

## **Act on the Obligation to Appear Before the Court of Another Nordic Country in Certain Cases**

(349/1975; amendments up to 748/2015 included)

### **Section 1**

(1) A general court may summon a person who has reached the age of eighteen years and is resident in Denmark, Iceland, Norway or Sweden and is staying in one of these countries to appear as a witness in a case pending in Finland if the testimony of the witness may be assumed to be of considerable significance in the clarification of the case and it is deemed to be particularly important that he or she be heard before a Finnish court. In considering the subpoenaing of a witness, consideration shall be given to the significance of the case as well as to the inconvenience that the witness may incur due to the length of the journey or another reason.

(2) A witness may be summoned before a court where the case is not pending only if there is an especially weighty reason for this.

### **Section 2**

(1) The witness is subpoenaed by the court or the chairman of the court.

(2) The subpoena shall state the date by which said subpoena shall be served as well as the sanctions for absence without due cause.

### **Section 3 (748/2015)**

If a witness fails to appear before the court without a lawful reason, the provisions of chapter 17, section 62 of the Code of Judicial Procedure apply. However, no order may be issued to have him or her brought to court unless he or she is in Finland.

### **Section 4 (748/2015)**

A witness may not be required to testify if to do so would violate the provisions of chapter 17 of the Code of Judicial Procedure or the corresponding provisions of the country in which the witness resides.

### **Section 5 (748/2015)**

(1) If the person subpoenaed as a witness has in his or her possession a document that may be assumed to be of significance as evidence in the case, he or she is obliged to present this document to the court unless this violates the provisions of chapter 17 of the Code of Judicial Procedure or the corresponding provisions of the country in which the witness resides. A witness who has been ordered to present a

document to the court shall be reserved an opportunity to give a statement on the order before the presentation of the document.

(2) If a witness who has been ordered to present a document to the court fails to fulfil his or her obligation, the court may require him or her to do so under the threat of a fine.

### **Section 6 (604/1976)**

A person who has arrived in Finland to be heard as a witness in response to a subpoena issued in accordance with this Act may not, during the period which he or she is in Finland due to the subpoena, be charged with or punished for an offence committed before his or arrival nor may he or she be extradited to a State other than the one from which he or she arrived unless he or she consents to this in court or remains in the country for more than fifteen days after he or she was free to depart.

### **Section 7**

(1) A witness subpoenaed in accordance with this Act shall be paid compensation from State funds for financial loss and for travel and maintenance expenses in accordance with the grounds provided in the State Compensation for Witnesses Act (1972/666).

(2) In connection with the subpoena, the witness shall be provided with an advance for travel and maintenance expenses.

(3) The court shall determine the final compensation. The compensation, from which the advance that has been paid has been deducted, shall be paid to the witness immediately after he or she has been heard.

(4) Supplementary provisions on the payment of the compensation for witnesses referred to in this Act shall be issued by Decree.

### **Section 8**

(1) If the witness has been subpoenaed on the request of a private party or, in a civil case, on the initiative of the court, the court shall decide whether or not a party shall be ordered to reimburse the State for compensation paid in accordance with section 7, either in full or in part, or whether said compensation shall be borne by the State.

(2) If a witness has been subpoenaed on the request of the prosecutor or, in other than a civil case, on the initiative of the court, the provisions of the State Compensation for Witnesses Act apply to the reimbursement to the State of the costs of the presentation of evidence.

(3) If a party has been granted legal aid, the provisions of the Legal Aid Act (257/2002) apply to the reimbursement of the State of the costs of the presentation of evidence. (748/2015)

### **Section 9**

(1) What is provided in section 1, 2 and 4 – 8 applies as appropriate also to the injured party in a criminal case, and with the exception of sections 7 and 8 also a party in a case that concerns the maintenance or paternity of a child. (604/1976)

(2) If an injured party or a party referred to in subsection 1 fails to arrive in court, the provisions of Chapters 8 and 12 of the Code of Judicial Procedure and

Chapter 8 of the Criminal Procedure Act (689/1997) apply. However, a party may not be ordered brought to court if he or she is not in Finland. (748/2015)

### **Section 10**

If a person who resides in Denmark, Iceland, Norway or Sweden and is staying in one of these countries voluntarily arrives in court without receiving the subpoena referred to in section 1, to be heard as a witness, injured party or as the party referred to in section 9, the provisions of sections 4, 5 and 6 apply as appropriate.

### **Section 11**

A person who is resident in Finland and is staying in Finland or another Nordic country is obliged to comply with a subpoena or order that a court in Denmark, Iceland, Norway or Sweden issues in accordance with the provisions of the law of the appropriate country that primarily correspond to the provisions of this Act. The same law applies if a party is resident in another Nordic country but is staying in Finland.

### **Section 12**

(1) A decision by which a court in Denmark, Iceland, Norway or Sweden has imposed a fine or threat of a fine on a person referred to in section 11 for absence or other omission or ordered him or her to reimburse trial costs is enforced on request in Finland.

(2) A fine and a threat of a fine are enforced in the manner provided in the Act on Cooperation Between Finland and Other Nordic Countries in the Enforcement of Judgments Given in Criminal Cases (326/1963).

(3) A decision on reimbursement of trial costs and reimbursement to the State of compensation paid to a witness, injured party or party is enforced in the manner provided in the Act on the Recognition and Enforcement of Nordic Judgments on Civil Law Claims (588/1977). (591/1977)

### **Section 13**

Supplementary provisions on the application of the provisions of the Act are provided as necessary by Decree.

### **Section 14**

(1) This Act enters into force on 1 July 1975.

(2) Separate provisions shall be given by Decree in respect of each country referred to in section 1 on the date from which this Act applies between Finland and the country in question.