

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

Act on the National Implementation of the Provisions of a Legislative Nature in the Framework Decision on Supervision Measures Imposed as an Alternative to Provisional Detention and on the Application of the Framework Decision

(620/2012; amendments up to 42/2019 included)

By decision of Parliament, the following is enacted:

Chapter 1

General provisions

Section 1

Implementation of the Framework Decision

The provisions of a legislative nature in Council Framework Decision 2009/829/JHA on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention, hereinafter *the Framework Decision*, shall have the force of law, unless otherwise provided in this Act.

Section 2

Scope of application

In accordance with this Act and the Framework Decision:

- 1) a decision on supervision measures referred to in Article 8(1) of the Framework Decision issued in another Member State of the European Union is recognised and enforced in Finland, and other measures referred to in the Framework Decision are taken in Finland; and
- 2) a decision on supervision measures referred to in section 9 issued in Finland is sent to another Member State of the European Union for recognition and enforcement.

Chapter 2

Recognition and enforcement in Finland of a decision on supervision measures issued in another Member State

Section 3

Conditions for taking up a decision for recognition and enforcement

A decision on supervision measures is taken up for recognition and enforcement in Finland if:

- 1) the person subject to supervision is ordinarily residing in Finland; and
- 2) the person subject to supervision consents to the execution of the supervision in Finland.

If the person subject to supervision is not ordinarily residing in Finland, a decision on supervision measures may be received with the consent of the authority competent to decide on recognition. Consent may be given if the person subject to supervision has requested that the supervision be carried out in Finland and this is considered justified due to the personal circumstances of the person subject to supervision or for other special reasons.

Section 4

Authorities competent to decide on recognition and adaptation

A decision on recognition of a decision on supervision measures is taken by:

- 1) a District Prosecutor or a Senior Specialised Prosecutor serving in the judicial district of the Helsinki District Court, if supervision is to be carried out in the judicial district of the Helsinki Court of Appeal;
- 2) a District Prosecutor or a Senior Specialised Prosecutor serving in the judicial district of the North Savo District Court, if supervision is to be carried out in the judicial district of the Court of Appeal of Eastern Finland;
- 3) a District Prosecutor or a Senior Specialised Prosecutor serving in the judicial district of the Oulu District Court, if supervision is to be carried out in the judicial district of the Rovaniemi Court of Appeal;
- 4) a District Prosecutor or a Senior Specialised Prosecutor serving in the judicial district of the Pirkanmaa District Court, if supervision is to be carried out in the judicial district of the Turku or Vaasa Court of Appeal.

(42/2019)

A decision on recognition of a decision on supervision measures may be taken by any prosecutor referred to in subsection 1, irrespective of the court of appeal in the judicial district of which the supervision is to be carried out, if this is deemed appropriate from the perspective of the enforcement of the decision on supervision measures or for other special reasons.

The authority competent to decide on recognition is also competent to decide on adaptation of supervision measures.

The authority competent to decide on recognition may take a decision referred to in this section after consulting the police department within the area of operation of which the supervision is to be carried out.

Section 5

Enforcement of a decision on supervision measures

Once a decision on recognition of a decision on supervision measures has been taken, the police is responsible for executing the supervision.

The provisions of the Coercive Measures Act (450/1987) on the validity and rescission of a travel ban apply to the duration of supervision, as appropriate. At the request of the competent authority of the issuing Member State, the duration of supervision may be extended. A decision on extension is made by the court referred to in section 14, subsection 1 on the proposal of the authority competent to decide on recognition.

Section 6

Double criminality

If a decision on supervision measures is related to an act referred to in Article 14(1) of the Framework Decision, recognition of the decision on supervision measures is not subject to the condition that the act constitutes an offence under Finnish law or would do so if committed in Finland in similar circumstances.

If a decision on supervision measures is related to an act other than those referred to in Article 14(1), recognition and enforcement of the decision in Finland is subject to the condition that the

act constitutes an offence under Finnish law or would do so if committed in Finland in similar circumstances.

Section 7

Languages and translations

The certificate referred to in Article 10 of the Framework Decision is accepted if it has been drawn up in Finnish, Swedish or English or is accompanied by a translation into one of these languages. The authority competent to decide on recognition may also accept a certificate in some other language, if there is no other impediment to accepting it.

Persons subject to supervision have the right to be informed of any decision in the case in a language they understand.

Section 8

Surrender of a person subject to supervision

If a person subject to supervision is requested to be surrendered to the Member State where the decision on supervision measures was issued, the surrender is governed by the Act on Surrender Procedures between Finland and Other Member States of the European Union (1286/2003). However, consenting to a request for surrender is not subject to the condition that the most severe punishment under the law of the requesting Member State for the act on which the request is based is a custodial sentence of at least one year.

Chapter 3

Taking a decision on supervision measures and sending the decision from Finland to another Member State

Section 9

Taking a decision and sending it to another Member State

A decision on supervision measures may be taken and sent to another Member State if the prerequisites for a travel ban under the Coercive Measures Act are met and the suspect is ordinarily residing in another Member State or the case concerns a Member State referred to in Article 9(2) of the Framework Decision. A further prerequisite is that execution of the supervision

in another Member State can be considered justified due to the personal circumstances of the person subject to supervision or for other special reasons and that the person has consented to the execution of the supervision in that Member State. The provisions governing travel bans apply, as appropriate, to the contents of a decision on supervision measures.

A travel ban is imposed on a person subject to supervision, and it shall be in effect until a decision on recognition issued in another Member State or information on this has been received and served on the person subject to supervision. The provisions governing the service of a summons in criminal matters apply to the service. If a travel ban cannot be considered a sufficient measure to ensure the enforcement of a decision on supervision measures, the person subject to supervision may be remanded for the period specified above, provided that the prerequisites for remand under the Coercive Measures Act are met.

Section 10

Competent authorities

The court competent to consider a request for remand referred to in the Coercive Measures Act is competent to take a decision on supervision measures and send it to another Member State. If the person concerned is not requested to be remanded, the competence lies with the prosecutor assigned to deal with the criminal case in question.

Section 11

Languages and translations

The authority that made the decision on supervision measures is responsible for the translation of the certificate referred to in Article 10 of the Framework Decision into a language accepted by the executing state.

Section 12

Competence to take subsequent decisions

The authority that made the decision on supervision measures decides on the consequences of a breach of the terms of the decision on supervision measures and on other measures referred to in Article 18(1) of the Framework Decision. However, a court decides on the remand of a person subject to supervision.

The Act on Surrender Procedures between Finland and Other Member States of the European Union applies to the procedure for surrendering a person subject to supervision to Finland.

Chapter 4

Miscellaneous provisions

Section 13

Right to legal counsel and defence counsel

A criminal suspect has the right to legal counsel.

The provisions of chapter 2 of the Criminal Procedure Act (689/1997) apply to the appointment of a defence counsel.

If the person subject to supervision is in a foreign state and a legal counsel has been appointed for him or her there, the prerequisite for appointing a defence counsel is that there are special reasons for this from the perspective of the legal protection of the person subject to supervision. In such a case, the defence counsel is appointed by the district court referred to in section 14, subsection 1.

Section 14

Request for review

A person subject to supervision may refer a decision on recognition of a decision on supervision measures for consideration to the district court of the judicial district in which the District Prosecutor or Senior Specialised Prosecutor who took the decision on recognition serves. The district court shall take the matter up for consideration without delay. The decision of the district court is not subject to appeal. (42/2019)

The provisions of the Coercive Measures Act on requests for a review of a court decision on a travel ban apply to requests for a review of a court decision referred to in section 10. A decision taken by a prosecutor under section 10 may be referred for consideration to the district court of the judicial district where the prosecutor who took the decision serves. The decision of the district court is not subject to appeal.

The provisions of the Coercive Measures Act on the consideration of a travel ban apply to the consideration of a matter referred to in subsections 1 and 2 above. The matter may be decided in chambers without holding a hearing, if the court deems this appropriate. If the matter is considered in an oral hearing, a decision in the case may also be rendered in the absence of the person subject to supervision.

Section 15

Entry into force

This Act enters into force on 1 December 2012.

This Act applies in relation to a Member State that has implemented the Framework Decision.