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NOTE

from:	Finnish delegation
to:	Delegations
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Subject:	Evaluation report on the fourth round of mutual evaluations "the practical application of the European Arrest Warrant and corresponding surrender procedures between Member States" - Follow-up to Report on Finland

REPORT ON FINLAND:

1) That the prosecutors' EAW handbook be amended so that prosecutors are directed to liaise with the Criminal Sanctions Agency prior to the issue of all prosecution EAWs

The handbook has been amended accordingly.

2) That section 23 of the EU Extradition Act be redrafted without reference to the police

Despite this recommendation Finland does not see the role of the police as incompatible with the practise and aim of the Framework Decision since the police, when requesting additional information, always act at the request and on behalf of the prosecutor. Hence, the provision has not been amended.

3) That the expansion of the mandatory refusal grounds to include situations not foreseen in the FD be reconsidered on the political level

This is a highly political question and so far there is nothing to report.

4) That section 5 (1)(5) be redrafted so that the scope of the territoriality ground for refusal is made clear and limited as intended by Finland

The evaluation team was concerned that the reference to Chapter 1 of the Finnish Criminal Code might lead to a situation where surrender might be refused for acts committed outside of Finland if they were committed by or against a Finnish citizen. The concern expressed by the evaluation team is based on a misunderstanding of the provision. Section 5 (1)(5) and Chapter 1 of the Criminal Code refer only to territorial jurisdiction, i.e. acts committed on Finnish territory or place regarded as such (Finnish vessel or aircraft).

In case an offence has been committed abroad by a Finnish citizen he may naturally be surrendered to the *locus delicti* to stand trial. The fact that the offence was committed against a Finnish citizen does not have any bearing on surrender.

Since the concern expressed by the evaluation team can not materialize, Finland will not redraft the provision.

5) That Finland designate a competent authority/authorities to superintend all undertakings, given by Finland or by other Member States, in respect of EAW proceedings

The EAW handbook has been amended accordingly. The individual prosecutor issuing an EAW has to notify the Office of the Prosecutor General of the surrender conditioned on the return of the person once surrender has taken place. The Office of the Prosecutor General then monitors the fulfilment of the condition.

6) That legislative clarity be established in respect of the translation provisions set out in Sections 15(1) and 15(3) of Finland's EU Extradition Act

Finland still fails to see any contradiction between these provisions that might lead to subsequent lack of legislative clarity. Hence, Finland sees no need redraft Section 15 of the EU Extradition Act.

7) That legislative clarity be applied to the objectives of Section 34(2) of Finland's EU Extradition Act

The above section has been repealed at the end of 2007.

8) That, in respect of associated surrenders of property and of requested persons, jurisdictional competence between the Coercive Measures Act and the EU Extradition Act is aligned

This recommendation was implemented at the end of 2007.

9) That consideration be given to establishing regular judicial refresher training courses on the EAW

Training courses have been arranged from time to time.

FINAL REPORT:

Recommendation 1:

In Finland the issuing authority for execution of sentences is the Criminal Sanctions Agency. So far consideration has not been given to restricting its mandate in its role as an issuing authority.

Recommendation 2:

Direct communications in and out of Finland work to a satisfactory degree.

Recommendation 3:

After the introduction of the EAW training of the relevant practitioners on the functioning of the EAW was intensive. Nowadays training is mostly sporadic. The government offers a wide range of foreign language courses to its civil servants and employees.

Recommendation 4:

Finnish practitioners are well aware of the support tools.

Recommendation 5:

Finland accepts EAWs in Finnish, Swedish and English.

Recommendation 6:

An original EAW is not required in Finland.

Recommendation 8:

Consideration has so far not been given to review Finland's legislation with respect to this recommendation.

Recommendation 11:

Consideration has so far not been given to make the notifications envisaged in Article 27(1) and 28(1) of the Framework Decision.

Recommendation 13:

Finland flags alerts only on the specific instructions of a judicial authority.

Recommendation 16:

As executing Member State Finland notifies the issuing authority of any developments in a timely and appropriate manner.

Recommendation 17:

Finnish authorities refrain from requesting unnecessary additional information.

Recommendation 18:

Appropriate mechanisms for gathering, processing and circulating information on EAW cases are being constantly developed.