

## **Translation from Finnish**

**Legally binding only in Finnish and Swedish**

**Ministry of Justice, Finland**

### **Act on the Storage of Information Extracted from the Criminal Records and on the Disclosure of Such Information between Finland and Other Member States of the European Union**

(214/2012; amendments up to 1056/2018 included)

By decision of Parliament, the following is enacted:

#### **Chapter 1**

##### **General provisions**

##### **Section 1**

##### **Scope of application**

This Act lays down provisions on the transmission of information contained in the criminal records and the register of fines to the European Union Member State of a convicted person's nationality (*the Member State of the person's nationality*) and on the storage in Finland of such information concerning Finnish nationals contained in the registers of other Member States and transmitted to Finland.

In addition, this Act lays down provisions on the disclosure of information referred to in subsection 1, upon request, for the purposes of criminal proceedings, for the execution of a request submitted by a private person concerning the person himself or herself or, with the consent of the person concerned, for the performance of a task involving work or other activities with minors, and on the submission of a request for such information. (150/2014)

The Legal Register Centre is responsible for the tasks referred to in subsections 1 and 2 in the capacity of the central authority referred to in Council Framework Decision 2009/315/JHA on the organisation and content of the exchange of information extracted from the criminal record between Member States (hereinafter *the Framework Decision*).

## **Section 2**

### **Definitions**

In this Act:

- 1) *criminal proceedings* means the criminal investigation, consideration of charges, court proceedings, and enforcement of a conviction;
- 2) *storage register* means a register in which, in accordance with this Act, information on final convictions concerning Finnish nationals handed down by criminal courts in other Member States and recorded in their registers is entered;
- 3) *register* means such a register of another Member State in which information on convictions is recorded in accordance with the legislation of that Member State, as well as in Finland the criminal records, the register of fines and the storage register.

## **Section 3**

### **Information that can be disclosed**

Notwithstanding the secrecy obligation, the Legal Register Centre may disclose information on decisions from the criminal records, the register of fines and the storage register, insofar as the information concerns final convictions imposed by courts on natural persons, as provided in this Act.

Of the information referred to in subsection 1, the Legal Register Centre may disclose the following:

- 1) information referred to in section 2, subsection 3 of the Criminal Records Act (770/1993) that has been entered in the criminal records;
- 2) the following information that has been entered in the register of fines: the convicted person's name, personal identity code or, if it is not available, date of birth, and nationality; date of issue of the conviction; name of the court; imputed offence; time of commission of the offence; information on whether the fine was a fine imposed as unit fines, a fixed fine or a disciplinary fine; number of unit fines and amount of a single unit fine; and total amount of the fine;
- 3) in respect of a decision that has been entered in the register of fines, the Legal Register Centre may also disclose the following information contained in the decision notification system of the national information system of the judicial administration: the convicted person's place of birth (town and state), gender, any previous names, date on which the decision became final,

applicable provisions of law, any subsequent decisions modifying the enforcement of the punishment, and number of the decision;

4) information that has been entered in the storage register in accordance with section 9.

## **Section 4**

### **Relationship to other legislation and international obligations**

The Act on International Legal Assistance in Criminal Matters (4/1994) and what is separately provided by law or in international agreements binding on Finland apply to international legal assistance referred to in this Act, in addition to the provisions of this Act.

Notwithstanding the provisions of this Act, separate provisions may be applied to the cooperation between Finland and other Nordic countries in the keeping of criminal records.

Unless otherwise provided in this or another act, the Act on the Openness of Government Activities (621/1999) applies to the confidentiality, disclosure and protection of personal data, and the Act on the Processing of Personal Data in Criminal Matters and in Connection with Maintaining National Security (1054/2018) applies to other processing of personal data. (1056/2018)

Provisions on the punishment for a data protection offence are laid down in chapter 38, section 9 of the Criminal Code (39/1889). (1056/2018)

## **Chapter 2**

### **Transmission of information contained in registers from Finland to the Member State of the convicted person's nationality**

## **Section 5**

### **Transmission of information contained in the criminal records and the register of fines to the Member State of the convicted person's nationality**

The Legal Register Centre shall, without delay, transmit the information referred to in section 3 concerning such a decision issued in Finland against a national of another Member State that has been entered in the criminal records or the register of fines to the central authority of the Member State of the convicted person's nationality. If it is known that the convicted person is a national of

several Member States, the information shall be transmitted to each of these Member States, even if the person is also a national of Finland.

The Legal Register Centre shall, without delay, transmit information on any subsequent alteration or deletion of information contained in the criminal records or the register of fines referred to in subsection 1 to the central authorities of the Member States of the person's nationality referred to in subsection 1.

On the request of the central authority of the Member State of the convicted person's nationality, the Legal Register Centre shall provide copies of the decisions referred to in subsections 1 and 2, information on any subsequent measures, and any necessary additional information in order to enable the Member State of the person's nationality to consider whether they necessitate any measure at national level.

Information contained in the register of fines must no longer be transmitted after three years have elapsed since the pronouncement or issue of the final conviction or another final decision of the authorities.

## **Section 6 (150/2014)**

### **Re-disclosure of information**

When the Legal Register Centre transmits information in accordance with section 5 to a Member State of the convicted person's nationality, it shall inform the Member State that the information provided may be further disclosed to a third country only for the purposes of criminal proceedings, for the execution of a request made by a private person concerning the person himself or herself or, with the consent of the person concerned, for the performance of a task involving work or other activities with minors.

## **Section 7**

### **Method of transmitting information**

Information extracted from the criminal records and the register of fines shall be transmitted to the central authority of another Member State in electronic format.

## **Chapter 3**

### **Storage of information concerning Finnish nationals that has been transmitted to Finland**

#### **Section 8 (1056/2018)**

##### **Purpose of storage register**

The controller of the storage register is the Legal Register Centre. The storage register is kept for the purpose of storing information so that it can be re-disclosed to other Member States and to Finnish authorities and indicated on criminal record extracts as provided in this Act.

#### **Section 9**

##### **Contents of storage register**

The following shall be entered in the storage register:

- 1) name, date of birth, place of birth (town and state), gender, nationality and any previous names of the convicted person;
- 2) personal identity code of the convicted person or the type and number of the person's identification document;
- 3) fingerprints taken from the convicted person;
- 4) names of the convicted person's parents;
- 5) if applicable, any pseudonym or alias name of the convicted person;
- 6) date of conviction, name of the court, and date on which the decision became final;
- 7) date of the offence underlying the conviction, name and, where necessary, legal classification of the offence, and reference to the applicable legal provisions;
- 8) information on the punishment as well as any supplementary sanctions, interim measures and subsequent decisions modifying the enforcement of the punishment;
- 9) reference number of the conviction;
- 10) place of the offence;
- 11) disqualifications arising from the conviction.

The information referred to in subsection 1 shall be entered in the storage register unaltered and to the extent that it has been provided by another Member State. If the other Member State has provided other details than those referred to in subsection 1, they shall be entered in the storage

register if they could, under section 2, subsection 3 of the Criminal Records Act, be entered in the criminal records.

The Legal Register Centre may request from the Member State that provided the information copies of the convictions in question, information on any subsequent measures, and any other necessary further information.

If the Member State that provided the information has set conditions for the use of the information, this shall be indicated in the storage register.

## **Section 10**

### **Transfer of information to the criminal records**

The Legal Register Centre shall enter the information recorded in the storage register in the criminal records, if the conditions laid down in section 2, subsection 2 of the Criminal Records Act are met.

If the storage register contains information on a conviction for which the conditions laid down in section 2, subsection 2 of the Criminal Records Act are not met, an entry indicating that the storage register contains information on such a conviction shall be made in the criminal records. If there is no other entry concerning the convicted person in the criminal records, the name, personal identity code and nationality of the person shall also be entered in the criminal records.

Information on the conditions referred to in section 9, subsection 4 shall also be entered in the criminal records.

## **Section 11**

### **Disclosure of information from storage register**

Any information entered in the storage register shall be kept secret. Notwithstanding the secrecy obligation laid down in this or another act, information may, however, be disclosed from the storage register in accordance with subsections 2–5.

The Legal Register Centre may disclose information from the storage register to the central authority or other competent authority of another Member State in accordance with sections 14, 15 and 15a. (150/2014)

Furthermore, the Legal Register Centre may disclose information referred to in section 9, subsection 1, paragraphs 1, 2 and 6–11 that has been entered in the storage register to a prosecutor, and information referred to in section 9, subsection 1 that has been entered in the storage register to a criminal investigation authority in accordance with section 4, subsection 1 of the Criminal Records Act. The prosecutor and the criminal investigation authority may disclose information they have obtained from the storage register to a court insofar as this is necessary for the consideration of a pending criminal case.

The Legal Register Centre may also disclose such information concerning fines and their enforcement that could be indicated on an extract from the register of fines:

- 1) to the criminal investigation authority for the purposes of criminal investigation, if the authority has the corresponding right to obtain information concerning fines from the register of fines;
- 2) in accordance with section 6, subsection 3, paragraph 2 of the Criminal Records Act.

However, information must not be disclosed in accordance with subsections 2–4 if the Member State that provided the information has set conditions that prevent the disclosure.

Information is disclosed from the storage register on an extract that either indicates all such information on a given person contained in the register that the requesting party is entitled to obtain or states that the register contains no entries on the person. If information concerning a conviction has been entered in the criminal records in accordance with section 10, the Legal Register Centre shall indicate this on the extract.

## **Section 12**

### **Deleting and modifying information contained in the storage register**

Information shall be deleted from the storage register or it shall be modified when the Member State that provided the information notifies that it has deleted the information from its own register or modified it in its own register.

## **Section 13 (1056/2018)**

### **Right of access**

Provisions on the right of a person to access information concerning him or her contained in the registers are issued separately.

## **Chapter 4**

### **Disclosure of information extracted from registers upon request**

#### **Section 14**

##### **Replying to a request submitted for the purposes of criminal proceedings**

On the request of the central authority or other competent authority of another Member State, the Legal Register Centre shall disclose the information referred to in section 3 extracted from the criminal records, the register of fines and the storage register for the purposes of criminal proceedings.

If the criminal records contain information that has been entered in the storage register, the requesting Member State shall only be provided with the information entered in the storage register.

#### **Section 15**

##### **Replying to a request based on a request from a private person**

The Legal Register Centre shall disclose to the requesting central authority of another Member State the information referred to in section 3 contained in the criminal records, the register of fines and the storage register for the purposes of being transmitted to a private person who has requested the information under the same conditions as a private person would obtain information concerning himself or herself in a corresponding situation in accordance with section 6, subsections 1–5 of the Criminal Records Act. The information may also be disclosed for the purposes of being transmitted to a private person for the performance of voluntary work involving activities with minors under the same conditions as this information could be indicated on an extract referred to in section 6, subsection 2 of the Criminal Records Act. (150/2014)

If the criminal records contain information that has been entered in the storage register, the requesting Member State shall only be provided with the information entered in the storage register.

### **Section 15a (150/2014)**

#### **Replying to a request submitted for the purposes of work or other activities with minors**

The Legal Register Centre shall, with the consent of the person concerned, disclose to the requesting central authority of another Member State the information referred to in section 3 extracted from the criminal records, the register of fines and the storage register for the performance of a task involving work or other activities with minors under the same conditions as the information could be indicated on an extract referred to in section 6, subsection 2 of the Criminal Records Act.

If the criminal records contain information entered in the storage register, the requesting Member State shall only be provided with the information entered in the storage register.

### **Section 16**

#### **Content, format and language of requests**

The Legal Register Centre shall accept a request referred to in sections 14, 15 or 15a submitted by the central authority of another Member State, if the request contains the necessary information specified in the form annexed to the Framework Decision. The request shall be submitted in electronic format or, if this is not possible, in another written form. (150/2014)

The request shall be drawn up in Finnish, Swedish or English or accompanied by a translation into one of these languages. The Legal Register may also accept a request or a translation in a language other than Finnish, Swedish or English, if there is no other impediment to accepting it. Where necessary, the Legal Register is responsible for the translation of requests into Finnish or Swedish. Where necessary, the Ministry of Justice assists in translating requests.

## **Section 17**

### **Content, format and language of replies**

In its reply, the Legal Register Centre shall provide the central authority or another competent authority of the requesting Member State with the information referred to in sections 14, 15 and 15a in accordance with the form set out in the Annex to the Framework Decision. (150/2014)

The reply submitted to the central authority shall indicate that the requesting Member State is obliged to comply with the provisions on the use of personal data laid down in Article 9 of the Framework Decision.

The reply shall be provided in Finnish or Swedish or in another language accepted by the Legal Register Centre and the requesting Member State.

The reply shall be submitted in electronic format. If there is an obstacle to the submission of an electronic reply, the reply may also be submitted in another written form.

## **Section 18**

### **Deadlines**

The Legal Register Centre shall transmit its reply containing the information referred to in section 14 to the central authority or other competent authority of another Member State without delay and in any event within ten working days from the date on which the request was received.

If the Legal Register Centre has requested further information, the information referred to in subsection 1 shall be transmitted within ten working days from the date on which it received the further information.

The Legal Register Centre shall transmit the information referred to in sections 15 and 15a above to the central authority of another Member State within 20 working days from the date on which the request was received. (150/2014)

## **Chapter 5**

### **Submission to another Member State of a request for information to be extracted from registers**

#### **Section 19**

##### **Submission of a request for the purposes of criminal proceedings**

The Legal Register Centre shall submit a request to the central authority of another Member State for information and related data to be extracted from its registers for the purposes of criminal proceedings against a natural person, if so requested by a court, a prosecution authority, a criminal investigation authority or the Criminal Sanctions Agency.

The court, the prosecution authority and the criminal investigation authority may also submit a request referred to in subsection 1 directly to the competent authority of another Member State, as separately provided.

#### **Section 20**

##### **Submission of a request based on a request from a private person**

When a private person who is a national of another Member State asks for an extract from his or her own criminal record in accordance with section 6, subsections 1–5 of the Criminal Records Act, the Legal Register Centre shall submit a request to the central authority of the other Member State of which the person is a national for information and related data to be extracted from its registers.

If the request referred to in subsection 1 is submitted by a private person who is known to have been a resident of another Member State when over 18 years of age and therefore the relevant information concerning him or her is not in this respect otherwise available, the Legal Register Centre shall submit a request to the central authority of the other Member State where the person has been residing for information and related data to be extracted from its registers.

## **Section 20a (150/2014)**

### **Submission of a request for the purposes of voluntary activities**

For the purposes of performing a task referred to in the Act on Checking the Criminal Background of Volunteers Working with Children (148/2014), the Legal Register Centre shall submit a request to the central authority of another Member State for information and related data to be extracted from its registers, when the Legal Register Centre has been requested, with the consent of the person concerned, to provide a criminal record extract under section 6a of the Criminal Records Act.

If the request referred to in subsection 1 concerns a person who is known to have been a resident of another Member State when over 18 years of age and therefore the relevant information concerning him or her is not in this respect otherwise available, the Legal Register Centre shall submit a request to the central authority of the other Member State where the person has been residing for information and related data to be extracted from its registers.

## **Section 21**

### **Content, format and language of requests**

The Legal Register Centre shall submit its requests referred to in sections 19, 20 and 20a to the central authority of another Member State in accordance with the form set out in the Annex to the Framework Decision. (150/2014)

The request shall be drawn up in the official language of the requested Member State or in another language accepted by it.

The request shall be submitted in electronic format. If there is an obstacle to the submission of an electronic request, the request may also be submitted in another written form.

## **Section 22**

### **Restrictions on the use of information**

Information and related data extracted from the registers of another Member State and transmitted by it on the basis of a request referred to in section 19, subsection 1 or section 20 or 20a may only be used in those criminal proceedings or for those purposes for which the

information was requested, in accordance with the conditions notified by the Member State that transmitted the information. (150/2014)

Notwithstanding the provisions of subsection 1, information transmitted by another Member State may be used for averting an immediate and serious danger to public safety and security.

Where information transmitted by another Member State in accordance with subsection 1 originates from Finland, the purposes for which the information may be used, by derogation from the provisions of subsection 1, are determined under Finnish law.

## **Chapter 6**

### **Entry into force**

#### **Section 23**

##### **Entry into force**

This Act enters into force on 15 May 2012. The provisions in force at the time of the entry into force of this Act apply to such requests for the disclosure of information extracted from the criminal records and other data that were submitted before the entry into force of this Act.

In relation to a Member State which has not implemented the Framework Decision by the time of the entry into force of this Act, the provisions in force at the time of the entry into force of this Act apply until the Member State concerned has implemented the Framework Decision.