulf of Finland Coast Guard District, and a border guard of at least the rank of lieutenant who has undergone the training required by law of a head investigator in the Border Guard and who has been appointed by the Chief of the Border Guard or the Chief of its Administrative Unit as a head investigator;

(4) a public prosecutor. (1146/2013)

(2) Separate provisions are provided in law on the officials in the Defence Forces with the power of arrest.

Section 10 – Notification of arrest

(1) The person under arrest shall be notified without delay of the reason for his or her arrest when the decision on the arrest has been made or he or she has been apprehended pursuant to an arrest warrant.

(2) Chapter 2, section 2, subsection 2 of the Act on the Treatment of Persons in Police Custody contains provisions on notification to a person close to the person under arrest or to another person.

Remand

Section 11 – Prerequisites for remand

(1) On the request of an official with the power of requesting remand, the court may order that a person suspected with probable grounds in an offence shall be remanded, subject to the prerequisites provided in section 5, subsection 1.

(2) When there is reason to suspect a person in an offence, he or she may be remanded even if probable grounds do not exist for the suspicion, but nonetheless the prerequisites for remand provided in section 5, subsection 1 are otherwise fulfilled and the remand is very important in view of anticipated additional evidence. If the suspect has been remanded in accordance with this subsection, the court shall hold a hearing on the question of his or her remand as provided in Chapter 3, section 11. On the request of the party submitting the request for remand, the court may transfer the remand hearing to the court

having jurisdiction in the consideration of the charges. The court shall immediately notify said court of its decision.

(3) A person suspected on probable grounds in an offence and whose extradition to Finland is to be requested may be remanded if the most severe punishment provided for the offence is imprisonment for at least one year and, on the basis of the personal circumstances, the number and nature of the offences contained in the request for extradition or other corresponding circumstances, there are grounds to suspect that he or she will not arrive voluntarily in Finland for consideration of the charges.

(4) A person suspected of having committed a criminal act under the age of 15 years may not be remanded.

Section 12 – *Prerequisites for the remand of a convicted person*

(1) On the request of the public prosecutor or of an injured party who has requested that the defendant be punished, the court may order that a person sentenced to unconditional imprisonment be remanded or remain in remand if:

(1) the sentence is imprisonment for at least two years;

(2) the sentence is imprisonment for less than two years but at least one year, and it is probable that the convicted person:

(a) will abscond or otherwise evade the enforcement of the sentence; or

(b) continue his or her criminal activity;

(3) the sentence is less than imprisonment for one year and:

(a) the convicted person does not have a permanent residence in Finland and it is probable that he or she will evade the enforcement of the sentence by leaving the country; or

(b) he or she has been sentenced by one or more judgments to imprisonment for a number of offences, committed at short intervals, and remand is necessary in order to prevent further offences of the same degree of seriousness.

(2) The decision on the remand of a convicted person is in force until the enforcement of the sentence begins or an appellate court decides otherwise.

Section 13 – Prohibition of unreasonable remand

No one may be remanded or ordered to remain in remand if this would be unreasonable with regard to the particulars of the case or the age or other personal circumstances of the suspect or convicted person.

Section 14 – New remand warrant

A person remanded for an offence who has been released may be remanded again for the same offence only on the basis of a circumstance to which the party that had requested the remand could not have referred at the time the early decision on remand was made.

Section 15 – Notification of a request for remand

A person under arrest and his or her counsel shall be notified without delay of a request for remand. They shall be provided without delay a written request for remand.

Section 16 – Translation of a decision on arrest (772/2013)

(1) The suspect has the right to receive within a reasonable period a written translation of the decision on arrest in the language used by the suspect as referred to in Chapter 4, section 12 of the Criminal Investigation Act (805/2011).

(2) Notwithstanding subsection 1, the decision on arrest or a summary of the decision may be translated orally, unless legal safeguards for the suspect require that the decision be translated in writing.

(3) The provisions in Chapter 4, section 13 of the Criminal Investigation Act on the translation of an essential document in the criminal investigation documentation apply also to the translation of a decision on arrest.

Chapter 3 – Court procedure in remand cases

Section 1 – Authority with the power to decide on remand

(1) Remand is decided by the court having jurisdiction in the consideration of the charges. Before charges are brought, also another district court may decide on remand if the matter can suitably be considered by such court. Provisions

on the district court on duty in urgent cases are contained in a Decree of the Ministry of Justice.

(2) A district court has a quorum in a remand hearing also when only the chairman is present. The hearing may be held also at a time and place other than what is provided on sessions of the district court.

Section 2 – Person requesting remand

(1) During the criminal investigation, a request for remand is made by an official with the power of arrest. Before the request is made, notice shall be given of this to the prosecutor, who may take it upon himself or herself to decide on the issue of submitting a request for remand. When the case has been sent to the prosecutor after the conclusion of the criminal investigation, a request for remand is made by the prosecutor. A request for remand of a convicted person may also be made by an injured person who has requested that he or she be punished.

(2) The court may not on its own initiative order remand of the defendant in a criminal case.

Section 3 – Form of the request for remand

(1) A request for remand is made in writing. A request for the remand of a person under arrest may be submitted also orally or by telephone. Such a request shall be confirmed in writing without delay.

(2) During the consideration of the charges, the request for remand may be submitted orally.

Section 4 – Time at which a request is to be made regarding a person under arrest

The request for remand of a person under arrest shall be made to the court without delay and at the latest before noon on the third day from the day of apprehension.

Section 5 – Taking a request for remand up for consideration

(1) A request for remand shall be taken up by the court for consideration without delay. A request regarding a person under arrest shall be taken up for consideration within four days of the apprehension.

(2) If a defendant is arrested while the criminal case is pending in court, his or her remand shall be considered in accordance with the procedure provided for the remand of a person under arrest.

Section 6 – Remand hearing

(1) The official who made the request for remand or an official appointed by him or her who has become acquainted with the matter shall be present in the remand hearing. An appointed official may exercise the right of the official having made the request to speak to the extent that this has not been limited in the request.

(2) A person under arrest whose remand has been requested shall be heard in person in the remand hearing. The person whose remand has been requested shall be provided the opportunity to have counsel at the remand hearing.

(3) A person who is not under arrest and whose remand has been requested shall be reserved an opportunity to be heard on the request, unless he or she is not in Finland, his or her whereabouts are not known or he or she is evading the criminal investigation or trial. However, if the name of the counsel of the person whose remand has been requested is known, counsel shall be reserved an opportunity to be heard in the matter. A defendant who without a valid excuse is absent from the consideration of the request for remand or of the charges may be ordered to be remanded regardless of his or her absence.

(4) If the court deems this appropriate, use may be made in the remand hearing of a video conference or other suitable technical means of transmission of information in which those participating in the hearing have audio and visual contact with one another. If the court deems this necessary, however, the person whose remand is requested shall be brought to court.

Section 7 – Hearing of a legal representative and a representative of the social welfare authority

If the person whose remand is requested is below the age of 18 years, the court shall ensure that his or her guardian, trustee or other legal representative and the representative of the authority referred to in section 6, subsection 1 of the

Social Welfare Act (710/1982) are reserved an opportunity to be heard in connection with the remand hearing. The hearing may be arranged through the use of technical transmission of communication, in which the participants in the consideration have audio contact with one another. An exception may be made to reserving an opportunity to be heard if the representative cannot be contacted or if there are important reasons related to the criminal case in question for not reserving an opportunity to be heard.

Section 8 – Evidence to be presented in a remand hearing

Evidence on the prerequisites for remand, which may be based solely on written documentation, shall be presented in the remand hearing. No other evidence may be presented in respect of the offence under investigation or the request for remand, unless the court deems that there is special reason for its admissibility.

Section 9 – Postponement of a remand hearing concerning a person under arrest

(1) A remand hearing concerning a person under arrest may be postponed only for a special reason. The remand hearing may be postponed by more than three days only on the request of the person under arrest.

(2) The person shall remain under arrest until the next remand hearing unless the court orders otherwise.

Section 10 – Decision in a remand matter

(1) The decision on remand shall contain a brief reference to the particulars of the offence in which the remanded person is suspected as well as the grounds for remand. The decision shall be proclaimed immediately after the conclusion of the remand hearing.

(2) If the request for remand is rejected, the person under arrest shall be ordered to be released immediately.

Section 11 – Remand in connection with additional evidence

(1) When the decision on remand is based on Chapter 2, section 11, subsection 2, the party having submitted the request for remand shall notify the court reviewing the question of remand without delay that the additional evidence has been prepared.

(2) The court shall hold a new remand hearing without delay and in any case not later than within one week from the decision on remand. If the prerequisites for remand provided in Chapter 2, section 11, subsection 1 are not fulfilled, the remanded person shall be ordered to be released immediately.

Section 12 – Procedure in the enforcement of a remand warrant

When a court has issued a remand warrant for a suspect who had been absent from the remand hearing, the competent court shall be notified without delay of the enforcement of the warrant. The court shall hold a new remand hearing without delay and in any case not later than four days from the time when the suspect has been deprived of his or her liberty pursuant to the warrant. If he or she has been deprived of his or her liberty abroad, the period is calculated from the time when he or she arrived in Finland.

Section 13 – Remand by a court other than the court which is to consider the charges

If the request for remand is heard by a court other than the one with jurisdiction in the consideration of the charges, the party that submitted the request for remand shall notify the court hearing the request for remand which court is to consider the charges. The court that has heard the request for remand shall immediately notify the court with jurisdiction in the consideration of the charges of its decision on remand.

Section 14 – Setting of a time limit for the bringing of charges

(1) When the court decides on the remand of a suspect who is present, and no charges have yet been brought, it shall set a time limit for the bringing of charges. The time limit may not be longer than what is necessary for the completion of the criminal investigation and the preparation of the charges.

(2) If it becomes evident that the time limit for the bringing of charges expires too soon, the court that is to consider the charges may, at the request of the prosecutor submitted at least four days before the time limit, extend the time

limit. The court shall take the matter up for consideration without delay and decide it before the time limit. The remanded person and his or her counsel shall be provided an opportunity to be heard on the request. The remanded person shall be heard in person if he or she so wishes.

(3) If the court deems this appropriate, the technical means of communication referred to in section 6, subsection 4 may be used in the consideration of the extension of the time limit. If the court deems this necessary, however, the remanded person shall be brought to court.

(4) The Criminal Procedure Act (689/1997) contains provisions on time limits in the consideration in court of charges against a remanded defendant.

Section 15 – *New remand hearing*

(1) If the suspect in an offence has been remanded, the court that considers the charges shall, on the request of the remanded person and up to the time when judgment is given, hold a new remand hearing without delay and at the latest within four days of the submission of the request. Before charges are brought, the new remand hearing may be held also by the district court with jurisdiction over the place of remand. However, a new remand hearing need not be held before two weeks have elapsed since the previous remand hearing.

(2) The court shall on the request of the remanded person hold a new remand hearing also before the time limit referred to in subsection 1 if there are grounds for this on the basis of a circumstance that has become evident after the previous hearing. An official with the power of arrest shall notify the remanded person and his or her counsel without delay of an essential change in the circumstances that give grounds for a new hearing, unless the official decides on the basis of section 17, subsection 3 to release the remanded person immediately. (1146/2013)

(3) The remanded person, his or her counsel and the appropriate official with the power of arrest shall be reserved an opportunity to be heard in the new remand hearing, unless the remanded person or the official referred to states that they need not be heard. The remanded person shall be heard in person if he or she so wishes or there is otherwise reason to hear him or her in order to clarify the matter.

(4) If the court deems this appropriate, the technical means of communication referred to in section 6, subsection 4 may be used in the new remand hearing.

If the court deems this necessary, however, the remanded person shall be brought to court.

Section 16 – *Order for continuation of remand in certain cases*

(1) If the court cancels or adjourns the main hearing or orders a new main hearing in a case in which the defendant is in remand, it shall at the same time decide whether the prerequisites referred to in Chapter 2, section 11, subsection 1 for continuing to hold him or her in remand are fulfilled. However, a new remand hearing is not necessary during the period that the main hearing has been adjourned for a mental examination of a defendant in the same case.

(2) The court shall decide on continuation of remand also when the judgment is not proclaimed immediately at the end of the main hearing.

Section 17 – *Release of a remanded person*

(1) The court shall order the release of a remanded person immediately if, on the basis of the new remand hearing referred to in section 15, of the judgment or of the circumstances that have become apparent in the main hearing, the prerequisites for keeping him or her in remand no longer exist.

(2) The court shall, on the request of the appropriate official with the power of arrest, made in the remand hearing or in connection with the main hearing, order that the remanded person shall be released immediately if the prerequisites for keeping him or her in remand no longer exist. The release of the remanded person shall be ordered also if charges have not been brought before the time limit and no decision has been made before the time limit on its extension. The remanded person or his or her counsel need not be summoned to the hearing on the question.

(3) An official with the power of arrest shall order the release of a remanded person immediately when the prerequisites for keeping him or her in remand no longer exist. Before this decision is made, notice shall be made of it to the prosecutor, who may take over the decision on release.

Section 18 – *Remand in an appellate court*

(1) Where the remand of a defendant is requested in a case submitted on appeal to an appellate court, the defendant shall be reserved an opportunity to

be heard on the request, unless the request is immediately dismissed without considering the merits, or rejected. No opportunity need be reserved for providing a response if the defendant is not present in Finland, or his or her whereabouts are unknown. However, if the authorized counsel of the person whose remand is requested is known, said counsel shall be reserved an opportunity to be heard. Notice of the right of response may be sent by post to the most recent address indicated by the defendant.

(2) If the defendant is arrested in relation to a case referred to in subsection 1, the request for remand of the person under arrest shall be made immediately to the appellate court, and the court shall take the request up for a hearing within the period referred to in section 5, in accordance with what is provided above regarding the consideration of the question of remand of a person under arrest.

Section 19 – *Appeal*

(1) A decision on remand is not subject to separate appeal. A person on remand may file an extraordinary appeal on the basis of procedural fault against the decision by which he or she has been remanded or the order by which his or her remand has been continued. An official with the power of arrest may file an extraordinary appeal on the basis of procedural fault against the decision by which a request for remand has been denied or by which a remanded person has been ordered released. In addition, a remanded person may file an extraordinary appeal on the basis of procedural fault against the period set for the bringing of charges.

(2) The extraordinary appeal is not subject to a time limit. The extraordinary appeal shall be heard urgently. If the extraordinary appeal is not dismissed without considering the merits or is not rejected as clearly unfounded, the appropriate official with the power of arrest or the person whose remand has been requested shall be reserved an opportunity to respond to the extraordinary appeal in the manner deemed appropriate by the court of appeal, unless this is evidently unnecessary.

(3) The decision on the setting of a time limit for the bringing of charges and on the granting of an extension is not subject to appeal.

Section 20 – *Calculation of time limits*

Section 4 of the Act on the Calculation of Statutory Time Limits (150/1930) does not apply to the calculation of the time limits as provided in section 4, section 5 subsection 1, section 11 subsection 2, section 12, section 14 subsection 2 and section 18 subsection 2.

Section 21 – *Translation of the decision on remand (772/2013)*

(1) The suspect has the right to receive within a reasonable period a written translation of the decision on remand in the language used by the suspect as referred to in Chapter 4, section 12 of the Criminal Investigation Act (805/2011).

(2) Notwithstanding subsection 1, the decision on remand or a summary of the decision may be translated orally, unless legal safeguards for the suspect require that the decision be translated in writing.

(3) The provisions in Chapter 6a of the Criminal Procedure Act on the translation of a document apply also to the translation of a decision on remand.

Chapter 4 – Restriction of contacts

Section 1 – *Prerequisites for restriction of contacts*

(1) When the criminal investigation is in progress, contact between an apprehended, arrested or remanded person and another person may be restricted if there are grounds to suspect that such contact would endanger the purpose of the apprehension, arrest or remand. Contact may be restricted also when the consideration of charges and the trial are in progress, if there are justified grounds to suspect that such contact would seriously endanger the purpose of the remand.

(2) Contact with counsel referred to in Chapter 8, section 4 of the Remand Act (768/2005) may not be restricted. Contact with a close relative or another close person and contact with the diplomatic mission referred to in Chapter 9, section 7 of the Remand Act may be restricted only for a particularly important reason related to the clarification of the offence. Contact with a close relative may be restricted only to the extent that is necessary in order to secure the purpose of the apprehension, arrest or remand.

Section 2 – *Contents of restriction of contacts*

(1) The restriction of contacts may contain restrictions on correspondence, the use of the telephone, meetings or other contacts outside the place of confinement or the prison, or association with a certain apprehended, arrested or remanded person. Contact may not be restricted beyond or for longer than what is necessary.

(2) Chapter 8 of the Remand Act and Chapter 6 of the Act on the Treatment of Persons Detained by the Police contain provisions on the inspection and reading of letters, and Chapter 7 of this Act contains provisions on the confiscation of letters.

Section 3 – Extent of the restriction of contacts

The restriction on contacts ends when the apprehension, arrest or remand ends. A temporary restriction of contacts ends if the request for a restriction of contacts is not made to the court by the time limit.

Section 4 – Decision on the restriction of contacts

(1) An official with the power of arrest decides on the restriction of contacts during apprehension and arrest. The court, on the request of an official with the power of arrest or the warden of the prison, decides on restriction of contacts connected with remand and its extension. Before the decision of the court, the warden of the prison, on the request of an official with the power of arrest or, if the remanded person has been placed in police custody, an official with the power of arrest, may decide on temporary restriction of contacts.

(2) If the court, on the basis of Chapter 3, section 9, adjourns the remand hearing regarding a person under arrest, it shall decide on the continuation or amendment of a temporary restriction of contacts ordered in respect of said person. The restriction of contacts and its grounds shall be reviewed in connection with the new remand hearing referred to in Chapter 3, section 15.

(3) The official authorized to decide on or request the restriction of contacts referred to above in subsection 1 shall decide on the ending of the restriction if the grounds for it no longer exist.

Section 5 – Separate consideration in court

(1) A person in remand who is subject to restriction of contacts may submit the question of restrictions to court for separate consideration, in which case the provisions of Chapter 3, section 15 on a new hearing on remand apply as appropriate. The court shall rescind the restriction of contacts to the extent that grounds for it no longer exist.

(2) If the request for restriction of contacts is considered separately from the question of remand, the provisions of Chapter 3, section 4, section 5, subsection 1, and section 6, subsections 1, 2 and 4 on the remand hearing apply as appropriate.

Section 6 - Appeal

The decision of the court on restriction of contacts is subject to extraordinary appeal on the basis of procedural fault by the remanded person in question and by the official with the power of arrest. The provisions of Chapter 3, section 19, subsections 1 and 2 apply as appropriate to the extraordinary appeal and its consideration.

Chapter 5 - Travel ban

Section 1 - Prerequisites for a travel ban

(1) A person who is suspected on probable grounds in an offence may, instead of being arrested or remanded, be subjected to a travel ban if the most severe punishment provided for the offence is imprisonment for at least one year and, in view of the personal circumstances of the suspect or the other circumstances, there is reason to suspect that the suspect will:

(1) abscond or otherwise evade criminal investigation, trial or enforcement of punishment;

(2) hinder the clearing up of the case by destroying, defacing, altering or concealing evidence, or influencing a witness, an injured person, an expert or an accomplice, or

(3) continue his or her criminal activity.

(2) A travel ban may not be imposed on a person suspected of having committed a criminal act under the age of 15 years.

Section 2 – *Contents of a travel ban*

(1) The person subjected to a travel ban may be obliged to:

- (1) remain in the locality or area referred to in the decision;
- (2) remain away from or not move in an area referred to in the decision;
- (3) remain available at his or her residence or place of work at certain times;
- (4) present himself or herself to the police at certain times;
- (5) remain in an institution or hospital into which he or she has already been admitted or is to be admitted;
- (6) refrain from contacting a person referred to in section 1, subsection 1, paragraph 2; or
- (7) surrender his or her passport to the police.

(2) The decision on the travel ban may nonetheless include permission to leave said locality or area in order to go to work or for another comparable reason.

Section 3 – *Prohibition of the issuing of a passport*

A person subjected to a travel ban may not be issued a passport if the issuing of a passport may endanger the purpose of the travel ban.

Section 4 – *Authority deciding on a travel ban*

(1) During the criminal investigation, an official with the power of arrest decides on the travel ban. Before the decision is made, the prosecutor shall be notified of it, and he or she may take over the matter for decision. When, following the completion of the criminal investigation, the case has been passed on to the prosecutor, said prosecutor decides on the travel ban. What is provided in this subsection applies also should the court reject the request of the person on whom a travel ban has been imposed before the bringing of charges to have the travel ban overturned.

(2) After the bringing of charges, the court decides on the question of the travel ban. In so doing, the court may impose a travel ban on the defendant only at the request of the prosecutor.

(3) When considering a request for remand and the question of the continuation of remand, the court shall consider whether the prerequisites referred to in section 1 are present and whether a travel ban should be imposed on the person whose remand has been requested or on the remanded person in lieu of remand. In so doing, the court decides on the travel ban also before the bringing of charges. However, in the case of a travel ban imposed as a consequence of an extraordinary appeal on the basis of procedural fault against a decision to remand a person, the court that decided on remand decides on the travel ban.

Section 5 – *Decision on a travel ban*

(1) The decision imposing a travel ban shall specify:

- (1) the offence for which the ban is imposed;
- (2) the grounds for the ban;
- (3) the contents of the ban;
- (4) the sanctions for violation of the ban;
- (5) the duration of the ban;
- (6) the right to submit the validity of the travel ban to the consideration of the court.

(2) A copy of the decision shall be given to the person on whom the travel ban is imposed. If the person on whom the travel ban is imposed was not present when the decision was given or of a copy of the decision could not otherwise be given to him or her, a copy may be sent to him or her by post to the address he or she has indicated.

Section 6 – *Exemption*

(1) An official with the power of arrest may, for a justified reason, grant a person on whom a travel ban has been imposed permission in an individual case to deviate to a slight extent from the obligation specified in the decision on the travel ban.

(2) The person on whom a travel ban is imposed may submit the question of an exemption to the court if the official with the power of arrest refuses to grant the exemption.

Section 7 – *Amendment of a decision on a travel ban*

The decision on a travel ban may be amended in accordance with a change in circumstances or for an important reason.

Section 8 – *Rescission of a travel ban*

(1) The travel ban shall be rescinded in full or in part immediately when there are no longer prerequisites for keeping it in force as such.

(2) The travel ban shall be rescinded if no charges are raised within 60 days of the imposition of the ban. The court may, on the request of an official with the power of arrest made at the latest one week before the time limit, extend the time limit. The court shall take the question up for consideration without delay and decide it by the time limit.

(3) A person on whom a travel ban is imposed has the right already before charges are brought to submit to the consideration of a court the question of the validity of the travel ban imposed by an official with the power of arrest. The request shall be taken up for consideration within a week of its arrival at the court. The court shall rescind the ban in full or in part if, after having reserved the appropriate official with the power of arrest an opportunity to be heard, it deems that the prerequisites do not exist for keeping the travel ban in force. The provisions of Chapter 3, section 15, subsection 1 apply, as appropriate, to a new hearing on a travel ban imposed by the court.

Section 9 – *Validity of a travel ban*

(1) A travel ban imposed before charges are brought is in force until the main hearing, unless the ban has been ordered to end before this or it is separately rescinded earlier.

(2) When a court discontinues or adjourns the main hearing in a case in which a travel ban has been imposed on the defendant, it shall order whether the travel ban remains in force.

(3) When deciding on the charges the court may impose a travel ban on the defendant or order that a travel ban imposed on him or her be extended, only if the defendant is sentenced to unconditional imprisonment. A travel ban may be imposed on a defendant who is at liberty only at the request of the

prosecutor or of an injured person who has requested that the defendant be punished. The court may, on its own initiative, impose a travel ban on a remanded person or a person whose remand has been requested, as an alternative to remand. In such a case the travel ban is in force until the enforcement of the sentence begins or an appellate court orders otherwise.

Section 10 – Consequences of violation of a travel ban

If a person on whom a travel ban has been imposed violates the ban or absconds, begins to prepare to abscond, hinders the clarification of the matter or continues his or her criminal activity, he or she may be arrested and remanded. If a sentence of unconditional imprisonment imposed on him or her has already become enforceable, it may be enforced immediately.

Section 11 – Consideration of the question of a travel ban

The provisions on the request for and hearing on remand in Chapter 3, sections 1, 3, 5-7 and 18 apply as appropriate to the consideration in court of a travel ban. The absence of a party is no bar to a decision on the question. Also in the cases referred to in section 4, subsection 1 of this Chapter, the person on whom the travel ban has been requested shall be reserved an opportunity to be heard.

Section 12 – Appeal

(1) The decision of the court in the question of the travel ban is not subject to separate appeal.

(2) The person on whom a travel ban is imposed and the official with the power of arrest may file an extraordinary appeal on the basis of procedural fault against the decision of the court on the travel ban. The provisions of Chapter 3, section 19, subsections 1 and 2 apply as appropriate to the extraordinary appeal and its consideration.

Chapter 6 – Confiscation for security

Section 1 – Prerequisites for confiscation for security

(1) Property may be confiscated for security for the payment of a fine, of compensation or restitution on the basis of an offence, or of an amount declared forfeited to the State. A prerequisite for confiscation for security is that the property belongs to a person whom there are grounds to suspect in an offence or who may be ordered, as a consequence of an offence, to pay compensation or restitution or to forfeit an amount to the State, and the danger exists that said person will seek to evade payment of the fine, compensation, restitution or forfeiture by hiding or destroying property, fleeing or in another comparable manner. At the most the amount that can be deemed to correspond to the fine, compensation, restitution or forfeiture to be adjudged may be confiscated for security.

(2) Confiscation for security may be imposed on the property of a corporate body also if there are grounds to suspect that an attempt will be made in behalf of the corporate body, by hiding or destroying property or in another comparable manner, to evade payment of a corporate fine. The provisions in this Chapter on confiscation for security of property belonging to a suspect in an offence apply as appropriate to a corporate body.

Section 2 – Deciding on confiscation for security

(1) A court decides on confiscation for security.

(2) Before charges are brought, an official with the right of arrest may submit a request for confiscation for security. After charges are brought, the public prosecutor and also an injured person seeking compensation or restitution for himself or herself may submit the request for security.

(3) The provisions of Chapter 3, sections 1, 3, 5, 6 and 18 on the request for and the consideration of remand apply, as appropriate, to consideration in court of confiscation for security.

Section 3 – Interim confiscation for security

(1) An official with the power of arrest may order interim confiscation for security if the matter does not brook delay and if the prerequisites provided in section 1 are evidently present. Before enforcement of the interim confiscation for security, the property in question may, by decision of said official, be taken into the possession of the criminal investigation authority if this is necessary in order to secure enforcement. (1146/2013)

(2) Interim confiscation for security lapses if no request is made to the court for confiscation for security within one week of the issuing of the interim order. An official with the power of arrest shall submit the register notice referred to in Chapter 4, section 33 of the Execution Code (705/2007) regarding lapse and rescinding of the interim confiscation for security as well as regarding a decision by which the court has denied the request for confiscation for security of the property that is in interim confiscation for security.

(3) A record shall be made without undue delay of the interim confiscation for security, indicating with sufficient detail the purpose of the confiscation for security, explaining the procedure that has resulted in said confiscation and identifying the property in question. A copy of the record shall be delivered without delay to the person whose property has been subjected to the interim confiscation for security.

(4) If the decision of the prosecutor referred to in subsection 1 has been sent to another Member State of the European Union as a freezing order referred to in the Act on Execution in the European Union of Orders Freezing Property or Evidence (540/2005), however, the measure does not lapse unless the request for confiscation for security has not been submitted to the court within a week of when the prosecutor has been informed of execution of the interim confiscation for security. The prosecutor shall inform without delay the authority of the other Member State to which the interim measure has been sent for execution of the lapse of the measure.

Section 4 – *Rescission of the measure*

(1) An official with the power of arrest shall rescind the interim confiscation for security before the court hearing, and the court shall rescind the confiscation for security, when sufficient security has been lodged for the payment of the fine, compensation, restitution or amount to be forfeited or there are otherwise no longer grounds for keeping the security measure in force. An official with the power of arrest shall submit a request to the court for rescission of the confiscation for security if prerequisites for it no longer exist.

(2) The court shall rescind the confiscation for security also if no charges are brought within four months of when the order for confiscation for security was issued. The court may, on the request submitted by an official with the power of arrest at the latest one week before the time limit, extend said time limit at the most by four months at a time. The court shall take the matter of the extension of the time limit up for consideration without delay and decide it

within the time limit. A person affected by the matter shall be reserved an opportunity to be heard in connection with the consideration of the extension of the time limit. The matter may, nonetheless, be decided without hearing said person if he or she cannot be contacted.

Section 5 – Reconsideration of confiscation for security

(1) On the request of the person concerned, the court shall decide whether or not the confiscation for security shall be kept in force. The request shall be taken up for consideration within a week of when it arrived in court. However, confiscation for security need not be taken up for reconsideration before two weeks have elapsed since the previous consideration.

(2) In connection with reconsideration of the matter, the official with the power of arrest shall be reserved an opportunity to be heard.

Section 6 – Separation of the question of compensation for separate consideration

If the court separates the request for compensation for separate consideration, it shall state, when deciding on separation, whether the confiscation for security is to be kept in force.

Section 7 – Deciding on confiscation for security when deciding on the principal claim

(1) When a court imposes a fine, compensation, restitution or forfeiture, and confiscation for security has been imposed for payment of this, the court shall decide whether the confiscation for security is to be kept in force until the fine, compensation, restitution or sum of money order forfeited is paid, execution has been carried out for its payment or another order is issued in the matter.

(2) If the court decides on the basis of subsection 1 that the confiscation for security ordered for security of payment of compensation or restitution is to be kept in force, it may impose a time limit calculated from when the decision becomes enforceable, within which period enforcement shall be sought under threat that otherwise the confiscation for security lapses.

(3) The court may, when dismissing the charges or the request for compensation, restitution or forfeiture, order that the confiscation for security remain in force until the decision becomes enforceable.

Section 8 – Deciding on confiscation for security on the basis of a request from a foreign state for mutual legal assistance

(1) If someone has, on the basis of a decision by a court of a foreign state in a criminal case, been ordered to forfeit an amount of money or if there are justified grounds to assume that someone shall, in a criminal case being considered by the authorities of a foreign state, be ordered to forfeit an amount of money, his or her property may, on the request of an authority of the foreign state in question, be confiscated for security. The request for confiscation for security may be made by an official with the power of arrest.

(2) In the case referred to in subsection 1, the decision on confiscation for security is made by the district court with jurisdiction over where the defendant has property that may be confiscated for security or where the matter may otherwise be appropriately considered. When the court decides on the confiscation of property for security it shall at the same time determine the period that the confiscation for security is in force. The court may on a request submitted by an official with the power of arrest at the latest one week before the end of this period extend said period. The court shall take the matter of the extension of the period up for consideration without delay and decide it within said period.

(3) The provisions of sections 1–3, section 4, subsection 1 and sections 9 and 10 as well as of the Act on Mutual Legal Assistance in Criminal Cases (4/1994) otherwise apply as appropriate to confiscation as security.

(4) Instead of the provisions of subsections 1-3, the provisions of the Act on Execution in the European Union of Orders Freezing Property or Evidence apply to a request for execution of a freezing order received from a Member State of the European Union, as referred to in said Act.

Section 9 – Appeal

The decision of a court on confiscation for security is subject to separate appeal. Appeal does not prevent confiscation of property for security or the keeping of property for security, unless the court considering the appeal orders otherwise. In rescinding confiscation for security or interim confiscation for

security, the court may order that the confiscation for security remains in force until the decision becomes legally final.

Section 10 – *Enforcement of the measure*

(1) Confiscation for security and interim confiscation for security is performed by execution authorities in accordance with, as appropriate, the provisions of Chapter 8 of the Execution Code on enforcement of a decision on precautionary measures. Nonetheless, the security referred to in section 2 of said Chapter need not be lodged as collateral for the loss that the confiscation for security or interim confiscation for security may cause the defendant, unless the court, for a special reason and at the time that it orders confiscation for security for payment of compensation or restitution to an injured person, orders the injured person to lodge security. (1146/2013)

(2) In ordering confiscation for security, the court may at the same time issue more detailed orders on its enforcement.

Section 11 – *Liability for compensation and the payment of expenses*

The provisions of Chapter 7, section 11 of the Code of Judicial Procedure apply, as appropriate, to compensation for damage caused by, and the expenses incurred in, confiscation for security and interim confiscation for security.

Chapter 7 – Confiscation and copying of a document

Section 1 – *Prerequisites for confiscation*

(1) An object, property or document may be confiscated if there are grounds to suspect that:

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

(2) What is provided in subsection 1, paragraphs 1 and 2 also applies to information that is contained in a technical device or in another corresponding information system or in its recording platform (*data*). The provisions in this Chapter regarding a document apply also to a document that is in the form of data.

(3) The provisions in this Chapter on an object apply also to a substance. Part of an object may be detached from it to be used as evidence, if the investigative measure cannot otherwise be performed without considerable difficulties.

Section 2 – Copying of a document

(1) Confiscation of a document to be used as evidence in accordance with section 1, subsection 1, paragraph 1 shall be replaced by copying of said document if a copy is sufficient from the point of view of the credibility of testimony.

(2) A document shall be copied without undue delay after possession has been taken of it. After being copied it shall be returned without delay to the person from whom it was taken.

(3) If a document cannot be copied without delay due to the nature or extent of the document or documentation, the document shall be seized.

Section 3 – Prohibition of confiscation and copying connected to close persons and the obligation and right to remain silent

(1) A document in the possession of the suspect in an offence or of a person related to him or her in the manner referred to in Chapter 17, section 20 of the Code of Judicial Procedure may not be confiscated or copied to be used as evidence, if it contains a message between the suspect and said person or between persons related to the suspect in the manner referred. Such a document may nonetheless be confiscated or copied if the maximum punishment for the offence under investigation is imprisonment for at least six years.

(2) A document may not be confiscated or copied to be used as evidence if it can be assumed to contain material on which a person referred to in Chapter 17, section 23, subsection 1 of the Code of Judicial Procedure may not testify in court proceedings or on which a person referred to in section 24, subsection 2 or 3 of said Chapter may refuse to testify, and the document is in the possession of the person referred to above or in the possession of a person in whose benefit the obligation or the right to remain silent has been provided.

(3) Notwithstanding subsection 2, a document may be confiscated or copied if the person may be required to testify on the basis of Chapter 17, section 23, subsection 3 of the Code of Judicial Procedure or if he or she may be required

to respond to a question on the basis of section 24, subsection 4, and the offence under investigation is one referred to in subsection 1 of this section.

(4) Notwithstanding subsections 1 and 2, a document may be confiscated or copied if it cannot be detached from other confiscated matter.

Section 4 – Prohibition of confiscation and copying connected to telecommunications interception, electronic surveillance and base station data

(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.

Section 5 – Confiscation and copying of a delivery

(1) A letter, package or other corresponding delivery intended for or sent by a person suspected in an offence may be confiscated or copied before it reaches its recipient, if the most severe punishment provided for the offence is imprisonment for at least one year and the delivery may, according to this Act, be confiscated or copied from the possession of the recipient.

(2) If the recipient may, without hampering the investigation of the offence, be notified in full or in part of the contents of the confiscated or copied delivery, the delivery or another account of its contents shall be delivered to him or her without delay.

Section 6 – Interruption of a delivery for confiscation or copying

(1) If there are grounds to suspect that a letter, package or other corresponding delivery that may be confiscated or copied is arriving or has already arrived at a

post office, at a rail traffic point or to the office of someone who transports deliveries on a professional basis in traffic or otherwise, an official with the power of arrest may order that the delivery be kept at the post office, traffic point or office until the confiscation or copying has been accomplished.

(2) The order referred to above in subsection 1 may be given for at the most one month at a time, said period beginning when the manager of the post office, traffic point or office has been informed of the delivery. The delivery may not, without the permission of an official with the power of arrest, be given to anyone other than said official or a person designated by him or her.

(3) The manager of the post office, traffic point or office shall immediately inform the person who has issued the order of the arrival of the delivery. Said person shall decide without undue delay on the confiscation or copying of the delivery.

Section 7 - Authority deciding on confiscation and copying of a document

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

Section 8 - Taking possession for confiscation and copying of a document

(1) In apprehending a suspect in an offence or in connection with a search, a police officer may take possession of an object, property or document for the purpose of confiscation or copying even without the order of an official with the power of arrest. A police officer may do so without an order also in other cases, if the matter does not brook delay.

(2) An official with the power of arrest shall be notified without delay of the taking of possession, and he or she shall decide without undue delay on whether the object, property or document is to be confiscated or whether the document is to be copied. The police officer may, without notification, immediately return something he or she has taken possession of, if it becomes apparent that the prerequisites for confiscation or copying would apparently nonetheless not exist.

Section 9 - Notification of the taking of possession

(1) The person from whose possession an object, property or document has been taken for confiscation or copying shall be notified of this without delay, if he or she had not been present when possession was taken of the object, property or document. If necessary, also another person whose object, property or document is in question shall be notified of the taking into possession. Notice of this shall also be given to the recipient and sender of a letter, package or other corresponding delivery, if their address is known.

(2) By a decision of an official with the power of arrest, the giving of notice may be deferred by at most one week from the date of taking into possession, if there is an important investigative reason for this. After this, the court may at the request of the official referred to decide on the postponement of the notice by at most two months at a time. Nonetheless, the notice shall be given without delay at the conclusion of the criminal investigation. The request for continuation of the period shall be made to the court at the latest one week before the conclusion of the period. The court shall take up for consideration the matter of the extension of the period without delay and decide it within the period.

Section 10 – *Register notice*

The authority who decided the measure shall file the register notice referred to in Chapter 4, section 33 of the Execution Code regarding the confiscation and the revocation of the confiscation, if the object of the confiscation is an object or property referred to in said section.

Section 11 – *Opening and examination of certain documents*

(1) A sealed letter or other sealed private document that has been confiscated or taken for confiscation may be opened only by the head investigator, prosecutor or court or, at the order of the head investigator, a police officer.

(2) If needed and by the decision of the head investigator, an expert in the information system that is the object of the measure or in its recording platform may assist in the opening of a document that is in the form of data.

(3) In addition to the persons and the court referred to above in subsection 1, an opened document may be examined only by the investigator in the case and, as indicated by the head investigator, prosecutor or court, an expert or another person who is assisting in the clarification of the offence or who is otherwise being heard in the matter.

Section 12 – *Record*

(1) A record shall be prepared without undue delay on the confiscation of an object, property and document and on the copying of a document. The record shall sufficiently state the purpose of the confiscation or copying, explain the procedure that has led to the confiscation or copying, specify the object of the confiscation or the document copied and give notice of the right to submit the confiscation or copying to the consideration of the court.

(2) A copy of the record shall be delivered without delay to the person whose object, property or document has been confiscated or copied. A copy of the record shall not be delivered during the period in which notice of the taking of possession has been deferred on the basis of section 9, subsection 2.

Section 13 – *Management of a confiscated object*

(1) The person carrying out the confiscation shall take possession of the confiscated object, property and document, or place it in secure custody.

(2) The object of the confiscation may be left with the person who had it in his or her possession, unless this would endanger the purpose of the confiscation. In such a case the person in possession shall be prohibited from alienating, losing and destroying the object. In addition the object shall if necessary be marked so that it is clearly seen to be confiscated. The person in possession may be prohibited from using the object.

(3) The object of the confiscation shall be preserved as such and it shall be managed with care. A chief of police or the chief of a national police unit may order that the object be sold immediately if it becomes apparent that it spoils easily, dissipates quickly, loses value quickly or is especially expensive to manage. Tests may be taken on an object confiscated for evidentiary purposes if these are necessary to clarify the offence.

Section 14 – *Rescission of confiscation*

(1) Confiscation shall be rescinded as soon as it is no longer necessary.

(2) Confiscation shall be rescinded also if no charges are brought for the underlying offence within four months of the confiscation of the object, property or document. A court may, at the request of an official with the power

of arrest, extend the period of confiscation by at most four months at a time, if the prerequisites for confiscation continue to exist and, with consideration to the grounds for the confiscation and the prejudice caused by the confiscation, continuing to keep the confiscation in force is not unreasonable. For special reasons related to the nature of the criminal case in question and its clarification, the confiscation may be extended by at most one year at a time or a decision made that the confiscation shall remain in force for the time being. The confiscation may be ordered to remain in force for the time being also if possession of the object, property or document in question is prohibited.

(3) The request referred to above in subsection 2 shall be presented at the latest one week before the end of the time period. The court shall take the question of the extension of the time period up for consideration without delay and decide it within this time period. A person who is affected by the matter shall be reserved an opportunity to be heard. However, the matter may be decided even without hearing said person, if he or she cannot be contacted.

Section 15 – Requesting that confiscation or copying be considered by the court

(1) On the request of the person concerned in the matter, the court shall decide whether the confiscation is to remain in force or whether the copy of the document is to be retained to be used as evidence. A prerequisite for maintenance in force or retention is that the prerequisites for confiscation or copying continue to exist. In addition, maintaining the confiscation in force may not be unreasonable, with consideration to the grounds for the confiscation and the prejudice caused by the confiscation. The court may, on request, also decide that a document is to be copied instead of retained in confiscation.

(2) A request referred to in subsection 1 submitted before the beginning of the consideration of the charges shall be taken up for consideration within a week of when it reached the court. What is provided in Chapter 3, sections 1 and 3 regarding the consideration of a request for remand applies as appropriate to its consideration. However, the confiscation or the retention of a copy of a document need not be taken up for reconsideration within two months of the previous consideration of the matter. A person who is affected by the matter shall be reserved an opportunity to be heard. However, the matter may be decided without hearing said person, if he or she cannot be contacted.

Section 16 – *Destruction of a copy of a document*

If a copy of a document prepared on the basis of section 2 proves to be unnecessary or if the court decides that it is not to be retained for use as evidence, the copy shall be destroyed. Destruction may be postponed until the decision of the court becomes legally final.

Section 17 – *Authority deciding on the rescission of confiscation and on non-retention of a copy of a document*

(1) An official with the power of arrest decides on rescission of confiscation and on non-retention of a copy of a document for use as evidence. During the consideration of charges, the decision may be made only by the prosecutor unless what is at issue is only the restoration of a confiscated object, property or document to the person who is entitled to it.

(2) The court decides on rescission of confiscation or on non-retention of a copy of a document, if it had decided on the confiscation or the copying of the document, or if a request has been presented in the proceedings in respect of the confiscated object, property or document.

Section 18 – *Postponement of the return of an object, property or document*

In rescinding confiscation or in ordering that confiscation shall no longer be kept in force, the court may on the request of an official with the power of arrest order that the confiscated object, property or document shall not be returned to the person who is entitled to it, before the period set at the same time by the court elapses or the decision of the court becomes legally final.

Section 19 – *Reconfiscation or recopying*

(1) If confiscation has been rescinded or if it has been decided that a copy of a document is not to be retained for use as evidence, the authority who made the decision may order that the object, property or document be reconfiscated or decide to amend the decision on the copying of the document. A prerequisite for this is a relevant circumstance that has not become known until after the previous decision.

(2) The matter is considered in court on the request of an official with the power of arrest, following as appropriate section 15, subsection 2.

Section 20 – Deciding on the validity of confiscation in deciding on the charges

When deciding on the charges, the court shall decide whether or not the confiscation shall remain valid until the forfeiture sanction has been enforced or other orders are issued.

Section 21 – Deciding on confiscation on the basis of the request of a foreign state for mutual legal assistance

(1) An object, property, document or data may be confiscated 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 confiscated 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 confiscation shall, within a week of the decision, submit the decision on confiscation for affirmation of the district court with jurisdiction over where the confiscation was carried out. The court affirming the confiscation shall at the same time establish the period of validity of the confiscation. The court may, on the request of the authority who decided on the confiscation, submitted before the end of the period of validity of confiscation, 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 confiscation. The prosecutor shall, when necessary, inform an authority that had earlier considered the question of confiscation about the decision on confiscation.

(3) If an object, property or document has been confiscated 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 confiscation, that the object of the confiscation 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 confiscation 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).

Section 22 – Appeal

(1) A decision by the court on confiscation or on the copying of a document is subject to separate appeal. The appeal does not prevent the confiscation or the copying of the document.

(2) A decision on the extension of the period of validity of confiscation is not subject to appeal.

Section 23 – Return of a confiscated object, property or document

(1) If, in connection with the consideration of charges, several persons claim for themselves a confiscated object, property or document that is to be returned,

the court shall order that the dispute over the better right is to be considered separately in accordance with the procedure provided for civil proceedings. At the same time, the court shall order the period within which the action is to be brought. The court may, however, consider the question of the better right in connection with the consideration of the charges, if this does not delay consideration of the matter.

(2) If no charges are brought and if several persons claim a confiscated object, property or document that is to be returned, an official with the power of arrest may set the period referred to in subsection 1 for the bringing of an action. The property shall be retained by the police during the period established by the court or by an official with the power of arrest, until the question of the better right has been decided in a legally final manner or, before such time, possession has otherwise proved to be unnecessary for another reason. If the action is not brought within said period, the property may be disposed of as provided in subsection 3.

(3) If, after the confiscation has been rescinded, a confiscated object, property or document is to be returned to its owner or to another person who has a right to it, and said person does not take possession of the object of confiscation within three months of the notice sent by the police, the right of ownership to the object, property or document is transferred to the state or, if the object is a found object, the right of ownership is transferred to the finder in the manner provided in the Found Goods Act (778/1988).

(4) If the owner of an object, property or document to be returned or the other person who has a right to it is not known to the police, the police shall clarify the matter to the extent possible. If needed, a public notice shall be issued. If no one claims the object of confiscation within six months of the issuing of the notice, the object reverts to the state or, if the object is a found object, to the finder in the manner referred to in the Found Goods Act. The National Board of Police shall issue more detailed provisions on the giving of notice.

Section 24 – *Measure replacing confiscation*

(1) On the basis of a decision of an official with the power of arrest, an object of trivial value or an object the possession of which is punishable may, instead of confiscation, be destroyed, transferred to the state or sold, if the object would evidently be ordered forfeited to the state and it is not needed as evidence in court proceedings.

(2) The prosecutor may order the measure referred to in subsection 1 if, on the basis of Chapter 1, section 7 or 8 of the Criminal Procedure Act or of another corresponding provision, he or she has decided to waive prosecution and the object would evidently be ordered forfeited to the state.

(3) The measure referred to above in subsection 1 shall be made in a verifiable manner and notice of this shall be given without delay to the person from whom or in whose premises possession has been taken of the object, if he or she was not present when possession was taken of the object.

(4) The provisions of Chapter 4 of the Enforcement of Fines Act (672/2002) apply as appropriate to the measure referred to above in subsection 1 and to the right of the person in question to compensation. A record shall be made of the measure or a notation shall be made into another document.

Section 25 – *Reference provision*

In addition to the provisions of this Chapter, the provisions issued separately in law on confiscation and on destruction in lieu of confiscation apply.

Chapter 8 – Search

Search of the premises

Section 1 – *Definitions*

(1) Searches of premises as referred to in this Chapter are search of a domicile, which may be a general or a special search of a domicile, and search of an area.

(2) A *general search of a domicile* refers to a search of the premises which are referred to in Chapter 24, section 11 of the Criminal Code as having the protection of domiciliary peace.

(3) A *special search of a domicile* refers to a search of premises in which it can be assumed that the object of the search would reveal information in respect of which a person referred to in Chapter 17, section 23, subsection 1 of the Code of Judicial Procedure may not testify in court proceedings or in respect of which a person referred to in section 24, subsection 2 or 3 of said Chapter may refuse to testify and in respect of which, on the basis of Chapter 7, section 3 of this Act, no confiscation or copying of a document may be directed.

(4) A *search of an area* refers to a search of premises that is conducted in an area other than that referred to in subsections 2 and 3, even though the public does not have access to it or public access has been restricted or prevented at the time that the search is conducted, or that is directed at a means of transport.

Section 2 – *Prerequisites for a search of premises*

(1) A general or a special search of premises may be conducted in an area occupied by a suspect in an offence if:

(1) 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 is circumstances connected to the imposition of a corporate fine; and

(2) it can be assumed that the search will uncover the following, in connection with the offence under investigation:

(a) an object, property, document or information to be confiscated as referred to in Chapter 7, section 1, subsection 1 or 2;

(b) a document that may be copied in accordance with Chapter 7, section 2;

(c) property which may be confiscated for security; or

(d) a circumstance that may be of significance in the investigation of the offence.

(2) A search of premises in accordance with the prerequisites in subsection 1, paragraph 1 may be conducted in a place that is not occupied by the suspect only if the offence had been committed there or the suspect had been apprehended there or if otherwise it can be assumed on very justifiable grounds that an object, property, document, information or circumstance referred to in subsection 1, paragraph 2 shall be found in the search. (1146/2013)

Section 3 – *General search of a domicile in order to find a person*

(1) A general search of a domicile may be conducted in order to find a person to be brought to a criminal investigation, a person to be apprehended, arrested or remanded, a person to be brought to court or to be summoned to court as a

defendant in a criminal case, or a person to be delivered to a bodily search, in a place that he or she occupies.

(2) A general search of a domicile may be conducted in a place occupied by a person other than the person who is sought only if there are very justifiable grounds to assume that the person who is sought is to be found there.

Section 4 – Prerequisites for a search of premises

A search of premises may be conducted in order to find an object, property, document, information or circumstance on the prerequisites provided in section 2, subsection 1, paragraph 2 and in order to find a person referred to in section 3, subsection 1.

Section 5 – Presence during a search of a domicile

(1) Where possible, a witness summoned by the person conducting the search shall be present during the search of a domicile.

(2) The person in whose domicile the search is conducted or, in his or her absence, a person residing, working or otherwise authorised to be present there, shall be reserved an opportunity to be present during the search and to summon a witness. Such opportunity need not be provided if this would significantly delay the measure. If none of the persons referred to or the witness summoned by them has been present during the measure, the person whose domicile has been searched shall be notified without delay of the search and of the right in accordance with section 6 to receive on request a copy of the decision on the search, of the right in accordance with section 18 to submit the question of the search to the consideration of the court, as well as of the right in accordance with section 19 to receive a copy of the record. (1146/2013)

(3) The person conducting the search may be assisted in a search of a domicile by the injured person, his or her representative, an expert or another person who can provide information that is necessary in order to achieve the purpose of the search. However, the person conducting the search shall ensure that the person in question does not receive confidential information and information on other circumstances beyond what is necessary.

(4) A special search of a domicile may not be conducted in the absence of a search representative.

Section 6 – Procedure in a search of a domicile

(1) At the beginning of a search of a domicile, the person referred to in section 5, subsection 2 who is present shall be informed of the purpose of the search and he or she shall be given a copy of the search warrant. If there is as yet no written search warrant, said person shall be informed of the right to receive on request a copy of the warrant. In addition he or she shall be notified of the right in accordance with section 18 to submit the question of the search of a domicile to the consideration of the court and of the right in accordance with section 19 to receive a copy of the record. (1146/2013)

(2) The provisions of the search warrant shall be followed in a search of a domicile. The search shall be conducted so that it does not cause hindrance or damage beyond what is necessary. The premises subject to the search may if necessary be opened with force. Opened premises shall be closed in a suitable manner after the search has been concluded.

(3) A person present at the site of a search of a domicile may be removed if this is necessary on the grounds that he or she by his or her behaviour is hindering the conduct of the search or endangering the achievement of its purpose. His or her movement at the site of the search may also be restricted in order to prevent him or her from obtaining information that by law is confidential, or in order to ensure the cordoning off of the site or object of search referred to in Chapter 9, section 1. A prerequisite for removal or restriction is that this is necessary in order to achieve the purpose of the removal or restriction. (1146/2013)

(4) A search of a domicile may not, without special reason, be conducted between 10 pm and 7 am.

Section 7 – Search representative

A search representative shall be appointed for a special search of a domicile in order to ensure that confiscation or copying is not directed at information referred to in section 1, subsection 3.

Section 8 – Qualification requirements for a search representative

(1) An advocate, a public legal aide or another person who has completed a higher academic degree and who, on the basis of his or her expertise and practical experience and in consideration of the object of the search is suitable

for the task in the case in question, shall be appointed, subject to his or her consent, as search representative. A person who is suspected of, charged for or convicted of an offence that is conducive to lessening his or her credibility as search representative may not be appointed as search representative.

(2) The provisions in Chapter 11, section 3 of the Criminal Investigation Act (805/2011) on the qualifications of counsel apply as appropriate to the qualifications of the search representative in an individual case.

(3) A search representative may not, without the permission of the authority who has appointed him or her, take someone in his or her stead. His or her appointment may be withdrawn for a valid reason.

Section 9 – Obligations of a search representative

(1) The function of the search representative is to carefully and without undue delay ensure that confiscation or copying of a document is not directed at information referred to in section 1, subsection 3. The search representative shall be present when the search of a domicile is conducted and observe the performance of search measures.

(2) A search representative and a person who has been requested to serve as a search representative may not, without right, reveal what they have learned as a result of the function or in being requested to serve in the function.

Section 10 – Fee and compensation for a search representative

(1) The search representative is paid a fee and compensation from state funds in accordance, as appropriate, with the provisions of sections 17 and 18 of the Legal Aid Act (257/2002) on the payment of a fee and compensation to counsel.

(2) A decision on payment of a fee and compensation to a search representative is subject to appeal. The provisions on appeal of the decision of the court in question apply in seeking such appeal.

Section 11 – Taking into consideration the views of the search representative

The person conducting the special search of a domicile shall take into appropriate consideration the opinion of the search representative regarding the suitability of data for confiscation or the copying of a document. If, in

connection with the search, documentation is confiscated, copied or otherwise taken into possession regardless of the opposition of the search representative, said documentation may not be examined further, and it shall be sealed. The contested documentation shall be limited in a manner that is appropriate from the point of view of the court proceedings and from the point of view of securing the sufficient obligation of confidentiality and right to remain silent.

Section 12 – Consideration in court of sealed documentation

(1) An official with the power of arrest shall, without delay and at the latest within three days of the sealing referred to in section 11, submit to the decision of the court, whether sealed documentation may be examined or used. Consideration of the matter is initiated in court with a written application, in which the matter is explained with sufficient detail and to which is appended not only the sealed documentation but also the record referred to in section 19.

(2) The matter concerning the sealed documentation is decided by the court having jurisdiction in the consideration of the charges. Before charges are brought, the matter may be decided also by the district court with jurisdiction over where the place that is the object of the search is located. In considering the matter, the district court considering the matter has a quorum also with only the chairman present.

(3) The court shall take up for consideration without delay the matter of the sealed documentation and at the latest within seven days of its arrival at the court. The court shall reserve the search representative and the person whom the matter otherwise concerns an opportunity to be heard. The matter may, however, be decided without hearing said persons if they cannot be contacted.

(4) The court shall decide on whether the documentation or a part thereof may be confiscated or copied. The decision of the court on the sealed documentation is subject to separate appeal. If an appeal is lodged against the decision of the court, the documentation that is the subject of the appeal shall be kept sealed until the matter has been decided in a legally final manner. The appeal shall be considered with urgency.

Section 13 – Opening and examination of a private document

The provisions in Chapter 7, section 11 apply to the opening and examination of a private document found in a search of a domicile. A document found in a

special search of a domicile, however, may be examined only by a search representative.

Section 14 – *Provisions that apply to a search of the premises*

If the search of the premises is directed at a place to which the public does not have access or to which public access is restricted or prevented at the time that the search is conducted, sections 5, 6, 13, 16 and 19 apply as appropriate to the search.

Section 15 – *Decision on a search of the premises*

(1) An official with the power of arrest decides on a general search of a domicile. The court decides on a special search of a domicile and on the appointment of a search representative.

(2) If during a search of a domicile or a search of the premises it becomes evident that the search is directed at data that is referred to in section 1, subsection 3, or if it is necessary that a special search of a domicile shall be conducted urgently, an official with the power of arrest decides on the conduct of the search of the domicile and on the appointment of the search representative.

(3) A police officer may, without a decision of an official with the power of arrest, conduct a general search of a domicile or a search of the premises in order to find a person or to confiscate an object that could be followed or traced from the actual act of commission of an offence. A police officer may, without a decision of an official with the power of arrest, conduct a general search of a domicile or a search of the premises also when the immediate conduct of the search is necessary due to the urgency of the matter.

Section 16 – *Decision on the search of a domicile*

(1) The decision on search of a domicile shall, where possible and with sufficient detail, specify:

(1) the premises subject to the search;

(2) the circumstances on the basis of which the prerequisites for a search are seen to exist;

(3) what the search is intended to find; and

(4) possible special restrictions on the search.

(2) When required by the urgency of the matter, the decision of an official with the power of arrest may be recorded after the search has been conducted.

Section 17 – Consideration in court of a special search of a domicile

(1) The decision on a special search of a domicile is made by the court having jurisdiction in the consideration of the charges. Before charges are brought, the decision on a search may be made also by the district court with jurisdiction over the place where the object of the search is located. The district court considering the matter has a quorum also with only the chairman present.

(2) The request for a special search of a domicile is submitted by an official with the power of arrest. The request shall be taken up without delay for consideration by the court in the presence of the public official who made the request or of a public official designated by him or her and who has become familiar with the matter. The consideration may also be conducted through the use of a video conference or other suitable technical means of communication in which the participants in the consideration are in audio and visual contact with one another. The matter is decided without hearing the person at whose domicile the special search is to be conducted.

(3) The court decision on the special search of a domicile is not subject to appeal. An official with the power of arrest may, without time limit, file an extraordinary appeal on the basis of procedural fault. The extraordinary appeal shall be considered urgently.

Section 18 – Submission of a search of a domicile to the consideration of the court

(1) The court shall decide, on the request of the person in whose domicile the search was conducted, whether the prerequisites for the search had existed or had the procedure provided in sections 5 or 6 been followed in the search of the domicile. The request shall be made within 30 days of the conduct of the search of the domicile or from a later date at which the person who presented the request had been informed of the conduct of the search.

(2) The provisions in Chapter 3, sections 1 and 3 on the consideration of a request for remand apply as appropriate to the consideration of a request for a

search of a domicile. The person presenting the request and the official with the right of arrest shall be reserved an opportunity to be heard. The matter may be decided in the court office without a hearing, if the court deems this appropriate. (1146/2013)

(3) The decision of the court in a matter referred to in this section is subject to appeal.

Section 19 – *Record*

(1) The person conducting the search shall, without undue delay, prepare a record of the search of a domicile, which describes the search procedure with sufficient detail. The statements of the search representative shall be recorded in or annexed to the record to the extent necessary.

(2) On request, a copy of the record shall be given to the search representative and to the person in whose domicile the search has been conducted. If necessary, a copy shall be delivered also to another person concerned in the matter.

Search of data contained in a device

Section 20 – *Definition of a search of data contained in a device*

(1) A *search of data contained in a device* refers to a search that is directed at the data that is contained at the time of the search in a computer, a terminal end device or in another corresponding technical device or information system.

(2) A search of data contained in a device may not be directed at a confidential message, in respect of which Chapter 10 contains provisions on telecommunications interception, traffic data monitoring and technical surveillance. (1146/2013)

Section 21 – *Prerequisites for a search of data contained in a device*

(1) A search of data contained in a device may be conducted if:

(1) 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

(2) it may be presumed that the search can lead to the discovery of a document or data to be confiscated as referred to in Chapter 7, section 1, subsections 1 or 2 or to a document to be copied on the basis of Chapter 7, section 2, and that is connected with the offence under investigation.

(2) A search of data contained in a device may also be conducted in order to return the device to a person entitled to it, if there are grounds to suspect that it has been taken from someone by an offence.

(3) The decision on the conduct of a search of the premises may be extended to cover also a technical device or information system in said premises, if the search in question is not one intended to find a person.

Section 22 – Taking possession of a device

(1) A police officer may take possession of a technical device in order to conduct a search of data contained in the device. The device shall be returned after the search without undue delay to the person from whose possession it was taken or who otherwise is entitled to it.

(2) If the search of the device cannot be conducted without delay, the device shall be confiscated.

Section 23 – The obligation of a person possessing an information system to provide information

(1) A person possessing or maintaining an information system or other person is required to provide to a criminal investigation authority at its request the passwords and other corresponding information necessary to conduct the search of data contained in a device. On request, a written certificate shall be given to the person to whom the request was made.

(2) If a person refuses to provide the information referred to in subsection 1, he or she may be heard in court in the manner provided in Chapter 7, section 9 of the Criminal Investigation Act.

(3) The provisions above in subsection 1 do not apply to the suspect in the offence nor to a person referred to in Chapter 7, section 3, subsection 1 or 2 who has the right or the obligation to refuse to testify.

Section 24 – Data retention order

(1) If, before the search of data contained in a device, there is reason to assume that data that may be of significance for the clarification of the offence is deleted or is changed, an official with the power of arrest may issue a data retention order. Such an order requires that a person holding or administering data, not however the suspect in an offence, maintains the data unchanged. The order may apply also to data that can be assumed to be transmitted to a device or information system within the month following the issuing of the order. On request a written certificate shall be given of the order, detailing the data that is the object of the order.

(2) What is provided in subsection 1 applies also to data in a message transmitted by an information system that relates to the origin, destination, routing and size of the message as well as to the time, duration, nature and other corresponding factors of the transmission (*transmission information*). (1146/2013)

(3) A criminal investigation authority does not, on the basis of the retention order referred to in subsection 1, have the right to obtain information on the contents of the message, transmission information or other recorded information. If several service providers have participated in the transmission of the message referred to in subsection 2, a criminal investigation authority has the right to obtain the transmission information necessary to identify the service providers. (1146/2013)

Section 25 – Period of validity of a data retention order

A data retention order is issued for three months at a time. The order may be renewed when required by the investigation of the offence. The order shall be rescinded as soon as it is no longer necessary.

Section 26 – Secrecy of a data retention order

(1) A person who has received a data retention order is obliged to keep the order secret.

(2) The punishment for violation of the obligation of secrecy in respect of a data retention order is imposed in accordance with Chapter 38, section 1 or 2 of the Criminal Code, unless a more severe punishment is provided elsewhere in law for the act.

Section 27 – Search of data contained in a device as a remote search

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, in which 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.

Section 28 – Application of the provisions on search of the premises

When a search of data contained in a device is conducted in connection with a search of the premises, the provisions on search apply. In other cases the provisions of sections 5-13 and 19 apply, as appropriate, to presence, procedure, the search representative, the opening and examination of a document and the record.

Section 29 – Decision on a search of data contained in a device

An official with the power of arrest decides on a search of data contained in a device and, in the urgent situation referred to in section 15, subsection 3, a police officer applying, as appropriate, what is provided in section 16. If the matter concerns data referred to in section 1, subsection 3, the provisions in section 15, subsections 1 and 2 and section 17 on special search of a domicile apply, as appropriate.

Personal search

Section 30 – Types of personal search

A personal search may be a:

- (1) *frisk* in order to investigate what the person frisked has in his or her clothes or otherwise on him or among the possessions that he or she has with him or her; or a
- (2) *bodily search*, which includes an inspection of the body of the person being investigated, the taking of a blood sample or other sample, or other search directed at the body.

Section 31 – Prerequisites for a frisk

(1) A frisk to find an object, property, document, data or circumstance may be carried out on the grounds provided in section 2, subsection 1, paragraph 2 on a person who is suspected of:

- (1) an offence for which the most severe punishment provided is imprisonment for at least six months;
- (2) petty assault;
- (3) petty theft, petty embezzlement, petty unauthorized use, petty stealing of a motor vehicle for temporary use, possession of a burglary implement, petty alcohol offence;
- (4) petty damage to property; or
- (5) petty fraud.

(2) A person other than someone suspected for the offence may be frisked only if there are very valid grounds for assuming that the frisk shall lead to the finding of an object, property, document, data or circumstance referred to in section 2, subsection 1, paragraph 2.

Section 32 – *Prerequisites for a bodily search*

(1) A bodily search may be conducted on a person suspected in an offence in order to find an object, property, document, data or circumstance on the prerequisites provided in section 2, subsection 1, paragraph 2, if there are probable grounds to suspect him or her of an offence for which the most severe punishment provided is imprisonment for at least one year, or of drunken driving or unlawful use of narcotics. If there are no probable grounds for the suspicion, the suspect may be frisked only if there are very justifiable grounds to assume that an object, property, document, data or circumstance referred to in said provision shall be found.

(2) If an offence has been committed for which the most severe punishment provided is imprisonment for at least four years, a bodily search necessary for the determination of a DNA profile, the taking of a gun powder sample or another corresponding test may be conducted also without the consent of a person who is not suspected of the offence in question. A prerequisite for such a bodily search is that the test has very important significance for the clarification of the offence on the grounds that the clarification of the offence would be impossible or essentially more difficult through the use of measures that encroach to a lesser extent on the rights of the subject of the test. The

DNA profile and the corresponding test results shall be destroyed and the preserved samples shall be destroyed when the matter has been decided in a legally final manner or dismissed without considering the merits.

Section 33 – Conduct of a personal search

(1) An official with the power of arrest decides on a person search. A police officer may, however, without a decision of an official with the power of arrest, conduct a search that is intended to confiscate an object that could be followed or traced from the actual act of commission of an offence, if the immediate conduct of the search is necessary due to the urgency of the matter or it is a question of the bodily search referred to in Chapter 9, section 2, subsection 1. Otherwise what is provided in sections 6, 13 and 19 of this Chapter apply as appropriate to the search.

(2) If a person is subject to a thorough personal search, it shall be conducted in separate premises reserved for this purpose. If personal search is conducted by other than medical personnel, a witness summoned by the official deciding on the search shall, if possible, be present. An examination requiring medical expertise may only be conducted by medical personnel.

(3) A bodily search may not be conducted by a member of the opposite sex, with the exception of medical personnel. The same applies to a frisk in which the body of the person being frisked is touched with the hand, or his or her bodily integrity is encroached upon in a corresponding manner. A member of the opposite sex who is not medical personnel may, nonetheless, conduct a bodily search which consists only of the taking of a saliva sample or a breathalyser test. With the exception of the taking of a blood sample, saliva sample, clinical test for intoxication and breathalyser test, no member of the opposite sex may be present at the bodily search.

(4) A bodily search may not result in significant impairment of the health of the subject of the search.

Application of other legislation

Section 34 – Reference provision

In addition to the provisions of this Chapter, what is separately provided in law on search applies.

Chapter 9 – Coercive measures related to special investigative means

Section 1 – Cordoning off the site or the object of an investigation

(1) In order to secure the clarification of an offence:

(1) a building or room may be closed;

(2) entry into a certain area or into the vicinity of a certain object being investigated, the removal of an object, or another corresponding measure may be prohibited.

(2) The provisions in Chapter 7 on confiscation apply as appropriate to the cordoning off of the site or object of an investigation.

Section 2 – Test to determine the consumption of alcohol or other intoxicating substance

(1) A police officer may order that the driver of a motor vehicle or another person acting in a capacity referred to in Chapter 23 of the Criminal Code is to submit to a test in order to determine the possible consumption of alcohol or another intoxicating substance. A bodily search may be conducted, without the need for a decision by an official with the power of arrest, in the case of a refusal to take the test or in order to ensure the taking of the test or a credible result of the test. The test shall be taken in a manner and with a measure that does not cause undue or unreasonable inconvenience to the person being tested.

(2) A customs officer and a border guard as well as an official appointed by the National Board of Traffic Safety to supervise traffic have in the performance of their duties the same competence as a police officer has in accordance with subsection 1.

Section 3 – Taking of personal identifying characteristics

(1) A police officer may take fingerprints, handprints and footprints, handwriting, voice and olfactory samples, photographs and information on identifying marks regarding a person suspected in an offence, for the purposes of identification, clarification of an offence and the registering of offenders (*personal identifying characteristics*).

(2) For serious reasons pertaining to a criminal investigation a police officer may take personal identifying characteristics for the purpose of identification and the clarification of an offence, regarding also a person other than the suspect in an offence, if the matter concerns an offence for which the most severe punishment provided is imprisonment for at least one year. Such personal identifying characteristics may not be used for other than the clarification of the offence that is being investigated nor may they be retained or registered for any other purpose.

(3) In the cases referred to in subsections 1 and 2, the taking of personal identifying characteristics may also be done by an official trained in this task who is serving in a police unit and has been appointed to the task by the commander of this police unit.

Section 4 – Preparation and recording of DNA profiles

(1) A suspect in an offence may be subjected to a bodily search necessary for the preparation of a DNA profile, if the most severe punishment provided for the offence is imprisonment for at least six months.

(2) A person who, in a legally final judgment, has been found guilty of an offence for which the most severe punishment provided is imprisonment for at least three years, may be subjected to a bodily search necessary for the preparation of a DNA profile during the period this person is serving the sentence for said offence in prison or is under care in a mental hospital after punishment has been waived in view of his or her mental state, unless a DNA profile has been prepared already during the criminal investigation of the offence.

(3) A DNA profile may, for the performance of the tasks provided in section 1, subsection 1 of the Police Act (872/2011), be recorded in the Police Personal Data File. However, a DNA file that contains data on personal characteristics other than the sex of the person in question may not be recorded. The Act on the Processing of Personal Data in Police Work (761/2003) contains provisions on the deletion of DNA profiles from the register.

Chapter 10 – Covert coercive means

General provisions

Section 1 – Scope of application

(1) Telecommunications interception, the obtaining of data other than through telecommunications interception, traffic data monitoring, the obtaining of base station data, extended surveillance, covert collection of intelligence, technical surveillance (on-site interception, technical observation, technical monitoring and technical surveillance of a device), the obtaining of data for the identification of a network address or a terminal end device, covert activity, pseudo-purchase, the use of covert human intelligence sources and controlled delivery may be used in criminal investigation in secret from their subjects. The Police Act contains provisions on the use of these measures in the prevention or detection of offences.

(2) The provisions in this Chapter on the right of a criminal investigation authority or criminal investigation official to use coercive means applies, with the exception of covert activity, pseudo-purchase and the guided use of an information source, not only to the police but also to the Border Guard, Customs and military authorities as provided separately in law.

Section 2 – Prerequisites for the use of covert coercive means

(1) A general prerequisite for the use of covert coercive measures is that their use may be assumed to produce information needed to clarify an offence.

(2) In addition to what is provided below on the special prerequisites for the use of covert coercive measures, telecommunications interception, the obtaining of data other than through telecommunications interception, extended surveillance, on-site interception, technical observation, technical monitoring of a person, technical surveillance of a device, covert activity, pseudo-purchase, the use of covert human intelligence sources and controlled delivery may be used only if they can be assumed to be of particularly important significance in the clarification of an offence. An additional prerequisite for the use of covert activity, pseudo-purchase and on-site interception in domestic premises is that this is necessary for the clarification of an offence.

(3) The use of covert coercive measures shall be terminated before the end of the period designated in the decision, if the purpose of their use has been achieved or their prerequisites no longer exist.

Coercive telecommunications measures

Section 3 – Telecommunications interception and its prerequisites

(1) *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 referred to in the Telecommunications Services Act or a communications network connected thereto, in order to determine the contents of the message and the identifying data connected to it referred to in section 6. Telecommunications interception may be directed only at a message that originates from or is intended for a suspect in an offence.

(2) 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; (1468/2011)

(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; (438/2013)

(7) arrangement of aggravated illegal entry into the country, aggravated deprivation of liberty, trafficking in persons, aggravated trafficking in persons, kidnapping, preparation of kidnapping; (438/2013)

(8) aggravated robbery, preparation of aggravated robbery, aggravated extortion; (438/2013)

(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. (1146/2013)

(3) 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.

(4) An additional prerequisite to the issuing of the warrant referred to above in subsection 3 is that the offence was committed in order to obtain especially large benefit and the offence has been committed in an especially methodical manner.

(5) A warrant for telecommunications interception may also be issued if there are grounds to suspect someone of aggravated pandering in which especially large benefit is sought and the offence has been committed in an especially methodical manner or the offence is one referred to in Chapter 20, section 9a, subsection 1, paragraph 3 or 4 of the Criminal Code.

Section 4 – The obtaining of information other than through telecommunications interception

(1) If it is probable that the message referred to in section 3 and the identifying data connected with it are no longer available through telecommunications interception, the criminal investigation authority may be granted permission, notwithstanding the prohibition in Chapter 7, section 4, and subject to the prerequisites provided in section 3, to confiscate or copy these from the possession of a telecommunications operator or a corporate or association subscriber.

(2) If the obtaining of information for the determination of the content of a message is directed at a personal technical device that is suitable for sending and receiving a message and that is directly connected to a terminal end device, or it is directed at the connection between such personal technical device and a terminal end device, and the prerequisites provided in section 3 are fulfilled, the criminal investigation authority may be issued a warrant to obtain the information other than through telecommunications interception.

Section 5 – The decision on telecommunications interception and on other corresponding obtaining of information

(1) The court decides on telecommunications interception and on the obtaining of information referred to in section 4 on the request of an official with the power of arrest.

(2) The warrant for telecommunications interception and for obtaining the information referred to in section 4, subsection 2 may be given for at most one month at a time. (1146/2013)

(3) The request and warrant for telecommunications interception and for the obtaining of information as an alternative to telecommunications interception shall specify:

(1) the suspected offence and the time of its commission;

- (2) the person suspected in the offence;
- (3) the facts on the basis of which the person is suspected of an offence and which fulfil the prerequisites for telecommunications interception or for the obtaining of information as an alternative to telecommunications interception;
- (4) the validity of the warrant for telecommunications interception or for the obtaining of the information referred to in section 4, subsection 2, including the exact time;
- (5) the network address or terminal end device that is the object of the measure;
- (6) the official with the power of arrest who is directing and supervising the performance of the telecommunications interception or of the obtaining of information as an alternative to telecommunications interception;
- (7) possible restrictions on and conditions for the telecommunications interception or the obtaining of information as an alternative to telecommunications interception. (1146/2013)

Section 6 – *Traffic data monitoring and its prerequisites*

(1) *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 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. *Identifying data* 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.

(2) 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 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. (1146/2013)

(3) Section 17 of the Act on the Exercise of the Freedom of Speech in Mass Communications (460/2003) contains provisions on the transfer of identifying data concerning an electronic message.

Section 7 – Traffic data monitoring with the consent of the possessor of a network address or terminal end device

(1) A criminal investigation authority may, with the consent of the suspect of an offence, the injured person, a witness or another person, monitor direct traffic at a network address or terminal end device in the possession of such person, when there are grounds to suspect:

- (1) an offence for which the most severe punishment is imprisonment for at least two years;
- (2) an offence as a result of which a network address or terminal end device is unlawfully in the possession of another person;
- (3) a violation of a restraint order, criminal mischief referred to in Chapter 17, section 13, paragraph 2 of the Criminal Code or violation of the privacy of telecommunications referred to in Chapter 24, section 1(a) of the Criminal Code, committed with the aid of a network address or terminal end device;

(4) an offence committed with the aid of a network address or terminal end device, other than one referred to in paragraph 3; or

(5) abuse of a victim of prostitution. (880/2013)

(2) If the criminal investigation concerns an offence as a result of which a person has been killed, traffic data monitoring directed at a network address or terminal end device that had been in his or her possession does not require the consent of the legal successor of the person who has been killed.

Section 8 – Obtaining location data in order to contact a suspect or convicted person

A criminal investigation authority may, in order to contact a suspect in an offence, be issued a warrant to obtain location data regarding a network address or terminal end device in his or her possession or that he or she otherwise is assumed to use, when there is reason to suspect him or her of the offence referred to in section 6, subsection 2, and in addition there is reason to suspect that he or she is fleeing or otherwise evading the criminal investigation or court proceedings. In addition, the criminal investigation authority may be issued a warrant to obtain the location data referred to above in order to contact a person sentenced to an unconditional sentence of imprisonment, if there are grounds for assuming that he or she is fleeing or otherwise evading the enforcement of the sentence, and if it can be assumed that obtaining the location data can have a very important significance in contacting him or her.

Section 9 – The warrant for traffic data monitoring and for obtaining location data (1146/2013)

(1) The court decides on traffic data monitoring referred to in section 6, section 7, subsection 1, paragraphs 1, 4 and 5 and subsection 2, and on the obtaining of location data referred to in section 8, 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. (1146/2013)

(2) An official with the power of arrest decides on the traffic data monitoring referred to in section 7, subsection 1, paragraphs 2 and 3.

(3) The warrant may be issued and 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. (1146/2013)

(4) The request for a warrant for traffic data monitoring shall specify:

(1) the suspected offence and the time of its commission;

(2) the person suspected in the offence;

(3) the facts on the basis of which the person is suspected of an offence and which fulfil the prerequisites for traffic data monitoring;

(4) the consent of the suspect, injured person, witness or other person, if this is a prerequisite for the exercise of traffic data monitoring;

(5) the validity of the warrant, including the exact time;

(6) the network address or the terminal end device that is the object of the measure;

(7) the official with the power of arrest who is directing and supervising the conduct of the traffic data monitoring;

(8) possible restrictions on and conditions for the traffic data monitoring.

Section 10 – *Obtaining base station data and its prerequisites*

(1) The *obtaining of base station data* refers to the obtaining of information on the network address and terminal end devices of persons who have logged in or who are logging on to a telecommunications system through a certain base station.

(2) A criminal investigation authority may be issued a warrant to obtain data from a base station that is near the assumed place of, and at the assumed time of, the commission of an offence, when there is reason to suspect an offence referred to in section 6, subsection 2. The warrant may, for a special reason, also be issued in respect of another time or place that is relevant to the clarification of the offence.

Section 11 – *Deciding on the warrant for obtaining base station data*

(1) The court decides on the obtaining of base station data 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 the obtaining of base station data until such time as the court has decided on the request for the issuing of a 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.

(2) The request and warrant for obtaining base station data shall specify:

- (1) the suspected offence and the time of its commission;
- (2) the facts on which the prerequisites for obtaining base station data are based;
- (3) the period of time covered by the decision;
- (4) the base station that is the object of the decision;
- (5) the official with the power of arrest who is directing and supervising the obtaining of the base station data;
- (6) possible restrictions on and conditions for obtaining the base station data.

Extended surveillance, covert collection of intelligence and technical surveillance

Section 12 – Extended surveillance and its prerequisites

(1) *Surveillance* refers to the covert observation of a certain person for the purpose of the collection of intelligence. Notwithstanding Chapter 24, section 6 of the Criminal Code, a camera or other corresponding technical device may be used in surveillance for visual observation or recording.

(2) *Extended surveillance* refers to other than short-term surveillance of a suspect in an offence.

(3) A criminal investigation authority may subject a suspect in an offence to extended surveillance, if there are grounds to suspect him or her of an offence for which the most severe punishment is imprisonment for at least two years, or of theft or a receiving offence.

(4) The surveillance referred to in this section may not be directed at premises used as a permanent residence. A technical device may not be used in surveillance or extended surveillance directed at a place covered by domiciliary peace as referred to in Chapter 24, section 11 of the Criminal Code.

Section 13 – *The decision on extended surveillance*

- (1) An official with the power of arrest decides on extended surveillance.
- (2) The decision on extended surveillance may be made for at most six months at a time.
- (3) The decision on extended surveillance shall be made in writing. The decision shall specify:
 - (1) the suspected offence and the time of its commission;
 - (2) the person suspected in the offence;
 - (3) the facts on the basis of which the person is suspected of an offence and which fulfil the prerequisites for extended surveillance;
 - (4) the period of validity of the decision;
 - (5) the official with the power of arrest who is directing and supervising the performance of the extended surveillance;
 - (6) possible restrictions on and conditions for extended surveillance.

Section 14 – *Covert collection of intelligence and its prerequisites*

- (1) *Covert collection of intelligence* refers to short-term interaction with a certain person for the obtaining of information, and in which a police officer in order to conceal the task uses false, misleading or concealed information.
- (2) The police may conduct covert collection of intelligence if there are grounds to suspect that the measure shall produce clarification in respect of:
 - (1) an offence for which the most severe punishment provided is imprisonment for at least four years;
 - (2) abuse of a victim of prostitution or pandering;
 - (3) a narcotics offence;
 - (4) preparation of an offence committed with terrorist intent;
 - (5) an aggravated customs offence;
 - (6) theft or concealment of illegally obtained goods relating to planned, organized, professional, continued or repeated criminal activity;

(7) preparation of the taking of a hostage; or

(8) preparation of aggravated robbery. (2013/438)

(3) Covert collection of intelligence is not permitted in a residence even with the cooperation of the person in possession of the residence.

Section 15 – *Deciding on the covert collection of intelligence*

(1) The chief of the National Bureau of Investigation, of the Security Intelligence Service or of a police department, or an official with the power of arrest especially trained in covert collection of intelligence and appointed to this task, decides on covert collection of intelligence.

(2) The decision on covert collection of intelligence shall be made in writing. The decision shall specify:

(1) the measure and its purpose with sufficient detail;

(2) the police unit conducting the covert collection of intelligence and the responsible police officer;

(3) the suspected offence;

(4) the person who is the subject of the covert collection of intelligence;

(5) the facts on which the suspicion of an offence are based;

(6) the planned period for conduct of the measure;

(7) possible restrictions on and conditions for the covert collection of intelligence.

(3) The decision shall be reviewed as necessary in accordance with changes in circumstances.

Section 16 – *On-site interception and its prerequisites*

(1) *On-site interception* refers to the listening, recording and other processing with a technical device, procedure or program, notwithstanding Chapter 24, section 5 of the Criminal Code, of a discussion or message of the suspect in an offence, that is not intended to come to the attention of a third party and in which discussion the listener does not participate, with the intention of clarification of the contents of the discussion or message, or of the conduct of the parties to the conversation, or of the conduct of the suspect.

(2) A criminal investigation authority may direct on-site interception at a suspect in an offence outside of premises used as a permanent residence, and at a suspect in an offence who has been deprived of his or her liberty and is held in the premises of the authorities. The interception may be conducted by directing it at premises or at another place where the suspect can be presumed to be or visit.

(3) An additional prerequisite for on-site interception is that there are grounds to suspect the subject of the interception of:

- (1) an offence for which the most severe punishment provided is imprisonment for at least four years;
- (2) a narcotics offence;
- (3) preparation of an offence committed with terrorist intent;
- (4) an aggravated customs offence;
- (5) preparation of the taking of a hostage; or
- (6) preparation of aggravated robbery. (438/2013)

Section 17 – *On-site interception in domestic premises and its prerequisites*

A criminal investigation authority may be granted permission to direct on-site interception at premises used as a permanent residence and in which a person suspected in an offence is presumed to reside (*on-site interception in domestic premises*). A further prerequisite is that 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 of a prohibition against anti-infantry mines; (468/2011)
- (2) endangerment of the sovereignty of Finland, incitement to war, treason, aggravated treason, espionage, aggravated espionage;
- (3) high treason, aggravated high treason;
- (4) aggravated sexual abuse of a child;
- (5) manslaughter, murder, killing;

- (6) aggravated trafficking in persons;
- (7) aggravated robbery;
- (8) aggravated sabotage, aggravated endangerment of health, a nuclear device offence, hijacking;
- (9) 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;
- (10) an aggravated narcotics offence.

Section 18 – *Decision on on-site interception*

- (1) The court decides on on-site interception in domestic premises and on on-site interception directed at a person who has lost his or her liberty as a result of an offence, on the request of an official with the power of arrest.
- (2) An official with the power of arrest decides on on-site interception other than that referred to in subsection 1.
- (3) A warrant may be issued and a decision made for at the most one month at a time.
- (4) The request for a warrant on on-site interception shall specify:
 - (1) the suspected offence and the time of its commission;
 - (2) the person suspected in the offence;
 - (3) the facts on the basis of which the person is suspected in the offence and which fulfil the prerequisites for on-site interception;
 - (4) the validity of the warrant, including the exact time;
 - (5) the premises or other place that is the object of the interception;
 - (6) the official with the power of arrest who is directing and supervising the performance of the on-site interception;
 - (7) possible restrictions on and conditions for the on-site interception.

Section 19 – *Technical observation and its prerequisites*

- (1) *Technical observation* refers to observation or recording, notwithstanding Chapter 24, section 6 of the Criminal Code, of the suspect in an offence or of premises or another place with a camera or similar technical device, procedure or program installed in such place.
- (2) Technical observation may not be directed at premises used as a permanent residence.
- (3) A criminal investigation authority may direct technical observation at a suspect in an offence outside of premises used as a permanent residence, and at a suspect in an offence who has been deprived of his or her liberty and is held in the premises of the authorities. Observation may be conducted by directing it at premises or another place where the suspect can be presumed to be or visit.
- (4) A prerequisite for technical observation of premises covered by domiciliary peace as referred to in Chapter 24, section 11 of the Criminal Code and of a suspect who has lost his or her liberty as a result of an offence is that there are grounds to suspect an offence referred to in section 16, subsection 3 of this Chapter. A prerequisite for other technical observation is that there are grounds to suspect the person of an offence for which the most severe punishment provided is imprisonment for at least one year.

Section 20 – *The decision on technical observation*

- (1) The court decides on technical observation on the request of an official with the power of arrest, when the observation is directed at a place covered by domiciliary peace as referred to in Chapter 24, section 11 of the Criminal Code or at a suspect who has been deprived of his or her liberty as a result of an offence.
- (2) An official with the power of arrest decides on technical observation other than what is referred to in subsection 1.
- (3) The warrant may be issued and the decision may be made for at most one month at a time.
- (4) The request for a warrant for technical observation shall specify:
 - (1) the suspected offence and the time of its commission;
 - (2) the person suspected in the offence;

- (3) the facts on the basis of which the person is suspected of the offence and which fulfil the prerequisites of technical observation;
- (4) the validity of the warrant, including the exact time;
- (5) the premises or other place subjected to the surveillance;
- (6) the official with the power of arrest who is directing and supervising the technical observation;
- (7) possible restrictions on and conditions for the technical observation.

Section 21 – *Technical monitoring and its prerequisites*

(1) *Technical monitoring* refers to the monitoring of movement of an object, substance or property with the use of a radio transmitter or other similar technical device or method or program separately placed therein or that is already therein.

(2) A criminal investigation authority may direct technical monitoring at an object, substance or property that is the object of an offence or presumably in the possession of the suspect, when there is reason to suspect the person of an offence for which the most severe punishment provided is imprisonment for at least one year.

(3) If the purpose of technical monitoring is to monitor the movements of a person suspected in an offence by placing a monitoring device in the clothing that he or she is wearing or in the objects that he or she has with him or her (*technical monitoring of an individual*), the measure may be carried out only if there are grounds to suspect him or her of an offence referred to in section 16, subsection 3.

Section 22 – *Decision on technical monitoring*

(1) The court decides on technical monitoring of an individual 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 technical monitoring of an individual until such time as the court has given a decision 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.

(2) An official with the power of arrest decides on technical monitoring of other than an individual.

(3) The warrant may be issued and the decision made for at the most two months at a time.

(4) The request for and decision on technical monitoring shall specify:

(1) the suspected offence and the time of its commission;

(2) the person suspected in the offence;

(3) the facts on the basis of which the person is suspected in the offence and which fulfil the prerequisites for the technical monitoring;

(4) the validity of the warrant, including the exact time;

(5) the object, substance or property at which the measure is directed;

(6) the official with the power of arrest who is directing and supervising the performance of the technical monitoring;

(7) possible restrictions on and conditions for the technical monitoring.

Section 23 – *Technical surveillance of a device and its prerequisites*

(1) The *technical surveillance of a device* refers to other than solely sensory surveillance, recording or other processing of the operation of a computer or other corresponding technical device or of the data or identification data contained therein, for the purpose of the investigation of a factor that is of significance for the clarification of an offence.

(2) Technical surveillance of a device may not be used to obtain information about the content of a message or the identifying data referred to in section 6, subsection 1.

(3) The criminal investigation authority may direct technical surveillance of a device at a computer or another corresponding technical device or its program referred to in subsection 1 that is probably used by the suspect of an offence, when there are grounds to suspect this person of an offence referred to in section 16, subsection 3.

Section 24 – *Decision on technical surveillance of a device*

(1) The court decides on technical surveillance of a device at 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 technical surveillance of a device 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.

(2) The warrant may be issued for at most one month at a time.

(3) The request for and decision on technical surveillance of a device shall specify:

(1) the suspected offence and the time of its commission;

(2) the person suspected in the offence;

(3) the facts on the basis of which the person is suspected in an offence and which fulfil the prerequisites for technical surveillance of a device;

(4) the validity of the warrant, including the exact time;

(5) the technical device or programme that is the object of the measure;

(6) the official with the power of arrest who is directing and supervising the performance of the technical surveillance of the device;

(7) possible restrictions on and conditions for the technical surveillance of the device.

Section 25 – Obtaining of data for the identification of a network address or of a terminal end device

(1) A criminal investigation authority may obtain with a technical device data for the identification of a network address or a terminal end device, if there are grounds to suspect an offence for which the most severe punishment provided is imprisonment for at least one year.

(2) A criminal investigation authority may, in order to obtain the data referred to in subsection 1, use only a technical device that can be used only for the identification of a network address or of a terminal end device. The Communications Regulatory Authority inspects the technical device to ensure that it meets the requirements provided in this section and that the properties of the device are such that it does not cause detrimental disturbance to the equipment or services of the general telecommunications network.

(3) An official with the power of arrest decides on the obtaining of a network address or data for the identification of a terminal end device.

Section 26 – Installation and removal of a device, process or program

(1) A criminal investigation official has the right to install a device, procedure or program to be used in technical surveillance in the object, substance, property, premises or other place that is targeted, or into an information system, if the performance of the surveillance requires this. In so doing the criminal investigation official has the right, in order to install, take into use or remove a device, procedure or program, to enter covertly the premises or other place or information system referred to above and to bypass, uninstall or in another corresponding manner temporarily avert or hamper the protection on the objects or the information system. Separate provisions apply to search of a domicile.

(2) A device, procedure or program for technical surveillance may be installed in premises used as a permanent residence only if the court has granted a warrant for this on the request of an official with the power of arrest.

Covert activity and pseudo-purchases

Section 27 – Covert activity and its prerequisites

(1) *Covert activity* refers to extended collection of intelligence directed at a certain person or at his or her activity through the use of infiltration, in which false, misleading or concealed information or register notations are used or false documents are prepared or used, in order to achieve the confidence needed for the collection of intelligence or to prevent the revelation of the collection of intelligence.

(2) Covert activity may be directed by the police at a person suspected in an offence if there are grounds to suspect this person of an offence referred to in section 3 other than the arrangement of aggravated illegal entry into the country or an aggravated customs offence, or of an offence referred to in Chapter 17, section 18, subsection 1, paragraph 1 of the Criminal Code. A further prerequisite is that the collection of intelligence is to be deemed necessary in view of the degree to which the criminal activity is planned, organized or professional or in view of anticipated continuity or repetition.
(1146/2013)

(3) Covert activity may be directed by the police over an information network at a person suspected in an offence if there are grounds to suspect this person of an offence for which the most severe punishment provided is imprisonment for at least two years or the offence is one referred to in Chapter 17, section 19 of the Criminal Code.

(4) Covert activity in a residence is permitted only if entry into or staying in the residence occurs with the active cooperation of the person using the residence. Separate provisions apply to search of a domicile.

Section 28 – Prohibition against the commission of an offence

(1) A police officer engaged in covert activity may not commit an offence or initiate the commission of an offence.

(2) If a police officer engaged in covert activity commits a traffic violation, violation of public order or a corresponding offence for which the punishment is a fixed penalty, he or she is free of criminal liability if the act was necessary in order to achieve the goal of the covert activity or to prevent the revelation of the collection of intelligence.

Section 29 – Participation in an organized criminal group and participation in controlled delivery

(1) If a police officer conducting covert activity, in participating in the activity of an organized criminal group, obtains premises or transport or other such objects, transports persons, objects or substances, attends to financial matters or assists the criminal group in other comparable ways, he or she is not subject to criminal liability if there are very good grounds to have assumed that:

(1) the measure would have been performed also without his or her contribution;

(2) the action of the police officer does not endanger or harm the life, health or freedom of any person or significant danger or damage to property; and

(3) the assistance significantly promotes the achievement of the purpose of the covert activity.

(2) A police officer engaged in covert activity may participate in the controlled delivery referred to in section 41 if the participation significantly promotes the goal of the controlled delivery.

Section 30 – *Request and plan for covert activity*

(1) The request for covert activity shall specify:

- (1) who is requesting the measure;
- (2) the person who is the subject of the collection of intelligence, with sufficient detail;
- (3) the offence to be investigated, with sufficient specificity;
- (4) the purpose of the covert activity;
- (5) the need for the covert activity;
- (6) other information that is necessary in order to assess the prerequisites for the covert activity.

(2) A written plan shall be prepared for covert activity, containing essential and sufficiently detailed information in respect of decision-making on and the performance of the covert activity. The plan shall be reviewed as necessary in accordance with changes in circumstances.

Section 31 – *Decision on covert activity*

(1) The chief of the National Bureau of Investigation or the Security Intelligence Service decides on covert activity. The chief of the National Bureau of Investigation, the Security Intelligence Service or a police department or an official with the power of arrest who has been especially trained in covert collection of intelligence and who has been appointed to this task decides on covert activity that takes place solely through the telecommunications network.

(2) A warrant for covert activity may be made for at most six months at a time.

(3) The decision on covert activity shall be made in writing. The decision shall specify:

- (1) who is requesting the measure;
- (2) the police unit which is to conduct the covert activity and the police officer who is responsible for the conduct of the covert activity;

- (3) the identifying information on the police officers conducting the covert activity;
- (4) the suspected offence;
- (5) the person suspected in the offence who is the subject of the covert activity;
- (6) the facts on which the suspicion of an offence are based and which fulfil the prerequisites for covert activity;
- (7) the purpose of the covert activity and the plan for its performance;
- (8) the validity of the decision;
- (9) may the measures referred to in section 29 be carried out in the covert activity, and the facts on which the measures are based as well as the possible restrictions on and conditions of the covert activity.

(4) The decision shall be reviewed as necessary in accordance with changes in circumstances. A written decision shall be made on termination of the covert activity.

Section 32 – Decision on the prerequisites of covert activity

The police officer who decided on covert activity shall submit to the decision of the court whether the prerequisites for covert activity exist under section 27, subsection 2.

Section 33 – Expansion of covert activity

(1) If during covert activity it becomes apparent that in addition to the offence that is the basis for its application, there are grounds to suspect that the person who is the subject of the covert activity has committed an offence referred to in section 27, subsection 2 that is directly connected with it, the clarification of which requires immediate covert activity, the police officer conducting the covert activity may expand this to include the clarification of also this offence. Nonetheless, the expansion of the covert activity shall be submitted without undue delay and at the latest within three days of the initiation of the collection of intelligence, to the decision of the police officer who had decided on the covert activity.

(2) If during covert activity it becomes apparent that there are grounds to suspect that persons other than the one who is the subject of the activity is guilty of an offence referred to in section 27, subsection 2, the clarification of which requires immediate covert activity directed at him or her, the police officer conducting the covert activity may expand this to include said person. Nonetheless, the expansion of the covert activity shall be submitted without undue delay and at the latest within three days of the initiation of the collection of intelligence, to the decision of the court on whether the prerequisites for the covert activity as referred to in said subsection exist. However, expansion of covert activity that is conducted solely in an information network shall be submitted without undue delay and at the latest within three days of the initiation of the collection of intelligence, to the decision of the police officer who had decided on the covert activity.

Section 34 – *Pseudo-purchases and their prerequisites*

(1) A *pseudo-purchase* refers to a purchase offer made by the police for, or actual purchase made by the police of, an object, substance, property or service, with the intent of taking into the possession of the police, or finding evidence in a criminal matter of, the proceeds of crime or an object, substance or property that has been taken from someone through an offence or that the court may order forfeited or which could otherwise be of assistance in clarification of a criminal matter. Purchase of something other than a sample requires that the purchase is necessary in order to fulfil the pseudo-purchase.

(2) A pseudo-purchase may be made if there are grounds to suspect an offence for which the most severe punishment provided is imprisonment for at least two years, or theft or a receiving offence, and it is probable that the pseudo-purchase will lead to one of the purposes referred to in subsection 1.

(3) The person conducting the pseudo-purchase may engage only in collection of intelligence that is necessary to conduct the pseudo-purchase. The pseudo-purchase shall be conducted so that it does not induce the subject of the measure or another person to commit an offence that he or she would not otherwise commit.

(4) A pseudo-purchase in a residence is permitted only if entry into or staying in the residence occurs with the active cooperation of the person using the residence. Separate provisions apply to a search of a domicile.

Section 35 – *Decision on pseudo-purchases*

(1) The chief of the National Bureau of Intelligence or of the Security Intelligence Service decides on pseudo-purchase. Also an official with the power of arrest especially trained in covert collection of intelligence and appointed to this task may decide on pseudo-purchase in relation to an offer of sale made solely to the public.

(2) The warrant for a pseudo-purchase may be made for at most two months at a time.

(3) The warrant for a pseudo-purchase shall be made in writing. The warrant shall specify:

(1) the suspected offence;

(2) the suspect or other person at whom the pseudo-purchase is directed;

(3) the facts on which the suspicion of an offence are based and which fulfil the prerequisites for the pseudo-purchase;

(4) the object, substance, property or service that is the object of the pseudo-purchase;

(5) the purpose of the pseudo-purchase;

(6) the validity of the warrant;

(7) the official with the power of arrest who is directing and supervising the pseudo-purchase;

(8) possible restrictions on and conditions for the pseudo-purchase.

Section 36 – *Plan for the making of a pseudo-purchase*

(1) The plan for a pseudo-purchase shall be made in writing if this is necessary in view of the extent of the activity or for another corresponding reason.

(2) The plan for the making of a pseudo-purchase shall be reviewed as necessary in accordance with changes in circumstances.

Section 37 – *Decision on the making of a pseudo-purchase*

(1) The decision on the making of a pseudo-purchase shall be made in writing. An official with the power of arrest especially trained in covert collection of

intelligence and who is responsible for the fulfilment of the pseudo-purchase decides on this.

(2) The decision shall specify:

(1) the police officer that decided on the pseudo-purchase, and the date and contents of the decision;

(2) the police unit performing the pseudo-purchase;

(3) the identifying information regarding the police officers performing the pseudo-purchase;

(4) an account of how it has been ensured that the pseudo-purchase would not cause its subject or another person to commit an offence that he or she would not otherwise commit;

(5) possible restrictions on and conditions for the performance of the pseudo-purchase. (1146/2013)

(3) If the measure does not brook delay, the decision referred to in subsection 2 need not be made in writing before the pseudo-purchase. Nonetheless, the decision shall be made in writing without delay after the pseudo-purchase.

(4) The decision on the making of a pseudo-purchase shall be reviewed as necessary in accordance with changes in circumstances.

Section 38 – Ensuring the safety of a police officer in covert collection of intelligence, covert activity and pseudo-purchases

(1) An official with the power of arrest may decide that the police officer performing covert collection of intelligence, covert activity and pseudo-purchase be equipped with a technical device that allows listening and observation, if such equipping is justified in order to ensure his or her safety.

(2) The listening and observation may be recorded. The recordings shall be erased as soon as they are no longer needed to ensure the safety of the police officer. If nonetheless they need to be preserved for reasons connected with the legal safeguards of a party in the matter, the recordings may be preserved and they may be used for this purpose. In such a case the recordings shall be erased when the matter has been decided in a legally final manner or dismissed without considering the merits.

Use of covert human intelligence sources and controlled delivery

Section 39 – Use of covert human intelligence sources and prerequisites for the controlled use of covert human intelligence sources

(1) The *use of covert human intelligence sources* refers to other than occasional reception by the police and other criminal investigation authorities of confidential information from a third party that is of significance in the clarification of an offence (*human intelligence source*).

(2) The police may request for this purpose that an approved human intelligence source who has the suitable personal characteristics, is registered and who consents to the collection of intelligence, gather intelligence referred to in subsection 1 (*controlled use of covert human intelligence sources*).

(3) In the controlled use of covert human intelligence sources, no request may be made for the collection of intelligence in a manner that would require the exercise of the powers of the authorities or that would endanger the life or health of the human intelligence source or another person. Before the controlled use of covert human intelligence sources, the human intelligence source shall be informed of his or her rights and obligations and in particular of what activity he or she may and may not do in accordance with law. As necessary the safety of the human intelligence source shall be ensured during and after the collection of the intelligence.

(4) The Police Act contains provisions on the recording of data concerning a human intelligence source in a personal data file and on the payment of fees.

Section 40 – Decision on the controlled use of covert human intelligence sources

(1) The Chief of the National Bureau of Investigation, the Chief of the Security Intelligence Service or a police chief, or an official with the power of arrest especially trained in covert collection of intelligence and assigned with this function, decides on the controlled use of covert human intelligence sources.

(2) The decision on the controlled use of covert human intelligence sources may be given for at most six months at a time. (1146/2013)

(3) The decision on the controlled use of covert human intelligence sources shall be made in writing. The decision shall specify:

(1) who is requesting the measure;

- (2) the police unit that is conducting the collection of intelligence and the police officer who is responsible for its conduct;
- (3) the data identifying the source of intelligence;
- (4) the suspected offence;
- (5) the purpose and plan for conduct of the collection of intelligence;
- (6) the validity of the decision;
- (7) possible restrictions on and conditions for the controlled use of covert human intelligence sources.

(4) The decision shall be reviewed as necessary in accordance with changes in circumstances. A written decision shall be made on the termination of the controlled use of covert human intelligence sources.

Section 41 – *Controlled delivery and its prerequisites*

(1) A criminal investigation authority may refrain from intervening in the transport or other delivery of an object, substance or property or transfer such intervention if this is necessary in order to identify persons participating in an offence that is being committed or in order to clarify an offence or larger offence entity that is more serious than the offence that is being committed (*controlled delivery*).

(2) A criminal investigation authority may use controlled delivery if there are grounds to suspect an offence for which the most severe punishment provided is imprisonment for at least four years. A further prerequisite is that the delivery can be controlled and, if necessary, intervention in it can take place. In addition, the measure may not cause significant danger to the life, health or freedom of any person or the significant danger of extensive damage to the environment, to property or to assets.

(3) What is separately provided in law regarding international controlled delivery applies in addition to international agreements binding on Finland or other obligations binding on Finland relating to international controlled delivery.

Section 42 – *Decision on controlled delivery*

(1) The Chief of the National Bureau of Investigation, the Chief of the Security Intelligence Service or a police chief, or an official with the power of arrest especially trained in covert collection of intelligence and assigned with this function, decides on controlled delivery conducted by the police. Separate provisions apply to decision-making of other authorities on controlled delivery.

(2) The warrant for controlled delivery may be given for at most one month at a time.

(3) The warrant on controlled delivery shall specify:

(1) the suspected offence and the time of its commission;

(2) the person suspected in the offence;

(3) the facts on the basis of which the person is suspected in the offence;

(4) the goal of the collection of intelligence and the plan for its performance;

(5) the transport or other delivery that is the object of the measure;

(6) the validity of the warrant;

(7) possible restrictions on and conditions for the controlled delivery.

(4) A Council of State Decree contains provisions on the giving of the notice referred to in this section to the Police, Customs and Border Guard crime intelligence unit referred to in section 5 of the Act on Cooperation Between the Police, Customs and the Border Guard (687/2009).

Consideration of the question of the warrant in court

Section 43 – *Procedure in court*

(1) The provisions of Chapter 3, sections 1, 3, 8 and 10 on the consideration of the matter of remand apply as appropriate to the consideration of and decision on the warrant for a covert coercive measure. Matters related to covert activity are considered by the Helsinki District Court.

(2) A request regarding covert coercive measures shall be taken up for consideration by the court without delay in the presence of the person who had requested the measure or of a person appointed by him who is acquainted with the matter. The matter shall be considered urgently. The matter may be considered also with the use of a video conference or other suitable technical

means of transmission in which those participating in the consideration have audio and visual contact with one another.

(3) If the court has issued a warrant for telecommunications interception or traffic data monitoring, it may examine and decide the granting of a warrant related to a new network address or terminal end device, even in the absence of the official who made the request or who had been appointed by said official, if less than one month has elapsed since the oral consideration of the warrant connected with the same suspected offence and the same suspect. The matter may be considered also in the absence of said official if the use of the coercive measure has already been terminated.

(4) The matter may be decided without hearing the suspect in the offence or the person possessing the network address or the terminal end device or the premises to be listened to or observed. In considering the matter referred to in section 7, however, the possessor of the network address or the terminal end device shall be reserved an opportunity to be heard, if this is not barred by investigative grounds. In considering a matter related to on-site interception or technical observation of a person who has lost his or her liberty, the representative of the institution where the suspect is being held shall be reserved an opportunity to be heard, unless this would be unnecessary in consideration of his or her having been heard earlier.

(5) The decision on the matter of the warrant is not subject to appeal. An extraordinary appeal on the basis of procedural fault may be lodged in respect of the decision without time limit. The extraordinary appeal shall be considered urgently. The person submitting the request may not, however, lodge an extraordinary appeal in respect of a decision on covert activity.

(6) In respect of a matter concerning covert activity, only the information necessary for the consideration of the matter shall be submitted to court. In the consideration of the matter, special attention shall be paid to ensuring that the confidentiality obligation is maintained and that the protection of the data contained in documents and information systems is ensured with the necessary procedures and data protection arrangements.

Section 44 – *Public attorney*

(1) The court shall appoint a public attorney for the consideration of a request for on-site interception in domestic premises, in order to protect the interests of the person suspected in the offence and the other persons possibly subjected to the on-site interception.

(2) The public attorney shall carefully attend to his or her task in accordance with the professional ethics of attorneys.

(3) The public attorney and a person requested to assume such a function may not, without right, reveal what they have learned as a result of the function or in being requested to serve in the function.

Section 45 – Qualification requirements of a public attorney

(1) An advocate or a public legal aide shall be appointed as public attorney, subject to his or her consent.

(2) The provisions in Chapter 11, section 3, subsection 2 of the Criminal Investigation Act on the qualifications of counsel apply as appropriate to the qualifications of the public attorney in an individual case.

(3) A public attorney may not, without the permission of the court, take someone in his or her stead. His or her appointment may be withdrawn for a valid reason.

Section 46 – Fee and compensation to be paid to a public attorney

(1) The public attorney is paid a fee and compensation from state funds in accordance with, as appropriate, the provisions of sections 17 and 18 of the Legal Aid Act on the payment of a fee and compensation to counsel.

(2) A decision on payment of a fee and compensation to a public attorney is subject to appeal. The provisions on appeal of the decision of the court in question apply in seeking such appeal.

Joint provisions

Section 47 – Protection of the use of a covert coercive measure

(1) The criminal investigation authority may, in using a covert coercive measure, postpone intervention in an offence other than the one which is the basis for the coercive measure, if postponement of intervention does not cause significant danger to the life, health or freedom of any person or significant danger of considerable damage to the environment, property or assets. A further prerequisite is that postponement of the intervention is necessary in

order to prevent the revelation of the use of the coercive measure or in order to ensure the goal of the activity.

(2) The police may use false, misleading or concealed information, make and use false, misleading or concealed register entries, and prepare and use false documents, when this is necessary in order to protect completed, on-going or future use of a covert coercive measure.

(3) A register entry referred to above in subsection 2 shall be rectified after the prerequisites referred to in the subsection no longer exist.

Section 48 – Decision on protection

(1) The chief of the National Bureau of Investigation of the Security Intelligence Service decides on the making of the register entry and preparation of the document referred to in section 47, subsection 2.

(2) An official with the power of arrest especially trained in covert collection of intelligence decides on protection of the collection of intelligence other than that referred to in subsection 1.

(3) The authority deciding on the making of register entries and the preparation of documents shall maintain a list of entries and documents, supervise their use and attend to the rectification of entries.

Section 49 – Prohibition of revelation of the use of covert coercive measures

(1) An official with the power of arrest may, for an important investigative reason, prohibit a third party from revealing information that he or she has obtained regarding the use of covert coercive measures. A further prerequisite is that said third party, due to his or her function or position, has assisted or been asked to assist in the use of the coercive measure.

(2) A prohibition of revelation is issued for at most one year at a time. Certifiable service of the written prohibition shall be made to its recipient. This shall specify the circumstances that are the subject of the prohibition, mention the period of validity of the prohibition and state the threat of punishment for violation of the prohibition.

(3) The punishment for violation of a prohibition is imposed on the basis of Chapter 38, section 1 or 2 of the Criminal Code, unless more severe punishment is provided elsewhere in law for the act.

Section 50 – Obligation to provide information and order to retain information

The provisions in Chapter 8, sections 23 through 26 on the obligation of the person possessing an information system to provide information and on the data retention order apply in the use of covert coercive measures.

Section 51 – Calculation of time periods

(1) The Act on the Calculation of Prescribed Periods of Time does not apply to the calculation of time periods referred to in this Chapter.

(2) A period that is determined in months ends on the date of the specified month that corresponds to the date in question. If there is no corresponding date in the month during which the period ends, the period ends on the last day of said month.

Section 52 – Prohibitions of listening and viewing

(1) Telecommunications interception, the obtaining of data other than through telecommunications interception, on-site interception and technical observation may not be directed at:

(1) a message between the suspect in the offence and his or her advocate;

(2) a message between the suspect in the offence and the priest referred to Chapter 17, section 23, subsection 2 of the Code of Judicial Procedure; nor

(3) a message between the suspect in the offence who has lost his or her liberty and a physician, nurse, psychologist or social worker.

(2) Unless the offence under investigation is one for which the most severe punishment provided in law is imprisonment for at least six years, telecommunications interception, the obtaining of data other than through telecommunications interception, on-site interception and technical observation may also not be directed at:

(1) a message between the suspect in the offence and a close relative to him or her as referred to in Chapter 17, section 20 of the Code of Judicial Procedure;

(2) a message between the suspect in the offence and a physician, pharmacist or midwife or the assistant of such person, as referred to in Chapter 17, section 23, subsection 1, of the Code of Judicial Procedure; nor

(3) a message between the suspect in the offence and the author, publisher or broadcaster of a communication made available to the public as referred to in Chapter 17, section 24, subsections 2 and 3 of the Code of Judicial Procedure.

(3) If during the telecommunications interception, obtaining of data other than through telecommunications interception, on-site interception, technical observation or otherwise it becomes evident that the message involved is one in respect of which on-site interception and observation is prohibited, the measure shall be interrupted and the recording made thereof as well as the notes made in respect thereof shall be destroyed immediately.

(4) The prohibitions of on-site interception and observation referred to in this section do not, however, apply to cases in which the person referred to in subsection 1 or 2 is suspected in the same offence as the person suspected in the offence or of a directly connected offence, and also in respect of him or her a decision has been made on telecommunications interception, the obtaining of data other than through telecommunications interception, on-site interception or technical observation.

Section 53 – *Inspection of recordings and documents*

An official with the power of arrest or an official appointed by him or her shall without undue delay inspect the recordings and documents accumulated in the use of the covert coercive measure.

Section 54 – *Examination of recordings*

The recordings collected in the use of covert coercive measures may be examined only by the court, an official with the power of arrest and the investigator in the offence under investigation. On the order of an official with the power of arrest or of the court, the recording may be examined also by an

expert or another person whose assistance is being used in the clarification of the offence.

Section 55 – *Surplus information*

Surplus information refers to information collected through telecommunications interception, traffic data monitoring, the obtaining of base station data and technical surveillance, which is not connected with the offence or which is connected with an offence other than the one in the investigation of which the warrant or decision has been given.

Section 56 – *Use of surplus information* (1146/2013)

(1) Surplus information may be used in the clarification of an offence when the information concerns an offence in the investigation of which the coercive measure through which the information had been obtained could have been used.

(2) Surplus information may in addition be used if the use of the surplus information can be assumed to be of very important significance in the clarification of an offence and the most severe punishment for the offence is imprisonment for at least three years or the offence is one of the following:

- (1) participation in the activity of a criminal organization;
- (2) assault, negligent homicide, grossly negligent bodily injury, brawling, imperilment or abandonment;
- (3) aggravated invasion of domestic premises;
- (4) deprivation of personal liberty, child abduction, menace or coercion;
- (5) extortion; or
- 6) preparation of endangerment.

(3) The court decides in connection with the main hearing on the use of surplus information as evidence. Chapter 9, section 6, subsection 2 of the Criminal Investigation Act contains provisions on the recording of the use of surplus information in the criminal investigation record and Chapter 5, section 3, subsection 1, paragraph 8 of the Criminal Procedure Act contains provisions on reporting the use of surplus information in the application for a summons.

(4) Surplus information may in addition always be used in the prevention of an offence, the directing of police activity and as evidence of the innocence of a person.

(5) Surplus information may in addition be used in the prevention of a significant danger to life, health or liberty or of considerable damage to the environment, property or assets.

(6) Chapter 5, section 54 of the Police Act contains provisions on the use of surplus information obtained on the basis of the Police Act, in the clarification of an offence.

Section 57 – *Destruction of information* (1146/2013)

(1) Surplus information shall be destroyed after the matter has been decided with legal force or has been dismissed without considering the merits. However, surplus information may be retained and recorded in a register referred to in the Act on the Processing of Personal Information in Police Work if the information concerns an offence referred to in section 56, subsection 1 or 2, or the information is necessary in order to prevent an offence referred to in Chapter 15, section 10 of the Criminal Code. Information that is not destroyed shall be retained for five years after the matter has been decided with legal force or dismissed without considering the merits.

(2) The base station data referred to above in section 10 shall be destroyed when the matter has been decided with legal force or dismissed without considering the merits.

Section 58 – *Interruption of telecommunications interception, on-site interception and technical surveillance of a device* (1146/2013)

If it becomes evident that telecommunications interception is directed at a message sent by or intended for a person other than the suspect in the offence who is the subject of the warrant or that the suspect in an offence who is the subject of on-site interception does not reside in the premises or other place that is being monitored, the use of the coercive measure shall be interrupted as soon as possible and the recordings made of the interception and the notes regarding the interception shall be destroyed immediately. The obligation to interrupt the measure and destroy recordings and notes applies also to technical surveillance of a device if it becomes evident that the surveillance is directed at the content of a message or at identifying data referred to in section 6 or that the suspect in the offence does not use the device that is the object of the surveillance.

Section 59 – *Destruction of information obtained in an urgent situation*

If a public official with the power of arrest has, in the urgent situation referred to in section 9, subsection 1, section 11, subsection 1, section 22, subsection 1 or section 24, subsection 1 decided on the initiation of traffic data monitoring, the obtaining of base station data, technical monitoring of a person or technical surveillance of a device, but the court finds that the prerequisites did not exist for the measure, the use of the coercive measure shall be terminated and the documentation and the notes on the information thus obtained shall be destroyed immediately. Nonetheless, information obtained in this manner may be used on the same grounds as surplus information may be used in accordance with section 56.

Section 60 – *Giving of notice of the use of covert coercive measures* (1146/2013)

(1) Written notice shall be given without delay to the suspect concerning telecommunications interception, the obtaining of data other than through telecommunications interception, traffic data monitoring, extended surveillance, covert collection of intelligence, technical surveillance and controlled delivery directed at him or her, after the matter has been submitted to the consideration of the prosecutor or the criminal investigation has otherwise been terminated or interrupted. However, the suspect shall be informed at the latest within one year of the termination of the use of a coercive measure.

(2) A written notice shall be given without undue delay to the suspect concerning covert activity, pseudo-purchase and controlled use of covert human intelligence sources directed at him or her after the matter has been submitted to the consideration of the prosecutor.

(3) A court may decide on the request of an official with the power of arrest that the notice to the suspect referred to in subsections 1 and 2 may be postponed at the most two years at a time, if this is justified in order to ensure present or future collection of intelligence, ensure the security of the state or protect life or health. The court may decide that no notice is given at all, if this is necessary in order to ensure the security of the state or protect life or health.

(4) If the identity of the suspect is not known at the end of the period referred to in subsection 1 or at the end of the postponement referred to in subsection

3, he or she shall be notified in writing of the coercive matter without undue delay when his or her identity has been ascertained.

(5) The court that has issued the warrant and, in respect of covert activity, the court referred to in section 32 shall at the same time be notified of the notice given to the suspect.

(6) When consideration is being given to the postponement or non-issuance of the notice in the cases referred to in subsection 3, consideration shall also be given to the right of the party to a proper defence or otherwise to appropriately secure his or her rights in court proceedings.

(7) The provisions of section 43 apply, as appropriate, to the consideration in court of the matter concerning the notice. Matters concerning a notice of pseudo-purchases and of controlled use of covert human intelligence sources are dealt with by the Helsinki District Court, applying as appropriate subsection 6 of said section.

Section 61 – *Records*

A record shall be prepared without undue delay after the termination of the use of a covert coercive measure other than surveillance.

Section 62 – *Restriction of the publicity of parties in certain cases*

(1) A person whose right or obligation is concerned in the matter does not, notwithstanding the provisions of section 11 of the Act on the Openness of Government Activities (621/1999), have the right to information on the use of coercive measures referred to in this Act until the notice referred to in section 60 has been given. He or she also does not have the right of the data subject of inspection referred to in the Personal Data Act (523/1999) or the Act on the Processing of Personal Data in Police Work.

(2) When the notice referred to in section 60 has been made, the person referred to in subsection 1 has the right to obtain information on a document or recording connected with the use of a covert coercive measure, unless it is necessary to not release this in order to ensure the security of the state or to protect life, health or privacy, or tactical and technical procedures that are to be kept secret. When deciding on non-release of a document, recording or information, consideration shall be given to the right of the person referred to

in subsection 1 to a proper defence or otherwise to appropriately secure his or her rights in court proceedings.

(3) Information on an audio and video recording may be provided only by giving the recording for listening or viewing at the premises of the criminal investigation authority, if in consideration of the contents of the recording there are grounds to assume that providing the information in another manner may lead to violation of the protection of privacy of the person appearing in the recording.

Section 63 – Responsibility of a telecommunications company to assist and entry into certain premises

(1) A telecommunications operator shall, without undue delay, make the connections in the telecommunications network necessary for the telecommunications interception and the traffic data monitoring and provide for the use of the criminal investigation authority the information, equipment and personnel necessary for the use of the telecommunications interception. The same applies to situations in which the telecommunications interception or traffic data monitoring is performed by the criminal investigation authority with a technical device. In addition a telecommunications operator shall provide the head investigator with the information in his or her possession that is necessary for the performance of the technical monitoring.

(2) The criminal investigation authority, the person performing the measure and the assisting personnel have the right, in order to make the connection necessary for telecommunications interception, to enter also into premises other than those in the possession of the telecommunications operator, not, however, into premises used as a permanent residence. An official with the power of arrest decides on the measure. Separate provisions apply to a search of a domicile.

Section 64 – Compensation to telecommunications companies

(1) A telecommunications operator has the right to compensation from state funds for the direct expenses of assistance to the authorities referred to in this Chapter and of providing information as provided in section 98 of the Telecommunications Services Act. The criminal investigation authority unit that conducted the investigation decides on the payment of the compensation.

(2) The decision is subject to appeal to the administrative court, as provided in the Administrative Procedure Act (586/1996). In considering such a matter, the administrative court shall reserve the Communications Regulatory Authority an opportunity to be heard.

Section 65 – Supervision of the application of covert coercive measures

(1) The National Police Board and the chiefs of units using covert coercive measures supervise the use of covert coercive measures on the part of the police.

(2) The Ministry of the Interior shall submit an annual report to the Parliamentary Ombudsman on the use and supervision of covert coercive measures and their protection.

(3) The Police Act contains provisions on reports to the Parliamentary Ombudsman on covert collection of intelligence for the prevention or detection of offences.

Section 66 – More detailed provisions

More detailed provisions may be provided by Government Decree on the arrangement and supervision of the application of the covert coercive measures referred to in this Chapter as well as on the recording of the measures and the reports to be provided for the purpose of supervision.

Chapter 11 – Miscellaneous provisions

Section 1 – Effect of mitigation of the penal scale

Use of a coercive measure referred to in this Act is not affected by the fact that a mitigated penal scale is applied to the sentence on the basis of Chapter 6, section 8 of the Criminal Code.

Section 1(a) – Transfer of the matter to another court (1146/2013)

(1) On the request of an official with the power of arrest or of another person who has submitted a matter concerning coercive means to a court, the court where the coercive means matter is pending may, when special reasons so

demand, transfer the matter to another competent court. The decisions and other measures taken by the transferring court remain in force until the court to which the matter is transferred decides otherwise. The matter may not, however, be transferred back unless this is required by new and special reasons.

(2) A decision by which a matter has been transferred or the request for a transfer is not subject to appeal.

Section 2 – Notices regarding soldiers

Notice of the apprehension, arrest, remand and release of a soldier shall be sent immediately to the commander of the administrative unit in which said soldier is serving.

Section 3 – International cooperation

In addition to what is provided in Chapter 6, section 8 and Chapter 7, section 21 on mutual legal assistance and executive assistance that a criminal investigation authority receives from or gives to a criminal investigation authority of a foreign state in connection with the use of coercive measures and on the right of a criminal investigation authority of a foreign state to use the powers of a Finnish criminal investigation official related to coercive measures, what is separately provided or agreed thereon in an international agreement binding on Finland applies.

Section 4 – More detailed provisions

More detailed provisions may be given by a Government Decree on the following:

- (1) recording of the use of coercive measures;
- (2) cooperation among authorities in remand matters;
- (3) notification on measures relating to a travel ban.

Section 5 – Entry into force

(1) This Act enters into force on 1 January 2014.

(2) This Act repeals the Coercive Measures Act (450/1987).

Section 6 – *Transitory provisions*

(1) The provisions of this Act apply to coercive measure in use at the time this Act enters into force. The provisions of this Act on confiscation for security apply, as appropriate, to a restraint on alienation.

(2) If at the time this Act enters into force the period of validity of a coercive measure in use would, had this Act applied, already be ending, the measure may be used in accordance with the provisions that had been in force at the time this Act enters into force.