THE EPPO/OLAF IX

Compendium of National Procedures

Desktop Codes on the Procedural Law of the
Member States with Annotations by National Experts

Pierre Hauck and Jan-Martin Schneider

Finland

λογος

The EPPO/OLAF Compendium of National Procedures

Volume IX – Finland

The EPPO/OLAF Compendium of National Procedures

Desktop Codes on the Procedural Law of the Member States
with Annotations by National Experts,
Volumes I (Austria) – XXVII (Sweden)

Volume IX – Finland

Prof. Dr. Pierre Hauck LL.M. (Sussex)
University of Giessen

Jan-Martin Schneider
University of Giessen

Assisted by

Nur Sena Karakocaoğlu
and Alastair Alexander Laird

This volume has been reviewed and updated for accuracy of content with the kind assistance of Prof. Dr. Raimo Lahti. Nevertheless, the authors take full responsibility for the content.

Pierre Hauck
Jan-Martin Schneider

The EPPO/OLAF Compendium of National Procedures: Finland

Logos Verlag Berlin

Bibliographic information published by the Deutsche Nationalbibliothek

The Deutsche Nationalbibliothek lists this publication in the Deutsche Nationalbibliografie; detailed bibliographic data is available on the Internet at http://dnb.d-nb.de.

This work is licensed under the Creative Commons Attribution 4.0 license CC BY (https://creativecommons.org/licenses/by/4.0/). Creative Commons license terms for re-use do not apply to any content (such as graphs, figures, photos, excerpts, etc.) not original to the Open Access publication and further permission may be required from the rights holder. The obligation to research and clear permission lies solely with the party re-using the material.

Cover image by Tom Fisk, pexels.com

Logos Verlag Berlin GmbH 2025
ISBN 978-3-8325-5901-4

Logos Verlag Berlin GmbH
Georg-Knorr-Str. 4, Geb. 10,
12681 Berlin
Tel.: +49 (0)30 / 42 85 10 90
Fax: +49 (0)30 / 42 85 10 92
https://www.logos-verlag.de

Funded by
the European Union

The research underlying this publication was funded by the European Union's HERCULE III programme (grant agreement No. 101015173).

The content of this publication represents the views of the authors only and is their sole responsibility. The European Commission does not accept any responsibility for use that may be made of the information it contains.

Dr Pierre Hauck LLM (Sussex) is Professor of Criminal Law at the Justus Liebig University of Giessen, Jan-Martin Schneider, Nur Sena Karakocaoğlu and Alastair Alexander Laird are research assistants there.

This publication was supported by the Open Access Publication Fund of the Justus Liebig University of Giessen.

The EPPO/OLAF Compendium of National Procedures

Volumes

I: Austria

II: Belgium

III: Bulgaria

IV: Croatia

V: Cyprus

VI: Czech Republic

VII: Denmark

VIII: Estonia

IX: Finland

X: France

XI: Germany

XII: Greece

XIII: Hungary

XIV: Ireland

XV: Italy

XVI: Latvia

XVII: Lithuania

XVIII: Luxembourg

XIX: Malta

XX: Netherlands

XXI: Poland

XXII: Portugal

XXIII: Romania

XXIV: Slovakia

XXV: Slovenia

XXVI: Spain

XXVII: Sweden

With national expert contributions by

Trainee Attorney Dr Thomas Flörl Mag iur rer oec Mag iur (Austria)
Prof Dr Frank Verbruggen & Pieter van Rooij (Belgium)
Prof Dr Dobrinka Chankova (Bulgaria)
Prof Dr Lucija Sokanović (Croatia)
Attorney at law Dr Marilena Katsogiannou LLM LLM (Cyprus)
Prof JUDr Jiří Jelínek CSc. & Tereza Ottová (Czech Republic)
Prof Dr Jaan Ginter (Estonia)
Prof Dr Raimo Lahti (Finland)
Maître de conférences Dr Hélène Christodoulou (France)
European Delegated Prosecutor Dr Anna-Elisabeth Krause-Ablaß (Germany)
Ombudsman Dr Eftichis Fitrakis (Greece)
Prof Dr Krisztina Karsai (Hungary)
Noelle Kenny & Claire O'Regan (Ireland)
Prof Dr Rosanna Belfiore & Dr Luca Pressacco (Italy)
Prof Dr Kristīne Strada-Rozenberga (Latvia)
Anonymous* (Lithuania)
Avocate Sandra Birtel (Luxembourg)
Advocate Dr Veronica-Anne Spiteri LLD (Malta)
Associate Prof Sjarai Lestrade (Netherlands)
Dr Dominika Czerniak (Poland)
Prof Dr Sandra Oliveira e Silva (Portugal)
Attorney Adrian Şandru & Mag Alexandra Aldea LLM (Romania)
doc JUDr et PhDr mult Libor Klimek PhD Dr h c (Slovakia)
Assoc Prof Dr Benjamin Flander (Slovenia)
Prof Dr Christoffer Wong (Sweden)

* The Lithuanian chapter was also revised by a national expert. However, due to his or her prominent professional position, this person does not wish to be named so as not to give the impression that the chapter reflects the official position of the Lithuanian state authorities. Nevertheless, we thank this person very much for this valuable contribution.

Preface and Acknowledgements

Every year, millions of euros of taxpayers' money are lost to fraud against the European Union budget. The fight against fraud has therefore been a key element in protecting the Union's financial interests for decades, and it still is. Since then, many different political and legal approaches have been taken to create a secure situation.

In essence, this financial protection by way of fighting crime is nowadays not only provided by the national judiciary, but also to a significant extent by the EU's own investigative bodies of the European Public Prosecutor's Office (EPPO) and the European Anti-Fraud Office (OLAF).

These two authorities work on the basis of their own EU regulations, each of which has in common to refer to the national legal situation with regard to the conduct of investigations. This concerns the law of the EPPO as a whole, insofar as the EPPO Regulation in Art. 30 para. 1 and para. 4 refers to nationally to be created (para. 1) or nationally existing powers (para. 4). This also applies to OLAF's right to carry out so-called external investigations, which are so important, in the event that an economic operator refuses to participate in the investigation, so that in this case it is not Union law but national law that forms the basis for the investigation (cf. Art. 3 para. 6 OLAF Regulation).

However, these references to national law are not enough; the problems of applying the law are only just beginning: Knowledge of national rules is usually reserved for those familiar with the national legal system, and at the level of the EU authorities these are very few. EU authorities, including the investigative authorities in question here, are rather characterized by the fact that they are made up of many employees from the most diverse member states. It is true that for both authorities, certain mechanisms (namely the EDPs as part of the EPPO and the AFCOS for OLAF) have been put in place to ensure that national legal competence is conveyed. But by and large, the respective national investigative procedure law remains a closed book in terms of criminal procedure or administrative law, not to mention the language barrier that threatens to become insurmountable for most people within the EU when seeking access to the law of other countries.

This publication series aims to remedy these shortcomings. It presents the law of criminal procedure and administrative investigation for all 27 Member States in English and in the language of the Member State. It thus provides easy access to the procedural rules of a foreign legal system, which are so important for EU investigative work. However, this presentation does not stop there, but explains these national rules, which are printed in bilingual form, from a competent source, namely from national experts. In this way, an explanatory work has been created that clearly ensures access to and understanding of foreign areas of law in the field of criminal procedural and administrative fraud investigations.

The editors would like to thank the European Commission for generously supporting the research underlying this work with funds from the EU's Hercule III programme, and they would like to thank the Justus Liebig University of Giessen for generously supporting the open access publication of this work with funds from its Open Access Publication Fund.

Our sincere thanks go to our team at the University of Giessen, in particular Nur Sena Karakocaoğlu and Alastair Laird, who have borne the main burden. Julian Doerk, Felina Frkic Wegener, Maike Kappes, Aleksandra Joachimiak, Tom Löwer and Sophie Meyer have greatly supported the project with a variety of research and formatting work. Corinna Haas and Vanessa Runge have accompanied the project from the beginning and have always backed us up with their sure eye for work-relevant aspects and processes, thus continuously supporting this ambitious project from start to finish.

The project was also successful because the third-party funding administration of the Justus Liebig University in the shape of Dr Christian Maarten Veldman, Anja Daßler and Jochen Stein took a lot of work off our shoulders.

Last but not least, our thanks go to the wonderful supervision and support of the publisher Volkhard Buchholtz and the production coordinator Katharina Kruse and Hannah Kropla from Logos Verlag in Berlin for everything it takes to bring a book to life.

Fair comments and suggestions for improving the work are always welcome at eppo.olaf@web.de.

Giessen/Germany, in November 2023
Pierre Hauck & Jan-Martin Schneider

Suggested citation:
The suggested citation for the entire work is always "Hauck/Schneider, EPPO/OLAF CNP, Vol. [I–XXVII] [Member State], p., margin number", but for the introductory chapters contributed by national experts with individual author references in the title it is "[Name of the national expert], in: Hauck/Schneider, EPPO/OLAF CNP, Vol. [I–XXVII] [Member State], p., margin number".

Executive Summary: This volume provides a comprehensive overview of Finland's legal framework and practice regarding EPPO and OLAF investigations.

Part A as initial section offers a general collection of key legal materials that underpin Parts B and C. It compiles case law, statutory sources, and details about relevant Finnish institutions, forming the foundation for understanding subsequent discussions.

Part B presents a compendium of Finnish statutory law pertinent to EPPO-led investigations. It connects the references in the EPPO Regulation to Finland's national laws, illustrating how criminal investigations are initiated and conducted in the Finnish legal context. The chapter navigates through Articles 26–33 of the EPPO Regulation, providing clarity on investigation procedures.

The final section C focuses on OLAF investigations within Finland. It highlights the conduct of on-the-spot checks and fact-finding missions carried out by OLAF and its Finnish partners during external investigations. To enhance accessibility, the main body is translated into English, while the original Finnish legal texts are preserved in the footnotes for reference.

Experts and authors: Introduction & Part A by *Raimo Lahti* (Professor emeritus, University of Helsinki, Finland), Prof. Dr. *Pierre Hauck* LL.M. (Sussex). Compilation and research of the EPPO and OLAF Parts (B–C) by Prof. Dr. Pierre Hauck LL.M. (Sussex), *Jan-Martin Schneider (*Dipl.-Jur. MR; RA, University of Gießen)/*Alastair A. Laird* (RA, University of Gießen)/*Nur Sena Karakocaoğlu* (Dipl.-Jur. FFM.; RA, University of Gießen) with the help of the expert. Compilation and research of the OLAF-Part C arranged with the special help of Questionnaire experts/organizations (AFCOS, OAFCN) AFCOS consulted and submitted research material: Public AFCOS Report, OLAF-Reports.

Table of Contents

Preface and Acknowledgements....9
Abbreviations....23
Tables & Figures....27
Explanation of Symbols & Highlighting....29
Copyright Statements & Free Licences....29
A. General Collection of Material for Part B and Part C....31
I. Collection of Cases for OLAF and EPPO for Part B and C....31
1. Obtaining Case Law (first-instance judgements) in EPPO cases....31
2. OLAF & EPPO Regulation: Examples concerning the Material Scope from ECJ and National Case-Law....32
II. Institutions....34
1. The EPPO in Finland....34
2. Organisation of the Criminal Justice System in Finland....34
3. AFCOS – The Partner of OLAF in Finland....35
III. Sources of law....36
1. National laws relating to EPPO and OLAF....36
2. Laki Suomen osallistumisesta Euroopan syyt-täjänviraston toimintaan....37
B. EPPO-Regulation....47
I. Introduction by the National Expert....47
1. Finnish criminal procedure and the European Public Prosecutor's Office (EPPO) Criminal procedure and its safeguards in Finland– general characteristics....47
2. The establishment of European Public Prosecutor's Office (EPPO) and its effect on the Finnish procedural law....51
3. Some additional observations on the EPPO and Finland....54
II. The Start of Criminal investigations according to the EPPO Regulation based on national law (measures)....55
1. Article 26 Initiation of investigations and allocation of competences within the EPPO....57
a) Initiation of Investigations by virtue of Art. 26 para 1 EPPO Regulation....61
b) Relevant sources of the indications for a criminal offense falling within the competence of the EPPO and Reporting Obligations....65
aa. Determination of the competence and verification of Crime Reports....70
(1) The Union standards, Art. 24 para 6 et seq. EPPO Regulation....73
(2) Jurisdiction of the European Delegated Prosecutor....75

bb. How to assess and verify the suspicion level according to Art. 26 para 1 and the CPC for a criminal offense falling within the competence of the EPPO 76
(1) The PIF offences in Finland....77
(a) General Fraud Offences 77
(b) Tax Frauds 80
(c) Subsidy Frauds....83
(d) Giving a Bribe 84
(e) Money Laundering....85
(f) Forgery Offences in Connection with PIF Acquis Offences....88
(g) Chapter 40, Offences in Public Office....90
(h) Missapropriation of Funds, Chapter 40, s. 8a (368/2019) 96
(i) Customs Offences in relation to the EU Budget, Chapter 46....98
(2) Methods of investigation, Collecting information and documenting the initiation of an investigation for an indictement (Art. 34 et seq. EPPO Regulation, Art. 40 para 3 IRP) 104
(a) Impetus of fraud knowledge patterns....104
(b) Special national databases for PIF offences/Digital investigations, Art. 40 para 3 IRP 2020.003....105
cc. Examples and precedents....108
(1) In national case-law....108
(a) Fraud....109
(aa) Revenue frauds....109
(bb) Expenditure frauds....111
(b) Corruption offences 111
(c) Money laundering with PIF crimes 111
(2) Data on economic crime cases at the District Courts....112
dd. The level of sufficiency 113
c) Actions if "Decision to open a case" (Regulation + Rules in IRP, 2020.003 EPPO)....114
d) Consequences to the "Decision to open a case" 116
2. Article 27 Right of evocation 118
a) Provisions with a precluding effect for the Right of evocation of the EPPO, para 2 121
aa. Statute of limitations....121
bb. Amnesty 125
cc. Prosecution before the trial court 126
dd. Opposing legal validity (Rechtskraft) 126
ee. Abatement of action (dispense with prosecution)....128
b) Competent national authorities in paras 3 to 7 of Art. 27 129

c) Provisions regarding the finalisation of the national investigation, para 7 129
3. Article 28 Conducting the investigation 130
a) The handling EDP conducting the investigative measures, para 1 132
b) Instructions and assignment of investigative measures for "those national authorities" 133
aa. Criminal and judicial police area 133
bb. Tax area 137
cc. Customs area 138
dd. Visualisation of Instructions and Assignment of Investigative Measures for "those national authorities" 142
c) Ensuring compliance with national law 144
aa. via the general investigation provisions 144
bb. Via national administrative decrees under criminal procedural law 148
d) Urgent measures in accordance with national law necessary to ensure effective investigations 148
e) Duration of the court processing 149
4. Article 29 Lifting privileges or immunities 151
a) National privilege and immunity provisions, para 1 151
aa. Privilege Provisions 152
(1) Legal (professional) privilege 152
(a) Provisions in Finnish law 152
(b) Provisions on Lifting a legal (professional) privilege 160
bb. Immunity provisions 163
cc. Provisions on the lifting of immunities? 164
b) Immunities and Privileges under union law, para 2 164
III. National Law applicable in EPPO Investigation with Special Focus on Investigation Measures 166
1. Article 30 Investigation measures and other measures 166
a) Member States shall ensure that the European Delegated Prosecutors are entitled to order or request 170
aa. Adaption Law of the Member State 170
bb. Provision in the CPC and Coercive Measures Act 170
b) Investigation measures 173
aa. Para 1(a) 173
(1) Search measures 174
(a) Search any premises or land 174
(b) Search any means of transport 176
(c) Search any private home 176

(d) Search any clothes and any other personal property 176
(e) Search any computer system 178
(2) Conservatory measures: Necessary to preserve their integrity, Necessary to avoid the loss, Necessary to avoid the contamination of evidence 181
bb. Para 1(b).....182
cc. Para 1(c).....183
(1) Obtainment of the production of stored computer data, encrypted or decrypted.....183
(a) General Provisions in the CPC 183
(b) Special Provisions in the CPC Tax Code, Digital Evidence Act 184
(2) Obtainment of banking account data and traffic data 185
(3) Exception of data specifically retained in accordance with national law (pursuant to the second sentence of Article 15(1) of Directive 2002/58/EC of the European Parliament and of the Council).....188
(a) Transposition of this Directive 188
(b) National Provision in relation to Art. 15(1) s. 2 of this Directive 190
dd. Para 1(d) Freezing instrumentalities or proceeds of crime, including assets 195
ee. Para 1(e) Interception of electronic communications to and from the suspect or accused person.....200
ff. Para 1(f) Tracking & Tracing an Object.....204
c) Para 2: Specific restrictions in national law that apply with regard to certain categories of persons or professionals with an LLP obligation, Art. 29 206
aa. Chapter 8 Coercice Measures Act – Search Measures.....206
bb. Chapter 10 Coercive measures Act Secret Investigations.....207
d) Para 3: Conditions/ Thresholds for investigation measures 208
aa. Conditions and Limitations for investigation measures of Para 1(c), (e) and (f) and Serious offences Limitation for offences of Para 1(e) and (f) 209
bb. Notifications according to the last sentence of para. 3.....210
e) Para 4: Any other measure(s) in the EDP's Member State 210
f) Para 5: National Procedures and national modalities for taking investigative measures 213
aa. Coercive Measures Act, Chapter 8 Search Measures 213
bb. Coercice Measures Act, Chapter 10 Secret Investigation Measures 215

2. Articles 31 and 32 Cross-border investigations and Enforcement of assigned measures 218
3. Article 33 Pre-trial arrest and cross-border surrender 219
a) General relation to national law: applicable Codes 219
b) Para 1: Provisions for arrest and pre-trial detention....221
aa. Arrest 222
bb. Pre-trial detention 225
c) Para 2: Cross-border surrender 232
4. Some provisions on Defence laws relating to EPPO actions concerning PIF Crime offences 233
a) Defence in the investigation phase....233
aa. The Input from the Regulation 2017/1939 235
(1) Access to national case file....235
(2) Access to EPPO case file....236
bb. Defence while investigation is under-way, Art. 28–33 EPPO Regulation....236
(1) In cases involving investigative measures of Art. 30 EPPO-Regulation 236
(a) Investigation of Offence of the Criminal Code and the Constitution 236
(b) Customs Investigation (Customs Act/Tullilaki)....237
(2) Defence in case of arrest and pre-trial detention, Art. 33 EPPO Regulation 239
b) Defence in Indictment phase and the trial phase 239
C. OLAF-Regulation (EU, EURATOM) No 883/2013 241
I. General Introduction: Investigation Powers and National Law Related to OLAF in Finland (Art. 3–8 OLAF Regulation)....241
1. Article 3 External investigations 246
a) On the spot-checks and inspections – Renouncing the applicable national law – Para 2, 4 251
b) Assistance needed, competent authorities and access to information in the Member States, para 5....251
c) Resistance by the economic operator vs. law enforcement and effective investigations, para 6 or the new model and the relevance of resistance or conformity of the Economic Operator....251
d) The basic principle of conformity to Regulations 2185/96 and 883/2013 251
aa. Submission: Compliance with Union law 251
bb. Resistance: Assistance in conformity with national procedural rules applicable....252

e) Competent authorities 252
f) National law and "checks and inspections" of OLAF 256
aa. Administrative procedure in general 256
bb. Special administrative powers and provisions in certain areas of revenue and expenditure 260
(1) Administrative provisions 260
(a) Administrative provisions in the area of customs duties and value added tax (VAT) = revenue 260
(aa) Principle of investigation (General Tax Act, Customs Act) 265
(bb) External audit (General Tax/Customs Act) 265
(cc) Tax and customs investigation (Customs Act/General Tax Act) 266
(dd) Fiscal supervision 267
(b) Administrative provisions in the area of structural funds and internal policies (interne Politiken) = expenditure 268
(aa) Structural funds 268
(bb) Internal policies 271
(c) Administrative provisions in the area of the common organization of the markets= expenditure 271
(d) Administrative provisions in the area of direct expenditure 272
(2) Investigative powers 273
(a) Investigative powers in the area of customs duties and VAT (General Tax Act) 273
(b) Investigative powers around structural funds and internal policies 273
(c) Investigative powers in the area of common market organisations 279
(d) Investigative powers in the area of direct expenditure 289
(3) Protection of information 294
(a) Tax secrecy and Customs Secrecy (General Tax Act) 294
(b) Administrative secrecy (Administrative laws) 294
(c) Data secrecy (Data protection laws, Customs Act, General Tax Act) 295
(4) Investigation reports (Customs Act, General Tax Act) 296
(5) Support to the inspectors (Customs Act, General Tax Act) 297
(6) Preservation of Evidence 297
g) Single measures 297
aa. Interviewing/Questioning of "persons concerned" (in relation to suspects/defendants) 297

bb. The taking of statements from Economic Operators.....297
cc. Interviewing/Questioning of witnesses 298
dd. Inspections 299
(1) General Administrative Inspection.....299
(2) Customs Inspection 300
(3) State Audit Office Act 300
(4) Structural Funds Inspection 302
ee. Searches 302
(1) Finnish Acts allowing searches.....303
(2) General remarks 305
(3) Formal requirements.....305
(4) Substantive requirements.....308
ff. Seizure of (other) evidence Customs/Tax (Procedures) Code.....308
gg. Special kinds of seizure 309
hh. The seizure of digital forensic evidence including bank account information 309
ii. Digital forensic operations within inspections or on-the-spot checks 309
2. Article 4 Internal investigations.....311
3. Article 5 Opening of investigation.....312
a) Competent authorities.....313
b) National rules 313
4. Article 7 Investigations procedure.....316
a) References to national law.....317
b) References to national authorities 324
5. Article 8 Duty to inform the Office 325
II. References to National law in the OLAF Regulation (Art. 9–17 OLAF Regulation).....330
1. Article 9 (Procedural guarantees) 330
a) Art. 9 para 3 – remit of a national judicial authority.....330
b) Art. 9 para 4 – national judicial authorities 331
2. Article 10 (Confidentiality and data protection) 331
a) National rules applicable to judicial proceedings in the MS.....331
b) Specifications 332
3. Article 11 (Investigation report and action to be taken following investigations).....332
a) References to national law.....333
b) National authority, para 3 333
4. Article 12 (Exchange of information between the Office and the competent authorities of the Member States).....335

a) Art. 12 para 1 OLAF Regulation (competent authorities & appropriate action in accordance with their national law) 336
b) Art. 12 para 2 OLAF Regulation (judicial authorities of the Member State concerned) 336
c) Art. 12 para 3 OLAF Regulation (Information to the Office by competent authorities of the Member State concerned) 336
d) Art. 12 para 4 OLAF Regulation (Providing evidence in court proceedings before national courts and tribunals in conformity with national law) 336
5. Article 12a (Anti-fraud coordination services) 340
a) General remarks 340
aa. Definition and History 340
bb. Legislative developments 342
cc. Visualisation of old (prior to 2020) vs. new (since 2020) cooperation and role of the AFCOS 343
b) A closer look at the relevant AFCOS in the present Member State 343
[Article 12b–12d omitted] 343
6. Article 12e (The Office's support to the EPPO) 344
[Article 12f–g omitted] 346
7. Article 13 (Cooperation of the Office with Eurojust and Europol) 346
[Article 14–16 omitted] 346
8. Article 17 (Director-General) 347
a) National law applicable to judicial proceedings 347
b) Internal advisory and control procedure: Legality check involving national law 347
[Article 18–21] 349
Bibliography 351
Index 361

Abbreviations

ACA	Administrative Cooperation Agreements
AFCOS	Anti-fraud coordination service
AFIS	OLAF Anti-fraud Information System
AMIF	Asylum, Migration and Integration Fund (2021–2027)
AML	Anti-Money Laundering
CC	Criminal Code
CFI	Financial Information Processing Unit
CFR	Charter of Fundamental Rights
COCOLAF	Advisory Committee for the Coordination of Fraud Prevention
EAFRD (FEADER)	European agricultural fund for rural development
EAGF (FEAGA)	European agricultural guarantee fund
EAW	European Arrest Warrant
EC	European Communities
EC Euratom	European Communities, European Atomic Energy Community
ECHA	European Chemicals Agency
ECHR/ECtHR	European Court of Human Rights
ECJ/CJEU	European Court of Justice
ECJN	European Judicial Network against Cybercrime
ECON	European Parliament's Committee on Economic and Monetary Affairs
ECP	European Chief Prosecutor
EDF	European Development Fund
EDMS	Electronic Document Management System

EDO	European Data Officer
eDP	ePrivacy Directive
EDP	European Delegated Prosecutor
EEAS	European External Action Service
EEC	European Economic Community
EIO	European Investigation Order
EJN	European Judicial Network
EMFAF	European Maritime, Fisheries and Aquaculture Fund
EP	European Prosecutor
EPPO	European Public Prosecutor's Office
ERDF	European Regional Development Fund
ESF	European Social Fund
ESF+	European Social Fund Plus
EUACR	EU Anti-Corruption Report
EUCFR	Charter of Fundamental Rights of the European Union
EuCLR	European Criminal Law Review
EUROJUST	European Union Agency for Criminal Justice Cooperation
EUROPOL	European Police Office
FASFC	Federal Agency for the Safety of the Food Chain
FCCU	Federal Computer Crime Unit
GC (aka CFI ex-2009)	General Court of the EU / formerly Court of First Instance
ICC	International Criminal Court
IRP	Internal Rules of Procedure
ISF	Internal Security Fund
LLP	Limited Liability Partnership

OAFCN (-Member)	OLAF Anti-Fraud Communicators' Network
OI	Les organismes intermédiaires
OLAF	European Anti-fraud office
ss.	Sections
TEC	Treaty Establishing the European Community
TFEU	Treaty on the Functioning of the European Union
UCLAF	Anti-Fraud Coordination Unit (task force)
VAT/TVA	Value Added Tax

Tables & Figures

Table 1: OLAF and EPPO Related Jurisprudence 32

Table 2: The EPPO regional offices in Finland 34

Table 3: National authorities involved in PIF investigations.....34

Table 4: Overview Box – Art. 26 EPPO Regulation (PIF offences etc.) 59

Table 5: Crimes that have come to our attention by quarter according to the reporting date, advance as variables Quarter, Crime reports and fines, Authority, Crime group and details of the crime description and Information 70

Table 6: Level of sufficiency for criminal offences 113

Table 7: The duration of the case processing and the time from the incident to the filing of the criminal report as variables: Year, Authority, Crime group and details of the crime description and Information.....149

Table 8: Coercive measures of the police, customs and border guards as variables Year, Coercive measure, Authority, Major crime or other matter and Information ...169

Table 9: Coercive measures of the police, customs and border guards as variables Year, Coercive measure, Authority, Major cri-me or other matter and Information..169

Table 10: Search Measures ordered in relation to White Collar Crime Offences in Finland.....173

Table 11: Coercive measures of the police, customs and border guards as variables Year, Coercive measure, Authority, Major crime or other matter and Information ...179

Table 12: Structural funds and national administrative authorities – Cohesion policy acc. to the CFR Regulation in Finland (2021–2027).....270

Figure 1: EPPO – Exercise of competence in general.....64

Figure 2: National (indirect way of) Obtaining information for the EPPO competence and the exercise of jurisdiction.....68

Figure 3: Supranational (direct way of) Obtaining information for the EPPO competence and the exercise of jurisdiction 69

Figure 4: Finnish Resource Monitoring Tool Overview 106

Figure 5: Finnish Resource Monitoring Tool – Tax Administration data 106

Figure 6: Finnish Resource Monitoring Tool – Police data.....107

Figure 7: Finnish Resource Monitoring Tool – Customs data 107

Figure 8: Finnish Resource Monitoring Tool – Prosecutor's Office data 108

Figure 9: Finnish Resource Monitoring Tool – Court Data.....112

Figure 10: Right of evocation/time limits/refrain taking decisions that have a precluding effect 120

Figure 11: Visualisation of "those nationale authorities" in the context of Art. 28 EPPO Reg. 142

Figure 12: Finnish authorities operating in relation to shadow economy and economic crime.....143

Figure 13: Coercive Measures – Overview for Finland Art. 30 para 1 (e) Appplicability of different Codes (Customs, Tax and Coercive Measures Act) 202

Figure 14: Visualisation of the old cooperation by virtue of Regulation No. 883/2013 343

Figure 15: Visualisation of the new cooperation by virtue of Regulation No. 883/2013 (as amended 2020/2223) 343

Synopsis 1: Finnish Version of the EPPO Adoption Acts vs. Unofficial English Translation.....37

Case Study 1: National Statistics reveal the Impact of EU Fraud in Finland.....111

Case Study 2: Alcohol smuggling in Finland 266

Sources & national sections 1 318

Sources & national sections 2 333

Explanation of Symbols & Highlighting

Text passages highlighted in grey show Union law.
Text passages marked with boxes show relevant national law.
Plain Tables display either a synopsis of a foreign law text and the English translation or a summary of institutions and relevant case law.
Tables with symbols in the first row contain case studies (EPPO & OLAF cases) or relevant jurisprudence.
Margin numbers (1, 2, 3…) in the General Margin enable citation.

Copyright Statements & Free Licences

Pictures/Figures/Symbols Used

= Expert/Introduction to national law

= Customs legislation/Customs cases

= Examples

= Nota bene/General note

Case Law/Access to files

= Tax police/tax-related matters

= Excerpt

= Arrest, pre-trial detention (e.g. Art. 33)

Ⓟ = Problems resulting from national law

= (Important) National Sections

= (criminal) police); relevant for investigators

= Funds area (e.g maritime)

= procurement area

= judicial authorisation required (e.g. Art. 30)

= urgent measures (e.g. Art. 27, 28)

Π = Plaintiff (Pi)

Δ = (Delta) Defendant

= Case Studies (Overviews)

= Expert comment

All vector graphics stem from openclipArt.org and are, if used licenced under CC0 1.0 Universal (CC0 1.0) Public Domain Dedication aka „Creative Commons Zero 1.0 Public Domain License". They are a freely licensed work, as explained in the Definition of Free Cultural Works. Credit goes to librarians of @openclipArt.org.
Finland: https://openclipart.org/detail/263452/finland-map-flag-with-stroke. They are freely licensed work, as explained in the Definition of Free Cultural Works. Credit goes to Gordon Dylan Johnson/librarian @openclipart.org for the Finish Flag.
Expert Icon 6. Flaticon Free License (With Attribution). ahref=„https://www.flaticon.com /free-icons/student" title=„student icons" Student icons created by Freepik - Flaticon; Checkmarks/ticks on circles. Credit goes to Andrea S/librarian @openclipart.org. 2008.

Money bag by security_man/librarian https://openclipart.org/detail/245511/money-bag.
Arrest Icon by j4p4n/librarian https://openclipart.org/detail/280072/arrest-icon. Academic cap by pnx - /librarian. https://openclipart.org/detail/202668/academic-cap. Books - Lineart - No Shading. by amcolley. https://openclipart.org/detail/274110/books-lineart-no-shading; Scales of justice by laobc. https://openclipart.org/detail/62989/scales-of-justice; Fountain pen over paper sheet by ousia. https://openclipart.org/detail/184618/fountain-pen-over-paper-sheet.; Pencil icon by Anonymous. https://openclipart.org/detail/24821/pencil-icon Dog by dear_theophilus. https://openclipart.org/detail/122197/dog Dog Leashed Silhouette by GangandInfographie. https://openclipart.org/detail/276050/dog-leashed-silhouette Telephone by Anonymous.https://openclipart.org/ download/24943/Anonymous-aiga-telephone.svg; Port by Shinnoske. https://openclipart.org/detail/218695/port; Water transportation by jean_victor_balin. https://openclipart.org/ detail/25368/aiga-water-transportation; Airplane silhouette by rones. https://openclipart.org/ detail/219836/airplane-silhouette; Idee / idea by lmproulx. https://openclipart.org/ detail/125719/idee-idea; Town-hall-15 by PublicDomainSymbols. https://openclipart.org/detail/260851/townhall15; Open book by ShannonW. https://openclipart.org/detail/296507/open-book; Police Car by j4p4n. https://openclipart.org/detail/298872/police-car; Thinking by j4p4n https://openclipart.org/detail/308838/thinking; Graduate by j4p4n https://openclipart.org/detail/308889/graduate; Train Pictogram by libberry. https://openclipart.org/detail/173654/train-pictogram; Search Ideogram by libberry. https://openclipart.org/detail/188650/search-ideogram; Sketched police car by Firkin. https://openclipart.org/detail/303507/sketched-police-car.
All Eur-lex material used in this work is © European Union. and/or Official Gazette 4.0 OpenGovernmentLicence. Only European Union legislation published in paper editions of the Official Journal of the European Union prior to 1 July 2013 and its electronic versions published after 1 July 2013 have legal value. Further information from the Official Gazette is used under Open Licence. Data from GeoNames and all other source is used on the basis of a CC BY 4.0 licence and Open Government Licence or academic work.
National transposition measures communicated by the Member States concerning: Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law OJ L 198, 28/07/2017, p. 29–41 (BG, ES, CS, DA, DE, ET, EL, EN, FR, GA, HR, IT, LV, LT, HU, MT, NL, PL, PT, RO, SK, SL, FI, SV). The member states bear sole responsibility for all information on this site provided by them on the transposition of EU law into national law. This does not, however, prejudice the results of the verification by the Commission of the completeness and correctness of the transposition of EU law into national law as formally notified to it by the member states. The collection National transposition measures is updated weekly. https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32017L1371. Art. 15 TFEU and Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents. The term section is more commonly used to refer to specific provisions within laws, though the terms article and section are often used interchangeably. Article is used especially when referencing EU laws. Errata: In Volumes III, V, X, XXII, the word 'Trainee' was missing prior to Attorney for Austria.

A. General Collection of Material for Part B and Part C

I. Collection of Cases for OLAF and EPPO for Part B and C

Many EU-wide or any national investigation measures may **potentially infringe on individuals' rights** to privacy and e.g. data protection. Understanding **limitations** imposed by the ECJ or national courts helps EDPs, seconded national experts and case analysists balance the need for effective investigations against protecting individuals' fundamental rights in the sensitive area of **PIF *acquis*** actions. 1

1. Obtaining Case Law (first-instance judgements) in EPPO cases

The collection of national cases is possible with the **Finlex Case-Law Database**.[1] Finnish statistics can be obtained as well.[2] 2

Obtaining first instance judgements

First instance judgements in Finland are public and have to be directly obtained from the individual courts[3]. However, the request must be detailed enough for court personnel to know what is required. Alternatively, key appellate court judgements can be requested, some of which provide further detail and description of the first instance judgements. Key appellate court judgements, especially of the Supreme courts, may be found at the Finlex Case-Law Database in Finnish or Swedish language. We thank Dr. *Samuli Miettinen* for providing this valuable insight.

Nota bene: At the moment of writing there were no special EPPO related judgements known in Finland. EDPs can take a look at the chapters on Germany, Luxemburg, Croatia or Austria for judgements concerning their actions or the material scope of the EPPO in general. See e.g. the Austrian volume on a decision of the ECJ from 23 December 2023 and a case concerning all EDPs (→ Art. 31 EPPO Regulation; Information about the principles of Art. 31 EPPO Regulation can be read in the German volume).

[1] See https://www.finlex.fi/en/oikeus/foki/.
[2] See https://stat.fi/tup/tilastotietokannat/index_en.html.
[3] See for the index of Finnish courts on the homepage of the judiciary Tuomioistuimet, https://oikeus.fi/tuomioistuimet/en/index/yhteystiedot.html. Accessed 31 December 2024.

2. OLAF & EPPO Regulation: Examples concerning the Material from ECJ and National Case-Law

Table 1: OLAF and EPPO Related Jurisprudence

Relates to Art.	Judgement, ECLI, etc.	Content
Art. 1–4	ECJ, C-615/19 P, *John Dalli v European Commission*, Judgement of 25 February 2021, ECLI:EU:C:2021: 133.	Allegedly illegal conduct of the European Commission and OLAF, Procedural rules governing the OLAF investigation, Opening of an investigation, Right to be heard.
Art. 4 Internal Investigations	ECJ, C-591/19 P, *European Commission v Fernando De Esteban Alonso*, Judgment of 10 June 2021. ECLI:EU:C:2021:468.	Appeal, Civil service, Internal investigation by the OLAF, Forwarding of information by OLAF to the national judicial authorities, Filing of a complaint by the European Commission, Concepts of an official who is 'referred to by name' and 'implicated', Failure to inform the interested party, Commission's right to file a complaint with the national judicial authorities before the conclusion of OLAF's investigation, Action for damages.
Art. 7	ECJ, C-650/19 P, *Vialto Consulting Kft. v European Commission*, Judgment of 28 October 2021, ECLI:EU: C:2021:879.	Appeal, Investigation by the OLAF, On-the-spot checks – Regulation (Euratom, EC) No 2185/96, Article 7, Access to computer data – Digital

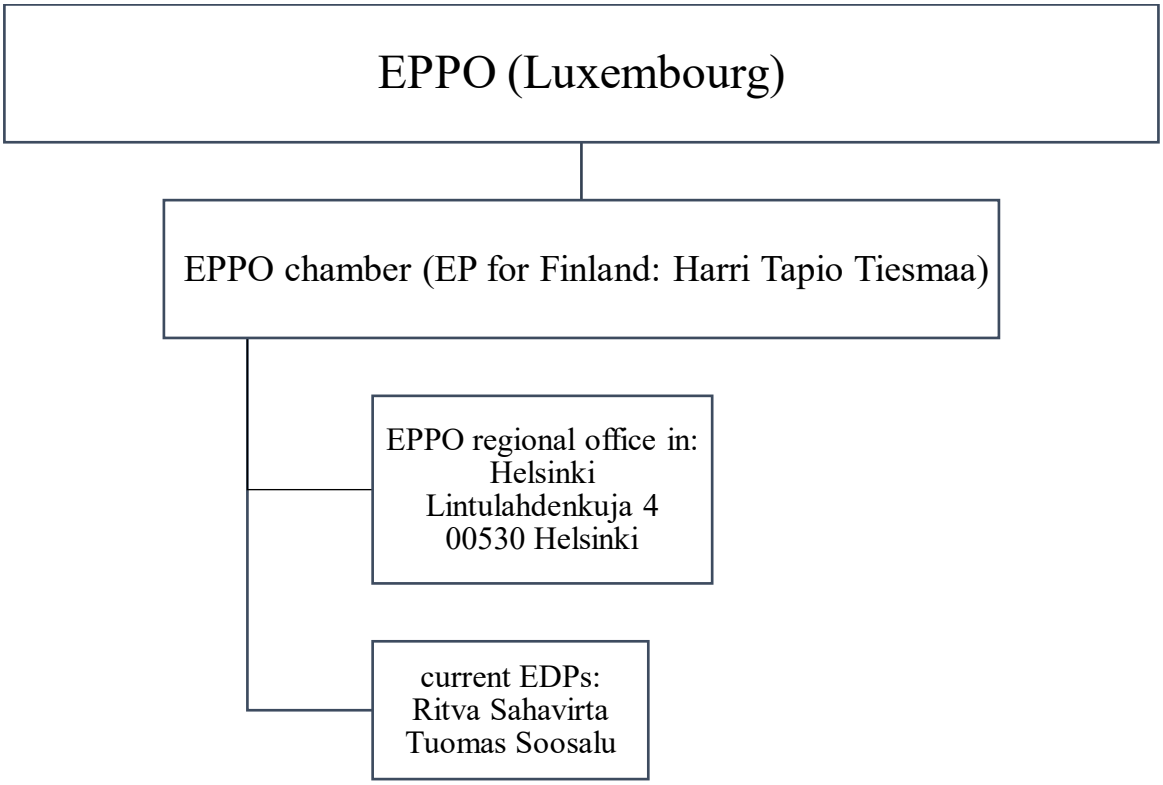
		forensic operation, Principle of legitimate expectations, Right to be heard, non-material damage.
Art. 10	ECJ, C-T-110/15, *International Management Group v European Commission,* Judgment of 26 May 2016. ECLI:EU:T:2016:322 Judgment of the Court of First Instance (Second Chamber) of 30 May 2006. Bank Austria Creditanstalt AG v Commission of the European Communities. Case T-198/03. ECLI:EU:T:2006:136	Access to documents, Regulation (EC) No 1049/2001, Documents relating to an OLAF investigation, Access refused, Exception concerning the protection of the purpose of inspections, investigations, and audits, Obligation to carry out a specific and individual examination, Category of documents.
EPPO-Regulation	At the moment there are only a few special judgements of the ECtHR concerning Finland, the EPPO or both known. An overview of cases concerning Finland is provided by the EPPO.[4] For general implications of ECtHR judgements in criminal proceedings pls. see the leaflet for an overview[5]. EDPs must respect the privilege against self-incrimination when obtaining financial or business records.[6] Further information on VAT refund fraud schemes relating to e-services were studies by literature.[7] These cases typically feature fraudulent companies manipulating VAT reimbursements through cross-border transactions in e.g. telecom services, where certain operations, especially within the telecom sector, were used to obscure tax obligations.	

[4] See EPPO Annual Report 2024, https://www.eppo.europa.eu/assets/annual-report-2024/pdfs/statistics-member-state/Finland.pdf. Accessed 1 March 2025.
[5] Filatova, Reasonable Time of Proceedings: Compilation of Case-Law of the European Court of Human Rights, 2021, https://rm.coe.int/echr-reasonable-time-of-proceedings-compilation-of-case-law-of-the-eur/native/1680a20c21. Accessed 31 December 2024.
[6] See ECtHR, *Marttinen v Finland*, App no 19235/03 (ECtHR, 21 April 2009), para 25, 43, 59, 60.
[7] See Weckström 2019, pp. 77 (82) and be aware to the fact, which is emphasized on p. 81 that: "The Finnish Supreme Administrative Court has stated, however, that the *ne bis in idem* principle only applies to individual taxpayers (natural persons) since only physical individuals can be sanctioned for tax crimes. The principle therefore does not apply to companies."

II. Institutions

1. The EPPO in Finland

3 *Table 2: The EPPO regional offices in Finland*



Source: EPPO Website.

2. Organisation of the Criminal Justice System in Finland

4 *Table 3: National authorities involved in PIF investigations*

Criminal investigation and prosecution authorities	**Administrative authorities**
- Police - National Prosecution Authority - Customs Crime Prevention - Border Guard - Military Police - Money Laundering Investigation Center - Criminal Sanctions Office - Ministry of Interior	- Ministry of Finance - Customs - Tax Administration - Finnish Food Authority - National Supervisory Authority for Welfare and Health - Finnish Transport and Communications Agency - Finnish Competition and Consumer Authority - Ministry of Economic Affairs and Employment

	- Ministry of Social Affairs and Health, Regional State Administrative Agencies, Finnish Centre for Pensions, Employment Fund, Finnish Workers' Compensation Centre - Ministry of Justice, Enforcement Authority, The Office of Bankruptcy Ombudsman - National Audit Office

3. AFCOS – The Partner of OLAF in Finland

See below → Art. 12a in Part C. As outlined by the powers of Finish AFCOS, operating under the head of the Finish Ministry of Finance are limited but it may help establish contact with Finish authorities exercising coercive powers, such as the institutions enumerated above.[8] **5**

Practitioners should notify EPPO immediately if potential criminal conduct is identified. Conversely, the EPPO may request OLAF's support for administrative aspects, ensuring effective use of resources while respecting their distinct mandates. The EPPO investigates and prosecutes criminal offences while OLAF carries out administrative investigations and supports the EPPO through operational assistance, information sharing, and follow-up measures like administrative recovery actions.

According to Art. 100 EPPO Regulation and Art. 12a OLAF Regulation, OLAF is obliged to notify EPPO about potential criminal conduct within its competence. The decision whether or not to launch an investigation subsequently rests with EPPO and OLAF suspends its related administrative inquiries unless permitted to continue. In addition, OLAF can also assist EPPO by gathering evidence, conducting interviews and performing analyses (→ Art. 12b), whereby the procedureal guaranteed are very important. **6**

OLAF may take action on the basis of EPPO findings, namely indirectly through the performance of its own administrative investigations or recommending measures for financial recovery (→ Art. 12e). To prevent any duplicity, OLAF coordinates with EPPO in such a way that its activity does not hinder or interfere with the activity of the EPPO in relation to certain investigations (→ Art. 12f). A cooperation agreement sets out the rules within which the two bodies will communicate with and coordinate with each other (→ Art. 12g). For further details see below → in Part C. **7**

[8] See Toni Tiala, Ministerial Adviser, Fred2 1st Workshop, 23.11.2023, https://bit.ly/4iEGJ2K. Accessed 31 December 2024; and see Heli Iirola, Cooperation of The Government Financial Controller's function and Internal Audit with National Audit Office, Conference of Public Sector Internal Auditors of the Republic of Slovenia, 15 October 2019, https://bit.ly/4iEYnU4 explaining all internal audits. Accessed 31 Decmeber 2024.

III. Sources of law

8 The following pages present a list of the applicable sources of law:[9]

1. National laws relating to EPPO and OLAF

9 EPPO & PIF-Investigation related Laws and administrative Documents

- Criminal Code/*Rikoslaki* (39/1889).
- Criminal Procedure Act/*Laki oikeudenkäynnistä rikosasioissa* (689/1997).
- Pre-Trial Investigation Act/*Esitutkintalaki* (805/2011).
- Coercive Measures Act/*Pakkokeinolaki* (806/2011).
- Judicial Procedure Code/*Oikeudenkäymiskaari* (4/1734).
- Police Act/*Poliisilaki* (872/2011).
- Public Order Code/*Järjestyslaki* (612/2003).
- Public Prosecutor's Office Act/*Laki Syyttäjälaitoksesta (*32/2019).
- Customs Crime Prevention Act/*Laki rikostorjunnasta Tullissa* (623/2015).
- Act on Extradition for Crimes Between Finland and the Other Member States of the European Union/*Laki rikoksen johdosta tapahtuvasta luovuttamisesta Suomen ja muiden Euroopan unionin jäsenvaltioiden välillä* (1286/2003).
- Act on Extradition for Crimes Between Finland and the Other Nordic Countries/*Laki rikoksen johdosta tapahtuvasta luovuttamisesta Suomen ja muiden Pohjoismaiden välillä* (1383/2007).
- Act on Publicity at trial in general courts/*Laki oikeudenkäynnin julkisuudesta yleisissä tuomioistuimissa* (370/2007).
- Act on Customs Administration/*Laki Tullin hallinnosta* (960/2012).
- The Anti-Money Laundering Act (Act on Detecting and Preventing Money Laundering and Terrorist Financing)/*Laki rahanpesun ja terrorismin rahoittamisen estämisestä* (444/2017).
- Act on Virtual Currency Providers/*Laki virtuaalivaluutan tarjoajista (*572/2019)
- Act on the Bank and Payment Accounts Control/*Laki pankki- ja maksutilien valvontajärjestelmästä* (571/2019).
- Act on the Financial Intelligence Unit/*Laki rahanpesun selvittelykeskuksesta* (445/2017).
- Act on Freezing Funds to Combat Terrorism/*Laki varojen jäädyttämisestä terrorismin torjumiseksi* (325/2013).

[9] Finlex is the frequently used Database for Finnish Laws, see https://www.finlex.fi/en/. "Finlex is an online database of up-to-date legislative and other judicial information of Finland. Finlex is owned by Finland's Ministry of Justice."

Most relevant national Laws concerning OLAF investigations: **10**

- Law on proceedings in administrative matters/*Laki oikeudenkäynnistä hallintoasioissa* (808/2019).
- Administrative Act/*Hallintolaki* (434/2003).
- Customs Act/*Tullilaki* (304/2016).
- Law on Customs Administration/*Laki Tullin hallinnosta (*960/2012).
- Act on business income taxation/*Laki elinkeinotulon verottamisesta* (360/1968).
- Value Added Tax Act/*Arvonlisäverolaki* (1501/1993).
- Excise Tax Act/*Valmisteverotuslaki (*182/2010).
- Act on taxation procedure/*Laki verotusmenettelystä* (1558/1995).
- The Act on Public Procurement and License Agreements/*Laki julkisista hankinnoista ja käyttöoikeussopimuksista* (1397/2016).
- Act on the Market Organisation of Agricultural Products/*Laki maataloustuotteiden markkinajärjestelystä* (999/2012).
- State Audit Office Act/*Laki valtiontalouden tarkastusvirastosta* (676/2000)
- Act on the financing of regional development and regional and structural policy projects of the European Union/*Laki alueiden kehittämisen ja Euroopan unionin alue- ja rakennepolitiikan hankkeiden rahoittamisesta* (757/2021).

2. Laki Suomen osallistumisesta Euroopan syyt-täjänviraston toimintaan

Synopsis 1: Finnish Version of the EPPO Adoption Acts vs. Unofficial English Translation

Laki Suomen osallistumisesta Euroopan syyttäjänviraston (EPPO) toimintaan **Eduskunnan päätöksen mukaisesti säädetään:**	**Law Finland's participation in the activities of the European Public Prosecutor's Office (EPPO)** **In accordance with the decision of Parliament, the following is provided:**
1 § Soveltamisala Tässä laissa annetaan tiiviimmän yhteistyön toteuttamisesta Euroopan syyttäjänviraston (EPPO) perustamisessa annettua neuvoston asetusta (EU) 2017/1939, jäljempänä EPPO-asetus, täydentävät säännökset.	**Section 1 Scope of application** This law lays down provisions supplementing Council Regulation (EU) 2017/1939 establishing a European Public Prosecutor's Office (EPPO), hereinafter referred to as the EPPO Regulation.

2 § Euroopan syyttäjänviraston toimivalta Suomessa Euroopan syyttäjänvirasto on toimivaltainen käyttämään EPPO-asetuksessa tarkoitettua tutkinta- ja syytetoimivaltaa Suomessa.	**Section 2 Competence of the European Public Prosecutor's Office in Finland** The European Public Prosecutor's Office is competent to exercise the powers of investigation and prosecution in Finland referred to in the EPPO Regulation.
3 § Menettely nimettäessä ehdokkaita Euroopan syyttäjäksi Euroopan syyttäjänvirastossa avoimena olevasta Euroopan syyttäjän tehtävästä on ennen ehdokkaiden nimeämistä ilmoitettava ja ilmoitus on julkaistava asianmukaisella tavalla. Ehdokkaaksi voidaan nimetä vain tehtävää hakenut. Sen lisäksi, mitä EPPO-asetuksen 16 artiklan 1 kohdassa säädetään, Euroopan syyttäjän kelpoisuusvaatimuksiin sovelletaan, mitä syyttäjän tai tuomarin kelpoisuusvaatimuksista säädetään. Suomen ehdokkaat Euroopan syyttäjän tehtävään nimeää valtioneuvosto oikeusministeriön esityksestä. Valtakunnansyyttäjän toimistolle on varattava tilaisuus antaa lausunto tehtävää hakeneista henkilöistä. Euroopan syyttäjäksi nimitetylle on myönnettävä palkatonta virkavapaata virastaan siksi ajaksi, kun hän toimii Euroopan syyttäjänä.	**Section 3 Procedure for appointing candidates as European Prosecutor** The vacancy of the European Public Prosecutor's Office at the European Public Prosecutor's Office shall be announced before the candidates are nominated and shall be published in an appropriate manner. Only those who have applied for the position can be nominated. In addition to the provisions of Article 16 (1) of the EPPO Regulation, the qualifications of a European Public Prosecutor shall be governed by the requirements of the qualifications of a prosecutor or judge. Finland's candidates for the position of European Prosecutor are appointed by the Government on the proposal of the Ministry of Justice. The Office of the Prosecutor General must be given the opportunity to give an opinion on the applicants. A person appointed as a European Public Prosecutor shall be granted unpaid leave of office for the duration of his or her duties as European Public Prosecutor.
4 § Menettely nimettäessä ehdokkaita valtuutetuiksi Euroopan syyttäjiksi Euroopan syyttäjänvirastossa avoimena olevasta valtuutetun Euroopan syyttäjän tehtävästä on ennen ehdokkaiden	**Section 4 Procedure for appointing candidates as accredited European Public Prosecutors** The post of accredited European Public Prosecutor in the European Public Prosecutor's Office

nimeämistä ilmoitettava ja ilmoitus on julkaistava asianmukaisella tavalla. Ehdokkaaksi voidaan nimetä vain tehtävää hakenut.	shall be announced before the candidates are nominated and shall be published in an appropriate manner. Only those who have applied for the position can be nominated.
Sen lisäksi, mitä EPPO-asetuksen 17 artiklan 2 kohdassa säädetään, valtuutetun Euroopan syyttäjän kelpoisuusvaatimuksiin sovelletaan, mitä syyttäjän kelpoisuusvaatimuksista säädetään.	In addition to the provisions of Article 17 (2) of the EPPO Regulation, the qualification requirements for an authorised European Public Prosecutor shall be governed by the provisions relating to the qualification of a public prosecutor.
Suomen ehdokkaat valtuutetuiksi Euroopan syyttäjiksi nimeää valtioneuvosto valtakunnansyyttäjän toimiston esityksestä.	Finland's candidates for authorised European prosecutors are appointed by the Government on the proposal of the Public Prosecutor's Office.
Valtuutettu Euroopan syyttäjä nimitetään määräajaksi syyttäjänvirkaan Syyttäjälaitokseen, jos häntä ei ole nimitetty syyttäjänvirkaan. Nimittämismenettelyyn sovelletaan, mitä Syyttäjälaitoksesta annetun lain (32/2019) 17 §:ssä säädetään.	An authorised European Public Prosecutor shall be appointed to the Public Prosecutor's Office for a fixed term if he has not been appointed to the Public Prosecutor's Office. The provisions of section 17 of the Act on the Prosecutor's Office (32/2019) apply to the appointment procedure.
Valtuutetuksi Euroopan syyttäjäksi nimitetylle on myönnettävä palkatonta virkavapaata virastaan siksi ajaksi, kun hän toimii valtuutettuna Euroopan syyttäjänä.	A person appointed as a European Public Prosecutor shall be granted unpaid leave of office for the duration of his or her duties as a European Public Prosecutor.
5 § Euroopan syyttäjän ja valtuutetun Euroopan syyttäjän toimivaltuudet Sen lisäksi, mitä EPPO-asetuksessa säädetään, Euroopan syyttäjällä ja valtuutetulla Euroopan syyttäjällä on tehtävässään samat toimivaltuudet kuin syyttäjällä Suomen lain mukaan.	**Section 5 Powers of the European Public Prosecutor and the European Public Prosecutor** In addition to the provisions of the EPPO Regulation, the European Public Prosecutor and the authorised European Public Prosecutor have the

	same powers in their duties as the public prosecutor under Finnish law.
6 § Valtuutetun Euroopan syyttäjän toimiminen kansallisena syyttäjänä Valtuutettu Euroopan syyttäjä voi hoitaa EPPO-asetuksen 13 artiklan 3 kohdassa sallitun mukaisesti myös kansallisen syyttäjän tehtäviä.	**Section 6 Acting as a national prosecutor by the accredited European Public Prosecutor** The authorised European Public Prosecutor may also act as a national public prosecutor, as permitted by Article 13 (3) of the EPPO Regulation.
7 § Rikosasiasta ilmoittaminen Euroopan syyttäjänvirastolle Syyttäjän tulee ilmoittaa valtuutetulle Euroopan syyttäjälle EPPO-asetuksen 24 artiklassa tarkoitetusta rikosasiasta.	**Section 7 Reporting a criminal case to the European Public Prosecutor's Office** The prosecutor shall inform the authorised European Public Prosecutor of the criminal case referred to in Article 24 of the EPPO Regulation.
Ilmoitukseen saa salassapitosäännösten estämättä sisällyttää EPPO-asetuksen 24 artiklan 4 kohdassa tarkoitetut tiedot ja muut vireillä olevan asian käsittelemiseksi välttämättömät tiedot.	Notwithstanding the provisions on confidentiality, the notification may include the information referred to in Article 24 (4) of the EPPO Regulation and other information necessary to deal with the pending case.
8 § Kansallisten viranomaisten kuuleminen EPPO-asetuksen 13 artiklan 2 ja 3 kohdassa, 25 artiklan 2 ja 3 kohdassa, 27 artiklan 4 kohdassa, 39 artiklan 3 kohdassa sekä 40 artiklan 1 kohdassa tarkoitetuissa kuulemismenettelyissä kansallisena viranomaisena toimii valtakunnansyyttäjän toimisto.	**Section 8 Consultation of national authorities** For the consultation procedures referred to in Article 13 (2) and (3), Article 25 (2) and (3), Article 27 (4), Article 39 (3) and Article 40 (1) of the EPPO Regulation, the national authority shall be the Public Prosecutor's Office.
9 § Toimivallan käyttöä koskevan erimielisyyden ratkaiseminen EPPO-asetuksen 25 artiklan 6 kohdassa tarkoitetun toimivallan käyttöä koskevan	**Section 9 Settlement of disputes concerning the exercise of jurisdiction** Any dispute between the European Public

erimielisyyden Euroopan syyttäjänviraston ja kansallisen syyttäjäviranomaisen välillä ratkaisee valtakunnansyyttäjä. Valtakunnansyyttäjän päätös on perusteltava ja asia on saatettava Helsingin käräjäoikeuden ratkaistavaksi 14 päivän kuluessa päätöksen tekemisestä.	Prosecutor's Office and the national public prosecutor's office concerning the exercise of the powers referred to in Article 25 (6) of the EPPO Regulation shall be settled by the Public Prosecutor. The decision of the Public Prosecutor must be substantiated and the matter must be brought before the Helsinki District Court within 14 days of the decision being made.
Mitä 1 momentissa säädetään, ei sovelleta, jos kansallisena syyttäjäviranomaisena asiassa toimii valtioneuvoston oikeuskansleri tai eduskunnan oikeusasiamies. Tällöin valtioneuvoston oikeuskanslerin tai eduskunnan oikeusasiamiehen tulee toimittaa toimivallan käyttöä koskeva asia Helsingin käräjäoikeuden ratkaistavaksi 14 päivän kuluessa heidän toimivallan käyttöä koskevan päätöksensä tekemisestä.	The provisions of subsection 1 do not apply if the Chancellor of Justice of the Government or the Parliamentary Ombudsman acts as the national prosecuting authority in the matter. In this case, the Chancellor of Justice of the Government or the Parliamentary Ombudsman must submit the matter concerning the exercise of competence to the Helsinki District Court for resolution within 14 days of the decision on the exercise of their competence.
Käräjäoikeuden tulee varata Euroopan syyttäjänvirastolle ja asiaa hoitaneelle syyttäjälle tilaisuus tulla kuulluksi asiassa. Asian käsittelystä on muutoin soveltuvin osin voimassa, mitä hakemusasioiden käsittelystä säädetään. Asia on käsiteltävä kiireellisenä.	The district court must give the European Public Prosecutor's Office and the prosecutor in charge the opportunity to be heard. Otherwise, the provisions on the handling of applications shall apply mutatis mutandis to the handling of the matter. The matter must be dealt with as a matter of urgency.
Käräjäoikeus on päätösvaltainen, kun siinä on yksin puheenjohtaja.	The district court has a quorum when it has a sole president.
Asian käsittelyssä kertyneiden oikeudenkäyntiasiakirjojen ja suullisen istunnon julkisuudesta säädetään oikeudenkäynnin julkisuudesta yleisissä tuomioistuimissa annetun lain (370/2007) 16 a §:ssä.	Section 16a of the Act on Public Access to Proceedings in General Courts (370/2007) provides for the public access to court documents and the oral hearing.

Käräjäoikeuden ratkaisuun saa hakea muutosta valittamalla korkeimpaan oikeuteen, jos korkein oikeus oikeudenkäymiskaaren 30 luvun 3 §:n nojalla myöntää valitusluvan. Menettelyyn sovelletaan soveltuvin osin, mitä rikoksen johdosta tapahtuvasta luovuttamisesta Suomen ja muiden Euroopan unionin jäsenvaltioiden välillä annetun lain (1286/2003) 38–42 §:ssä asiasta säädetään.

The decision of the district court may be appealed to the Supreme Court if the Supreme Court grants leave to appeal pursuant to Chapter 30, Section 3 of the Judicial Procedure Code. The provisions of sections 38–42 of the Act on Extradition between Finland and other Member States of the European Union (1286/2003) apply mutatis mutandis to proceedings.

10 § Pakkokeinojen käyttäminen
EPPO-asetuksen 30 artiklan 1 ja 4 kohdassa tarkoitettuja toimenpiteitä ovat kiinniottaminen, pidättäminen, vangitseminen, tutkinta-aresti, yhteydenpidon rajoittaminen, matkustuskielto, tehostettu matkustuskielto, vakuustakavarikko, takavarikko, asiakirjan jäljentäminen, etsintä, datan säilyttämismääräys, tutkimuspaikan tai -kohteen eristäminen, henkilötuntomerkkien ottaminen, DNA-tunnisteen määrittäminen, telekuuntelu, tietojen hankkiminen telekuuntelun sijasta, televalvonta, sijaintitietojen hankkiminen epäillyn ja tuomitun tavoittamiseksi, tukiasematietojen hankkiminen, suunnitelmallinen tarkkailu, peitelty tiedonhankinta, tekninen tarkkailu, peitetoiminta, valeosto, tietolähteen ohjattu käyttö ja valvottu läpilasku.
Jos EPPO-asetuksen 31 artiklan mukainen rajat ylittävä tutkinta edellyttää 1 momentissa tarkoitetun pakkokeinon käyttöä, pakkokeinon käytön edellytyksenä on, että se olisi Suomen lain mukaan sallittua, jos tutkittavana

Section 10 Use of coercive measures
The measures referred to in paragraphs 1 and 4 of Article 30 of the EPPO Regulation include apprehension, arrest, imprisonment, investigative arrest, restriction of contact, travel ban, enhanced travel ban, collateral forfeiture, confiscation, copying of a document, search, data retention order, isolation of a research site or site, taking personal identification marks, determining a DNA identifier, wiretapping, obtaining information instead of wiretapping, telemonitoring, obtaining location information to reach suspects and convicts, obtaining base station data, planned surveillance, covert information acquisition, technical surveillance, covert operations, fake purchase, controlled use of information source and controlled check-in.

If a cross-border investigation pursuant to Article 31 of the EPPO Decree requires the use of a coercive measure referred to in subsection 1, the use of a coercive measure is conditional on it being

oleva teko olisi tehty Suomessa vastaavissa olosuhteissa. Pakkokeinojen käytöstä päättämisessä ja niitä käytettäessä noudatettavasta menettelystä säädetään EPPO-asetuksen 32 artiklassa ja muualla laissa.	permitted under Finnish law if the act under investigation had been committed in Finland in similar circumstances. The procedure for deciding on the use and use of coercive measures is laid down in Article 32 of the EPPO Regulation and elsewhere in the law.
11 § Rajat ylittävät tutkintatoimenpiteet Jos EPPO-asetuksen 31 artiklan mukainen rajat ylittävä tutkinta edellyttää Suomessa vastaavissa olosuhteissa muun viranomaisen kuin asiaa käsittelevän valtuutetun Euroopan syyttäjän päätöstä, tällainen päätös on haettava tutkintatoimenpiteen perusteeksi.	**Section 11 Cross-border investigative measures** If, in similar circumstances, a cross-border investigation under Article 31 of the EPPO Regulation requires a decision of an authority other than the authorised European Public Prosecutor in Finland, such a decision must be applied for as a basis for the investigative measure.
12 § Ylimääräisen tiedon ja henkilötuntomerkkien luovuttaminen Jos EPPO-asetuksen 31 artiklan mukainen rajat ylittävä tutkinta edellyttää pakkokeinolain (806/2011) 10 luvun 55 §:ssä tarkoitetun ylimääräisen tiedon luovuttamista toiseen Euroopan unionin jäsenvaltioon, tiedon luovuttamisen edellytyksenä on, että tietoa voitaisiin käyttää mainitun luvun 56 §:n 1, 2 tai 4–6 momentin mukaisesti Suomessa vastaavassa tilanteessa. Pakkokeinolain 9 luvun 3 §:n 2 momentissa tarkoitetun tiedon luovuttamiseen sovelletaan, mitä mainitussa momentissa säädetään.	**Section 12 Disclosure of additional information and personal identification marks** If a cross-border investigation under Article 31 of the EPPO Regulation requires the transfer of additional information referred to in Chapter 10, Section 55 of the Coercive Measures Act (806/2011) to another Member State of the European Union, the disclosure is subject to Article 56 (1), (2) or in accordance with subsections 4–6 in a similar situation in Finland. The provisions of the said subsection shall apply to the disclosure of information referred to in Chapter 9, Section 3, Subsection 2 of the Coercive Measures Act.
13 § Asian käsittelyn lopettaminen ja päätöksen tiedoksi antaminen Euroopan syyttäjänviraston päätöksestä lopettaa	**Section 13 Closure of the case and notification of the decision** The decision of the European Public Prosecutor's Office

EPPO-asetuksen 39 artiklassa säädetyllä tavalla sen toimivaltaan kuuluvan rikosasian käsittely ilman asian käsittelyn siirtämistä kansalliselle syyttäjäviranomaiselle ilmoitetaan rikosasian asianosaiselle soveltaen, mitä tiedoksiannosta oikeudenkäynnistä rikosasioissa annetun lain (689/1997) 1 luvun 9 §:ssä säädetään.	to close a criminal case under its jurisdiction as provided for in Article 39 of the EPPO Regulation without transferring the case to a national prosecuting authority shall be notified to the party concerned.
14 § Euroopan syyttäjän ja valtuutetun Euroopan syyttäjän tiedonsaantioikeus Mitä syyttäjän tiedonsaantioikeudesta säädetään Syyttäjälaitoksesta annetun lain 22 §:ssä, sovelletaan myös Euroopan syyttäjään ja valtuutettuun Euroopan syyttäjään näiden hoitaessa EPPO-asetuksen mukaisia tehtäviään. Mitä tietojen luovuttamisesta syyttäjälle säädetään henkilötietojen käsittelystä poliisitoimessa annetussa laissa (616/2019), henkilötietojen käsittelystä Rajavartiolaitoksessa annetussa laissa (639/2019), henkilötietojen käsittelystä Tullissa annetussa laissa (650/2019) ja muussa laissa, sovelletaan myös tietojen luovuttamiseen Euroopan syyttäjälle ja valtuutetulle Euroopan syyttäjälle näiden hoitaessa EPPO-asetuksen mukaisia tehtäviään.	**Section 14 Right of access to information for the European Public Prosecutor and the European Public Prosecutor** The provisions of section 22 of the Act on the Public Prosecutor's Office on the right of the prosecutor to obtain information also apply to the European Public Prosecutor and the authorised European Public Prosecutor in the performance of their duties under the EPPO Regulation. The provisions on the transfer of data to the prosecutor in the Act on the Processing of Personal Data in Police (616/2019), the Act on the Processing of Personal Data at the Border Guard (639/2019), the Act on the Processing of Personal Data in Customs (650/2019) and other law also apply to the transfer of data to the European Public Prosecutor and the European the prosecutor in the performance of their duties under the EPPO Regulation.
15 § Pääsyoikeuden myöntäminen asianhallintajärjestelmään Valtuutettu Euroopan syyttäjä voi käsittelemiensä asioiden osalta pyynnöstä myöntää pääsyoikeuden toiselle valtuutetulle Euroopan syyttäjälle Euroopan	**Section 15 Granting access to the case management system** The authorised European Public Prosecutor may, upon request, grant another authorised European Public Prosecutor access to data stored in the European Public

syyttäjänviraston asianhallintajärjestelmässä säilytettyihin tietoihin, jos pääsy on tarpeen EPPO-asetuksessa säädettyjen tehtävien hoitamiseksi.

Prosecutor's Office's case management system if access is necessary for the performance of the tasks provided for in the EPPO Regulation.

16 § Luvan antaminen henkilötietojen siirtämiseen kolmannelle maalle tai kansainväliselle järjestölle
EPPO-asetuksen 80 artiklan 1 kohdan c alakohdassa tarkoitetun ennakkoluvan henkilötietojen edelleen siirtämiseen kolmannelle maalle tai kansainväliselle järjestölle voi antaa alkuperäisen siirron toteuttanut toimivaltainen viranomainen. Ennakkolupaa koskevaa asiaa ratkaistaessa on otettava asianmukaisesti huomioon rikoksen vakavuus, henkilötietojen alkuperäisen siirron tarkoitus ja muut asiassa merkitykselliset seikat.

Section 16 Authorization to transfer personal data to a third country or international organization
The prior authorization referred to in Article 80 (1) (c) of the EPPO Regulation for the onward transfer of personal data to a third country or international organization may be granted by the competent authority that carried out the original transfer. The seriousness of the offense, the purpose of the original transfer of personal data and other relevant factors shall be duly taken into account when deciding on the prior authorization.

17 § Euroopan syyttäjänviraston edustaminen korkeimmassa oikeudessa
Euroopan syyttäjänvirasto päättää valituslupahakemuksen jättämisestä korkeimmalle oikeudelle rikosasiassa, jossa se käyttää toimivaltaa.

Valtuutetun Euroopan syyttäjän tehtävänä on ajaa rikosasiaa korkeimmassa oikeudessa Euroopan syyttäjänviraston puolesta.

Section 17 Representation of the European Public Prosecutor's Office in the Supreme Court
The European Public Prosecutor's Office decides to apply for leave to appeal to the Supreme Court in criminal matters in which it exercises jurisdiction.
The role of the accredited European Public Prosecutor is to prosecute in the Supreme Court on behalf of the European Public Prosecutor's Office.

18 § Valtioneuvoston oikeuskanslerin ja eduskunnan oikeusasiamiehen laillisuusvalvonta
Euroopan syyttäjän ja valtuutetun Euroopan syyttäjän toimintaan Suomessa kohdistuvasta valtioneuvoston oikeus-

Section 18 Review of the legality of the Chancellor of Justice and the Parliamentary Ombudsman
The Constitution provides for the review of the legality of the activities of the European Public Prosecutor and the author-

kanslerin ja eduskunnan oikeusasiamiehen laillisuusvalvonnasta säädetään perustuslaissa.	ised European Public Prosecutor in Finland by the Chancellor of Justice and the Parliamentary Ombudsman.
19 § Valtioneuvoston jäsenen erioikeuksien ja vapauksien pidättämistä koskeva pyyntö Jos EPPO-asetuksen 29 artiklassa tarkoitettu erioikeuksien ja vapauksien pidättämistä koskeva pyyntö koskee valtioneuvoston jäsentä, se tulee tehdä valtioneuvoston oikeuskanslerille tai eduskunnan oikeusasiamiehelle. Oikeuskansleri tai oikeusasiamies ratkaisee sen noudattamalla soveltuvin osin, mitä laillisuusvalvonta-asioiden käsittelystä säädetään.	**Section 19 Request for the suspension of the privileges and immunities of a member of the Government** If a request for the deprivation of privileges and immunities referred to in Article 29 of the EPPO Regulation concerns a member of the Government, it shall be made to the Chancellor of Justice of the Government or the Parliamentary Ombudsman. The Chancellor of Justice or the Ombudsman decides on it by applying, where applicable, the provisions on the handling of legality review matters.
20 § Voimaantulo Tämä laki tulee voimaan valtioneuvoston asetuksella säädettävänä ajankohtana.	**Section 20 Passage** This Act shall enter into force on a date to be determined by decree.
Neuvoston asetus (EU) 2017/1939 (32017R1939); EUVL L 283, 31.10.2017, s. Helsingissä 15.1.2021 Tasavallan Presidentti Sauli Niinistö Oikeusministeri Anna-Maja Henriksson	Council Regulation (EU) 2017/1939 (32017R1939); OJ L 283, 31.10.2017, p. 1 Helsinki, 15.1.2021 President of the Republic Sauli Niinistö Minister of Justice Anna-Maja Henriksson

B. EPPO-Regulation

I. Introduction by the National Expert

1. Finnish criminal procedure and the European Public Prosecutor's Office (EPPO) Criminal procedure and its safeguards in Finland– general characteristics[10]

Author: *Raimo Lahti* (Professor emeritus, University of Helsinki, Finland)

In **Finnish procedural law**, the traditionally recognized basic elements of due process or fair trial are the right to access to court, an independent and impartial tribunal, the presumption of innocence, and guarantees of procedural rights. It is noteworthy that these procedural principles and rules are applicable to all kinds of offences (including corporate and corporate-related crime), except that summary (simplified) penal proceedings and fixed fine penal proceedings for minor offences have some specific features which make the proceedings more expeditious and cost-effective. It has also increasingly been introduced administrative penal sanctions, especially so-called administrative fines, in the fields of corporate and financial offences.[11] **1**

A **fundamental principle** that reflects the presumption of innocence is favor defensionis (in favour of the defence). This '*meta*' principle implies specifying principles, most importantly the principle of nemo tenetur se ipsum accusare or privilege against self-incrimination (an individual may not be compelled to testify against him-/herself and has the right to silence) and the principle of in dubio pro reo (in case of doubts about the guilt the accusation shall be dismissed). The burden of proof is on the prosecutor. **2**

The **Finnish legal system** has long represented a model of a democratic *Rechtsstaat* where democracy and fundamental rights are regarded as complementary principles in a strong sense: there is neither judicial review nor a constitutional court for reviewing the constitutionality of laws; rather, the conformity of a bill to the constitution is reviewed only during the legislative process.[12] Therefore, the ratification of the European Convention on Human Rights and Fundamental Freedoms (ECHR) and the reform of constitutional rights in the 1990s were remarkable because they implied the direct applicability of the fundamental rights of individuals in the courts. **3**

[10] This sub-chapter is based on Lahti 2019, pp. 131–145.
[11] See, in more detail, e.g. Rainiala RIDP 90:1, 145–163; Lahti 2022, pp. 11–24.
[12] See, e.g. Jyränki 1991, pp. 6–30.

4 In May 1990 Finland ratified the ECHR, accepted the jurisdiction of the European Court of Human Rights (ECtHR), and recognized the right of individual petition. The ECHR and other important human rights treaties have been incorporated through an Act of Parliament in blanco. Because of the predominance of the incorporation method, Finland can be said to represent dualism in form but monism in practice when implementing international law into the domestic legal order. This implementation method affects the application of human rights treaties.

5 The **Parliamentary Constitutional Law Committee** has confirmed the following principles: the hierarchal status of the domestic incorporation act of a treaty determines the formal rank of the treaty provisions in domestic law (i.e. their rank is normally that of an Act of Parliament), incorporated treaty provisions are in force in domestic law according to their contents in international law, and the courts and authorities should resort to 'human-rights-friendly' interpretations of cases having domestic status in order to avoid conflicts between domestic law and human rights law.[13]

6 New provisions on the fundamental rights in the **Finnish Constitution** were enacted in 1995, and they were included into the new Constitution of 1999. The new provisions on these basic rights, which are much more detailed than the earlier ones, for instance those concerning not only fundamental freedoms but also social rights, have been essentially inspired by the international human rights treaties. From the point of view of criminal law, there are important new provisions, for example on the legality principle in criminal law (corresponding to Article 7 ECHR) and the provision stating that a punishment entailing deprivation of liberty can only be imposed by a court.

7 Several of the enacted constitutional provisions reference both basic and human rights, thus giving semi-constitutional status to human rights treaties.[14] The *travaux pré-paratoires* for this reform emphasize the fact that the constitutional provisions are also directly applicable in the administration of law by judges and authorities, and so their binding effect is not restricted to law-making only. In addition to the 'human-rights-friendly' interpretation of the law, a similar 'basic-rights-friendly' interpretation is recommended, although the prohibition of courts to examine the constitutionality of Acts of Parliament was maintained.

8 The requirements of Rechtsstaatlichkeit (the constitutionally governed state) include several criteria which should be applied in constitutionally governed states (like Finland): first, anticipatory guarantees such as the general principles limiting the use of (substantive) criminal law and the principles concerning the organization of the judiciary; second, the procedural rules regarding the different phases of criminal proceedings; and, third, the methods of appeal in criminal proceedings and the supervision of the

[13] See in more detail Scheinin 1996, pp. 257–294.
[14] So Scheinin 1996, p. 276.

administration of justice. Major reforms of criminal procedural law have been carried out during the last thirty years.

Legislation on the **pre-trial investigation and coercive measures** in criminal pro-ceedings was reformed in 1989 (and replaced by new Acts of 2011[15]), the lower court system was restructured in 1993, the public prosecution authorities were reorganized in 1996, a comprehensive reform of criminal procedure in the lower courts was carried out in 1997,[16] and the provisions on the Court of Appeal procedure in 1998. The Judicial Procedure Code, which dates back to the year 1734 under Swedish rule, has been revised innumerable times; in 2015 (732/2015), a crucial reform targeted its chapter 17 on evidence.[17] **9**

There are two special features in the institutions and actors of Finnish procedural law: first, the **pre-trial investigations** are led by senior police officers and not by prosecutors or judges. The decision as to whether an apprehended suspect is to be arrested must be made within 24 hours by a senior police officer or the prosecutor. A request that a person under arrest be remanded for trial shall be made to a court without delay and not later than noon on the third day following the day of apprehension. The court has also an important role in deciding on the use of covert coercive measures. The prerequisites for these measures are regulated in detail by the legal Act; covert coercive measures include telecommunications interception, the obtaining of data other than through tele-communications interception, traffic data monitoring, obtaining base station data, extended surveillance, covert collection of intelligence, technical surveillance (on-site interception, technical observation, technical monitoring and technical surveillance of a device), obtaining 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. **10**

Second, the office of the prosecutor general is an independent authority outside the judicial administration of the Ministries of Justice and Interior. When the legislation on criminal proceedings was modernized in the 1990s, the main model was Sweden's accusatorial (adversial) type of trial. The accusatorial principle requires that the judge be an impartial third party, so that all the activities of bringing the criminal charge forward are handled by a separate official, the prosecutor, and his or her role is significant. **11**

[15] Unofficial English translations of these Acts are available on the website of the Ministry of Justice: Criminal Investigation Act (805/2011), as it was in force in 2015 (736/2015), and Coercive Measures Act (806/2011), as it was amended up to 1146/2013: https://www.finlex.fi/fi/laki/kaannokset/2011/en20110805_20150736.pdf; and https://www.finlex.fi/fi/laki/kaannokset/2011/en20110806.

[16] See Criminal Procedure Act of 689/1997, whose unofficial translation is available on the website of the Ministry of Justice, with amendments up to 733/2015: https://www.finlex.fi/fi/laki/kaannokset/1997/en 19970689_20150733.pdf.

[17] See Code of Judicial Procedure, whose unofficial translation is available on the website of the Ministry of Justice, with amendments.

12 In addition to the **accusatorial principle**, the other leading principles governing the main hearing in the proceedings are the requirements of orality and immediacy. Therefore, all pleadings shall, as a rule, be oral, and the opposing party has the right to cross-examine all evidence presented against him/her. The acceptability of evidence other than oral evidence in open court is very restricted.

13 The increased awareness among decision-makers of the importance of human rights and, later, of the constitutional rights affected the contents of the procedural reforms and still affects the application of procedural law. The most important Supreme Court decisions since the beginning of the 1990s, whenever human rights norms were directly applied, address criminal procedural law and particularly the fair trial requirements. The **constitutional reform** produced some new provisions on basic rights, mostly equivalent to the corresponding articles in international human rights treaties but more extensive in some respects.

14 In the most recent years, ECtHR case law has influenced especially the fair trial guarantees of evidentiary procedure (such as the privilege against self-incrimination and the exclusion of unlawfully obtained evidence) and the significance and contents of the 'ne bis in idem' principle. In these respects, Finnish procedural law has been reformed and applied in line with the practice of the ECtHR and, when necessary, in line with the judgments of the Court of Justice of the EU (CJEU). For instance, explicit provisions have been included in the revised Judicial Procedure Code (chapter 17, sections 18 and 25; 732/2015) on the privilege against self-incrimination and on the exclusion of unlawfully obtained evidence.

15 A separate legal Act (781/2013) on the **prohibition of double jeopardy** (i.e., a prohibition against the cumulative use of criminal punishment and administrative penal fee) was introduced for tax fraud cases. Accordingly, as a rule, no charges may be brought nor court judgments passed if the same person in the same case has already in-curred a punitive tax or customs increase (PC 29:11).

16 The reformed evidence law regulated in **chapter 17 of the Judicial Procedure Code** contains – in addition to clarifying general provisions and provisions on the obligation or **right to refuse to testify** – innovative provisions, such as the above-mentioned provisions on the privilege against self-incrimination and on the exclusion of unlawfully obtained evidence. There are also new provisions on secret evidence and anonymous witness. If, in very serious criminal cases, the protection of the identity of an anonymous witness is required (to protect against a threat against life or health), he or she can be heard in the **main hearing** behind a screen or without the presence of the defendant or, without being present in person, by telephone, video contact, or other suitable means of communication. In the hearing, the voice of the witness may also be altered to protect the anonymous witness against recognition by voice. (See chapter 17, sections 51–53,

of the Code of Juridical Procedure; and chapter 5, sections 11a–b, of the Criminal Procedure Act.)

A new legislation on **consensual proceedings** was enacted in 2014 (670/2014) as part of the revision of the Criminal Procedure Act. The new legislation maintains the legality principle in prosecution as a main rule, but the exceptions – grounds for waiving prosecution – have become more extensive. One of the grounds for waiving prosecution is that criminal proceedings and punishment are deemed to be unreasonable or in-appropriate in view of a settlement reached by the suspect in the offence and the injured party, the other action of the suspect in the offence to prevent or remove the effects of the offence (chapter 1, section 8). **17**

One innovation concerns the introduction of **plea bargaining**, which is intended to be applied particularly in complicated cases of economic and corporate crime. Accordingly, the prosecutor may, on his or her own motion or on the initiative of the in-jured party, take measures for the submission and hearing of a proposal for judgment in confession proceedings. The prosecutor must use his or her discretion in considering the nature of the case and the claims to be presented, the expenses apparently resulting from, and the time required for, a hearing in confession proceedings on one hand and in the normal procedure on the other. Preconditions for confession proceedings are that the suspect in the offence in question admits having committed the suspected offence and consents to confession proceedings as well as that the injured party has no claims in the case or consents to confession proceedings. The prosecutor must commit to requesting punishment on a scale mitigated by one-third. The proposal for judgment will be handled and confirmed by the court. (chapter 1, sections 10–11 and chapter 5b, Criminal Procedure Act.) It should be noted that the mitigation of punishment applies only to the actor's own guilty plea and not to testimony on the guilt of accomplices. **18**

2. The establishment of European Public Prosecutor's Office (EPPO) and its effect on the Finnish procedural law

The **establishment of EPPO and Finland** being one of the sixteen Member States which requested the opening of the enhanced cooperation procedure, was not a self-evident issue in the Finnish legal discussion.[18] The official view was modified towards a positive one after the most of the negotiating goals of Finland were achieved. **19**

As Petri Freundlich et al. express it, the major issues were: the opinion of the Council Legal service was taken into account in the final version of the Regulation regarding EPPO competences; the EPPO will function in accordance with national procedural rules of each Member State, and the regulation does not require any changes in the divi- **20**

[18] As for the discussion, see e.g. Lahti 2021, pp. 371–380. (Open access: https://edition.fi/lakimiesyhdistys/catalog/book/121). I have in my academic writings supported the idea from the beginning since 2002.

sion of competences between the police and power (cf. above); the **EPPO's structure** is collegiate in nature; and the EPPO Regulation has sufficient references to relevant fundamental rights provisions.[19]

21 A special law supplementing the provisions of the EPPO Regulation was proposed to be enacted, i.e. the Act on Finland's Participation in the Activities of the European Public Prosecutor's Office (later: **EPPO Act**). This Act was ratified on 15 January 2021 (Act No. 66/2021). In addition, on the basis of provisions in the Regulation it was proposed to make changes to the Criminal Investigation Act (805/2011), to the Criminal Pro-cedure Act (689/1997), to the Act on the National Prosecution Authority (32/2019)[20], to the Act on Surrender Procedures between Finland and Other Member States of the European Union (1286/2013)[21], to the Act on Extradition between Finland and Other Nordic Countries /1383/2007), and to the Act on the Publicity of Court Proceedings in General Courts (370/2007)[22]. These legislative changes were made in connection with the enactment of the EPPO Act.

22 The aim of the EPPO Act was to make additions to the legislation only to the extent that it was necessary to clarify the provisions of the EPPO regulation.[23] The key provisions of the EPPO Act are related to the provisions on appointment and competence of the EPPO's staff of European Prosecutors and European Delegated Prosecutors, the criminal cases within the competence of the EPPO as for the investigation and the coercive measures used in it, as well as data protection and the EPPO's access to in-formation.[24]

23 First, in the EPPO Act the naming procedure by which Finland nominates national candidates for the European Prosecutor and European Delegated Prosecutors was regulated. The regulation of the the procedure for appointing these EPPO's staff members was implemented so that the nomination was maintained at the member state level. In both naming procedures the Council of State acts as the appointing authority.

24 In the **case of the European Prosecutor**, the Council of State would make its decision on the proposal of the Ministry of Justice, and the Office of the Prosecutor General has an opportunity to give a statement about the candidates. Mr. Harri Tiensuu, who has qualified in prosecutor's tasks and was the National Member for Finland at Eurojust in

[19] See Freundlich, Helenius and Miettinen 2020, pp. 163–170.
[20] An unofficial translation of this Act is available from the website of the Ministry of Justice: https://www.finlex.fi/fi/laki/kaannokset/2019/en20190032.pdf.
[21] An unofficial translation of this Act is available from the website of the Ministry of Justice, with amendments up to 329/2019: https://www.finlex.fi/fi/laki/kaannokset/2019/en20190032.pdf.
[22] An unofficial translation of this Act is available from the website of the Ministry of Justice, with the amendments up to 742/2015: https://www.finlex.fi/fi/laki/kaannokset/2007/en20070370_20150742.pdf.
[23] In a corresponding way the Regulation (EU) 2018/1805 of 14 November 2018 on the mutual recognition of freezing orders and confiscation orders was earlier implemented in Finland: see the Act of 895/2020 (27 November 2020).
[24] The following examination is based on the Government Bill 184/2020 (*travaux préparatoires* of the EPPO Act), esp. ch. 4.1.

2011–2015, is now the European Prosecutor from Finland. Candidates for European Delegated Prosecutors the Council of State would appoint on the proposal of the Office of the Prosecutor General. State Prosecutors Ms. Ritva Sahavirta and Mr. Tuomas Soosalu are now the **European Delegated Prosecutors in Finland**.

The EPPO Act also includes **provisions supplementing Article 30** of the EPPO Regu- **25**
lation on the coercive measures in criminal procedure. The purpose of this re-gulation is to clarify that article of the EPPO Regulation of coercive measures, especially the correspondence of the listed coercive measures to the valid coercive measures according to the Coercive Measures Act.

The EPPO Act does **not regulate new types of coercive measures** or to change existing **26**
one's contents of coercive measures. Regarding investigative situations that cross borders, the EPPO Act prescribes that as a prerequisite for coercive measures requested from another EPPO member state and taking place in Finland would be that the use of coercive measures would be permitted under similar circumstances under Finnish law.

Regarding **cross-border measures of coercion**, the EPPO Act also includes the pro- **27**
visions that if a cross-border investigative measure would require in Finland the decision of an authority other than the prosecutor, such a decision should always be applied for in the investigation as a basis for the measure.

The EPPO Act further states that in matters falling within the competence of the EPPO, **28**
the competent submission of the license application to the Supreme Court would belong to the EPPO. In addition, the prosecuting the criminal case in the Supreme Court would belong to the authorised European Delegated Prosecutor on behalf of the EPPO. This regulation would supplement Article 36 of the EPPO Regulation regarding the prosecution in a national court.

A new subsection 2 was added to Section 1 of Chapter 5 of the **Criminal Investigation** **29**
Act as a supplement the provisions of Article 24 of the EPPO Regulation on reporting a criminal case under the jurisdiction of the EPPO. Accordingly, the preliminary investigation authority should inform the prosecutor about the criminal case that has come up for investigation and, based on the facts that have come, could fall within the competence of the EPPO. Notification after this further to the EPPO would take place by the national prosecuting authority in accordance with Section 7 of the EPPO Act.

The EPPO Act contains provisions on the **transfer of personal data** from the national **30**
authority to the EPPO as well as provisions on the right of the European Prosecutor and European Delegated Prosecutors to receive information from national authorities when they carry out their tasks under the EPPO Regulation. According to the Act, the right of access to information would correspond in scope to national prosecutors' rights stipulated in the current legislation.

31 In addition, the Act states that the European Delegated Prosecutor could grant other EPPO authorised European Delegated Prosecutors the **right of access to data stored in EPPO's case management system**, should it be necessary to carry out the tasks in accordance with the EPPO Regulation. The provision supplements Provisions of Article 46 of the EPPO Regulation.

32 The provisions concerning the competence of European Prosecutor and European Delegated Prosecutors were added into Act on Surrender Procedures between Finland and Other Member States of the European Union and into the Act on Extradition be-tween Finland and Other Nordic Countries. These provisions supplement Article 33 and Article 104 of the EPPO Regulation.

3. Some additional observations on the EPPO and Finland

33 In the notification, dated on 29 January 2021, the Ministry of Justice has notified i.a. to the European Chief Prosecutor about the national substantive criminal provisions of the Criminal Code of Finland which are applicable to the offences defined in Directive (EU) 2017/131.

34 In the *travaux préparatoires* of the EPPO Act, it was assessed that in Finland there will be only few cases which should belong to the competence of EPPO.[25] The annual reports of EPPO confirm this assumption: at the end of 2021 there were 4 active investigations and at the end of 2022 in all 9 active investigations (6 of them opened in 2022).[26]

[25] See Government Bill 184/2020, ch. 4.5 (p. 102).
[26] See EPPO annual reports 2021 and 2022, statistics per member state – Finland.

II. The Start of Criminal investigations according to the EPPO Regulation based on national law (measures)

Hauck, Schneider, Karakocaoğlu, Laird, University of Gießen

35

In 2019 and 2020 the Finnish Government (including Anna-Maja Henriksson as Finland's Minister of Justice in this time) and the Finnish Parliament started to design the legal setting for EPPO actions in Finland[27] i.e. on Finnish territory, which is since Finland, unlike other countries such as Poland and Hungary (see → within the com-pendium volumes), joined the EPPO enhanced cooperation mechanism EPPO territory.

36 The **competent authority** for the implementation of Regulation (EU) 2017/1939c was appointed. Since 6.10.22 Finnish EDPs[28] and EP[29] are investigating EU frauds on their own.[30] In 2021 the regional office was already set up in the capital of Helsinki. The office can be contacted quite easily.[31] A judgement was not reached as of 2022 and the first EPPO Annual Report 2021 had not much to report about Finnish Cases.[32] Compared to the cases handled by Eurojust[33] and *Lilja Limingoja*[34] with a connection to Finland, the figures are still very low but the reason for that is the long-lasting EDP debate.

37 The following volume chapter shall offer an **introduction into the applicable laws** and provisions. First of all, a Synopsis of the Finnish EPPO Adoption Act was presented (see above → III. "Sources of Law"). Secondly, the Chapter takes a close look at the national provisions that remain applicable – even if the EPPO Adoption Act exists and can be seen as lex specialis to the common Finnish provisions in the criminal justice sector.

38 One focus of the Chapter is on **examining finish investigative powers**. These are regulated in the EU Regulation in Art. 30 and have already been examined in the past. They are important to the EPPO and foreign EDPs, as well as the lawyers and defense attorneys, as well as ordinary Union citizens who import or export things to Finnish ports and trade with Finland all over the world.

---

[27] Working Group's Report 2019.
[28] They are former or current Prosecutors oft he Republic or a higher position and were appointed to the position of the European Prosecutor as proposed and described in the EPPO Adoption Law. The process itself was problematic and caused problems between the EPPO and the Government, see https://www.eppo.europa.eu/en/news/finnish-european-delegated-prosecutor-appointed-college. LILI BAYER, Finland strikes staffing deal with new EU prosecutor's office, https://bit.ly/4ezYOMY.
[29] Harri Tapio Tiesmaa.
[30] Currently Finland has two EDP. Ritva Sahavirta and Tuomas Soosaluis are investigating on behalf of the EPPO on Finnish territory under the supervision by EP Tiesmaa, who works in Luxembourg. See https://www.eppo.europa.eu/en/news/one-new-european-delegated-prosecutor-appointed-finland.
[31] See Lintulahdenkuja 4 00530 Helsinki, Phone: (+358) 50 543 1194.
[32] See EPPO Annual Report, 2021, https://www.eppo.europa.eu/sites/default/files/2022-03/CH2.8_EPPO-Annual-Report-2021-FI.pdf.
[33] See https://www.eurojust.europa.eu/states-and-partners/member-states/finland: "In 2021, the Finnish Desk was involved in 134 new cases, 15 coordination meetings, and 11 joint investigation teams."
[34] She was appointed National Member for Finland on 1 August 2019.

39 For example, **special customs regulations** already apply at the ports of Finland, which can give rise to fraud at the expense of the Union. For example, an anti-dumping duty could apply, whereby officials could suspect that this was not paid and that this was done knowingly and with deceptive intent. This behaviour would then call for rapid i.e. urgent investigative action by the officers. A decision must be made as to whether there is a suspicion of a crime.

40 If this is not the case, there can at least be the suspicion of an administrative violation, which calls OLAF, the administrative anti-fraud authority, into action (see → Part C and Art. 12e OLAF Regulation[35]).[36]

41 If there is a suspicion of a crime, Art. 26 and 27 of the EPPO Regulation apply (see → Part B). As these two articles refer to national law numerous times, the compendium will present the national regulations in Finnish or Swedish and English to enable understanding and finding the right national regulations.

42 Art. 26 explains the process of the so-called **EPPO Crime Reports**, i.e. reports to the EPPO from Finland or other natural and legal persons. Art. 28 is dedicated to the specific conduct of the investigations. Art. 29 deals with the national provisions for immunities of Members of Parliament, which may become important in relation to activities. Finally, the fundamental articles follow: Art. 30–32 EPPO Regulation. Art. 33 refers to the law of detention and investigation and is important because fraud investigations can often take longer than expected. To secure the potential criminal process, the suspects are therefore secured.

[35] See Hauck (soon to be published), EU Frauds Commentary, Art. 12e OLAF.

[36] In the past OLAF has e.g. found irregularities in the Procurement Area OLAF: Waste and mismanagement of refugee funds in Greece. See https://www.newmoney.gr/roh/palmos-oikonomias/ellada/olaf-spatales-kai-kakodi-axeirisi-sta-kondilia-gia-to-prosfigiko-stin-ellada/. Accessed 31 December 2024.

SECTION 1
Rules on investigations

1. Article 26 Initiation of investigations and allocation of competences within the EPPO

a) Initiation of Investigations by virtue of Art. 26 para 1 EPPO Regulation 61
b) Relevant sources of the indications for a criminal offense falling within the competence of the EPPO and Reporting Obligations 65
aa. Determination of the competence and verification of Crime Reports..... 70
(1) The Union standards, Art. 24 para 6 et seq. EPPO Regulation..... 73
(2) Jurisdiction of the European Delegated Prosecutor 75
bb. How to assess and verify the suspicion level according to Art. 26 para 1 and the CPC for a criminal offense falling within the competence of the EPPO 76
(1) The PIF offences in Finland 77
(a) General Fraud Offences..... 77
(b) Tax Frauds 80
(c) Subsidy Frauds 83
(d) Giving a Bribe .. 84
(e) Money Laundering 85
(f) Forgery Offences in Connection with PIF Acquis Offences..... 88
(g) Chapter 40, Offences in Public Office..... 90
(h) Missapropriation of Funds, Chapter 40, s. 8a (368/2019)..... 96
(i) Customs Offences in relation to the EU Budget, Chapter 46 .. 98
(2) Methods of investigation, Collecting information and documenting the initiation of an investigation for an indictement (Art. 34 et seq. EPPO Regulation, Art. 40 para 3 IRP) 104
(a) Impetus of fraud knowledge patterns 104
(b) Special national databases for PIF offences/Digital investigations, Art. 40 para 3 IRP 2020.003 105
cc. Examples and precedents 108
(1) In national case-law 108

(a) Fraud.....109
(aa) Revenue frauds 109
(bb) Expenditure frauds 111
(b) Corruption offences 111
(c) Money laundering with PIF crimes.....111
(2) Data on economic crime cases at the District Courts.....112
dd. The level of sufficiency.....113
c) Actions if "Decision to open a case" (Regulation + Rules in IRP, 2020.003 EPPO).....114
d) Consequences to the "Decision to open a case" 116

1. Where, **in accordance with the applicable national law,** there are **reasonable grounds to believe that** an offence within the competence of the EPPO is being or has been committed, a European Delegated Prosecutor in a Member State which **according to its national law** has jurisdiction over the offence shall, without prejudice to the rules set out in Article 25(2) and (3), initiate an investigation and note this in the case management system.
2. Where upon verification in accordance with Article 24(6), the EPPO decides to initiate an investigation, it shall without undue delay inform the authority that reported the criminal conduct in accordance with Article 24(1) or (2).
3. Where no investigation has been initiated by a European Delegated Prosecutor, the Permanent Chamber to which the case has been allocated shall, under the conditions set out in paragraph 1, instruct a European Delegated Prosecutor to initiate an investigation.
4. A case shall as a rule be initiated and handled by a European Delegated Prosecutor from the Member State where the focus of the criminal activity is or, if several connected offences within the competences of the EPPO have been committed, the Member State where the bulk of the offences has been committed. A European Delegated Prosecutor of a different Member State that has jurisdiction for the case may only initiate or be instructed by the competent Permanent Chamber to initiate an investigation where a deviation from the rule set out in the previous sentence is duly justified, taking into account the following criteria, in order of priority:
(a) the place of the suspect's or accused person's habitual residence;
(b) the nationality of the suspect or accused person;
(c) the place where the main financial damage has occurred.
5. Until a decision to prosecute under Article 36 is taken, the competent Permanent Chamber may, in a case concerning the jurisdiction of more than one Member State and after consultation with the European Prosecutors and/or European Delegated Prosecutors concerned, decide to:
(a) reallocate the case to a European Delegated Prosecutor in another Member State;

(b) merge or split cases and, for each case choose the European Delegated Prosecutor handling it,
if such decisions are in the general interest of justice and in accordance with the criteria for the choice of the handling European Delegated Prosecutor in accordance with paragraph 4 of this Article.
6. Whenever the Permanent Chamber is taking a decision to reallocate, merge or split a case, it shall take due account of the current state of the investigations.
7. The EPPO shall inform the competent national authorities without undue delay of any decision to initiate an investigation.

Table 4: Overview Box – Art. 26 EPPO Regulation (PIF offences etc.) **1**

Overview	
Relevant national law	Sources: Criminl Code of Finland Criminal Procedure Act of Finland Preliminary Investigations Act EPPO Adoption Act for Finland Customs Law Tax Act
"An offence within the competence of the EPPO"	For the offences, see Chapter 36, s. 1 et seq. General Fraud Offences Chapter 29, s. 5 Subsidy fraud Chapter 29, s. 6 Aggravated subsidy fraud Chapter 29, s. 7 Subsidy misuse Chapter 29, s. 8 Subsidy violation Chapter 29 ss. 1 et seq. in connection with s. 10 (Corporate criminal liability of these offences) Section 11 (782/2013) Relationship of punitive tax increase and punitive customs duty increase to tax fraud and tax violation For more see below → "The PIF Offences in Finland".
Sanctions for legal persons	Corporate entities are separately punished in the different Chapters of the Criminal Code. Thus, there is no single legal provision that is appblicable to all circumstances.

"[competence of] a European Delegated Prosecutor in a Member State [Finland]"	See above → the EPPO Adoption Act.
"jurisdiction"	Cf. Sections from the Finnish Criminal Code and cf. Art. 11 of the PIF Directive Section 1 (626/1996) Offence committed in Finland Section 2 (626/1996) Offence connected to a Finnish vessel Section 3 (626/1996) Offence directed at Finland Section 5 (626/1996) Offence directed at a Finnish person Section 6 (626/1996) Offence committed by a Finnish citizen Section 7 (626/1996) International offence Section 8 (626/1996) Other offence committed outside of Finland Section 9 (626/1996) Corporate criminal liability Section 11 (626/1996) Requirement of dual criminality If an offence has been committed in the territory of a foreign state, the application of Finnish law may only be based on sections 5, 6 and 8 if the offence is also punishable under the law of the place of commission and a punishment could also have been imposed for it by a court of that foreign state. In this event, no sanction that is more severe than what is provided by the law of the place of commission shall be imposed for the offence in Finland. Even if an act is not punishable under the law of the place of commission, Finnish law applies to it if it was committed by a Finnish citizen or a person referred to in section 6, subsection 3, paragraph 1 and a punishment for it is provided in:

	9) chapter 29, section 1, 2, 5–7 or 7a, chapter 32, section 6 or 7, or chapter 36, section 1 or 2, if the act is fraud affecting the Union's financial interests referred to in Article 3(2) or another criminal offence affecting the Union's financial interests referred to in **Article 4(1)–(3) of Directive (EU) 2017/1371 of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law,** 10) chapter 30, section 7, 7a, 8 or 8a and even if the provisions are applied under section 14 of the same chapter, 11) chapter 40, sections 1–4 or 4a, if the perpetrator is a Member of Parliament, a foreign public official or a member of a foreign parliament, or **12) chapter 40, section 7, 8, 8a or 8b, if the act is misappropriation r ferred to in Article 4(3) of Directive (EU) 2017/1371 of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law, and the perpetrator is a Member of Parliament, a foreign public official or a member of a foreign parliament. (368/2019**

Source: The authors.

a) Initiation of Investigations by virtue of Art. 26 para 1 EPPO Regulation

Art. 26 needs to be seen independently from Art. 27. It stands on its own and describes a **principle of legality at Union level**, which has the effect of protecting the Union's (own) financial interests. **2**

In Finnish Law the Pre-Trial Investigation Act and the Criminal Procedure Act apply regarding the initiation of investigations. The Assessement Committee for the EPPO Adoption Act proposed to amend the Chapter 2, Section 11 of the Public Prosecutor's Office Act. **3**

All in all, at least three different areas for the initiation of investigations must be distinguished: 1) the area of general fraud offences, forgery offences, bribery or corrup-tion offences stipulated by the Criminal Code of Finland; 2) the customs revenue fraud offences, anti-dumping duty offences etc. which are either assessed by the fraud offen-ces in the Criminal Code or the special minor offences in the Customs Act and 3) the tax **4**

fraud offences damaging the EU budget such as VAT revenue fraud offences (VAT carousels etc.), expenditure frauds related to tax offences.

5 This separation clearly indicates that the competent authorities in these areas will most likely be the first state officials to register the signs of a potential crime, violation of a prohibition, peculiar behaviour, behaviour bordering on legality, deceptive behaviour, presentation of deeds or certificates, submission of references (origin), receipt of subsidy benefits etc. Frequently, even non-declarations, i.e. the silence of the relevant person such as an economic operator can trigger obligations, this would raise the suspicion of neglected behaviour. The customs offices e.g. have the obligation to notify these signs (see → Art. 24 et seq. EPPO Regulation, Art. 27 below so that the EPPO can either directly investigate on its own or evocate the case):

Customs Crime Prevention Act

Section 4[37] **Duties and powers of the Customs Crime Prevention customs officer**

In addition to what is stipulated in this law, the duties, powers and obligations of the customs officer for the prevention of customs crime are stipulated in the Customs Act and the Act on Customs Administration (960/2012).

In a preliminary investigation conducted by Customs, a customs officer from Customs Crime Prevention has the same right to take investigative measures in accordance with the Pre-Trial Investigation Act and use coercive measures in accordance with the Coercive Measures Act as a police officer in a preliminary investigation conducted by a police authority, unless otherwise stipulated in this Act or another law.

Chapter 2 Customs' powers in the fight against customs crime

Section 1[38] **(30.1.2018/116) Customs crime preliminary investigation**

The pre-liminary investigation of the customs criminal case is carried out by the Customs. The pre-trial investigation can also be carried out by the police in the event that it has become aware of a customs crime and the said authorities do not agree otherwise.

[37] 4 § Laki rikostorjunnasta Tullissa
Tullirikostorjunnan tullimiehen tehtävät ja toimivaltuudet
Sen lisäksi, mitä tässä laissa säädetään, tullirikostorjunnan tullimiehen tehtävistä, toimivaltuuksista ja velvollisuuksista säädetään tullilaissa ja Tullin hallinnosta annetussa laissa (960/2012).
Tullirikostorjunnan tullimiehellä on Tullin suorittamassa esitutkinnassa sama oikeus ryhtyä esitutkintalain mukaisiin tutkintatoimenpiteisiin ja käyttää pakkokeinolain mukaisia pakkokeinoja kuin poliisimiehellä poliisiviranomaisen suorittamassa esitutkinnassa, jollei tässä laissa tai muussa laissa toisin säädetä.

[38] 2 luku
Tullin toimivaltuudet tullirikostorjunnassa
1 § (30.1.2018/116) Laki rikostorjunnasta Tullissa
Tullirikoksen esitutkinta
Tullirikosasian esitutkinnan toimittaa Tulli. Esitutkinnan voi toimittaa myös poliisi siinä tapauksessa, että se on saanut tullirikoksen tietoonsa eivätkä mainitut viranomaiset toisin sovi. Rajavartiolaitoksen oikeudesta toimittaa tullirikosasian esitutkinta säädetään rikostorjunnasta Rajavartiolaitoksessa annetun lain (108/2018) 3, 5 ja 8 §:ssä.

The right of the Border Guard to conduct a preliminary investigation of a customs criminal case is regulated in Sections 3, 5 and 8 of the Act (108/2018) on crime prevention in the Border Guard.

Section 2[39] **Notification obligation**

Customs must notify the police of a suspected serious crime that has come to its attention and of the measures it has initiated to investigate such a crime. The crimes covered by the reporting obligation and the practical implementation of the reporting are agreed upon in cooperation between Customs and the police.

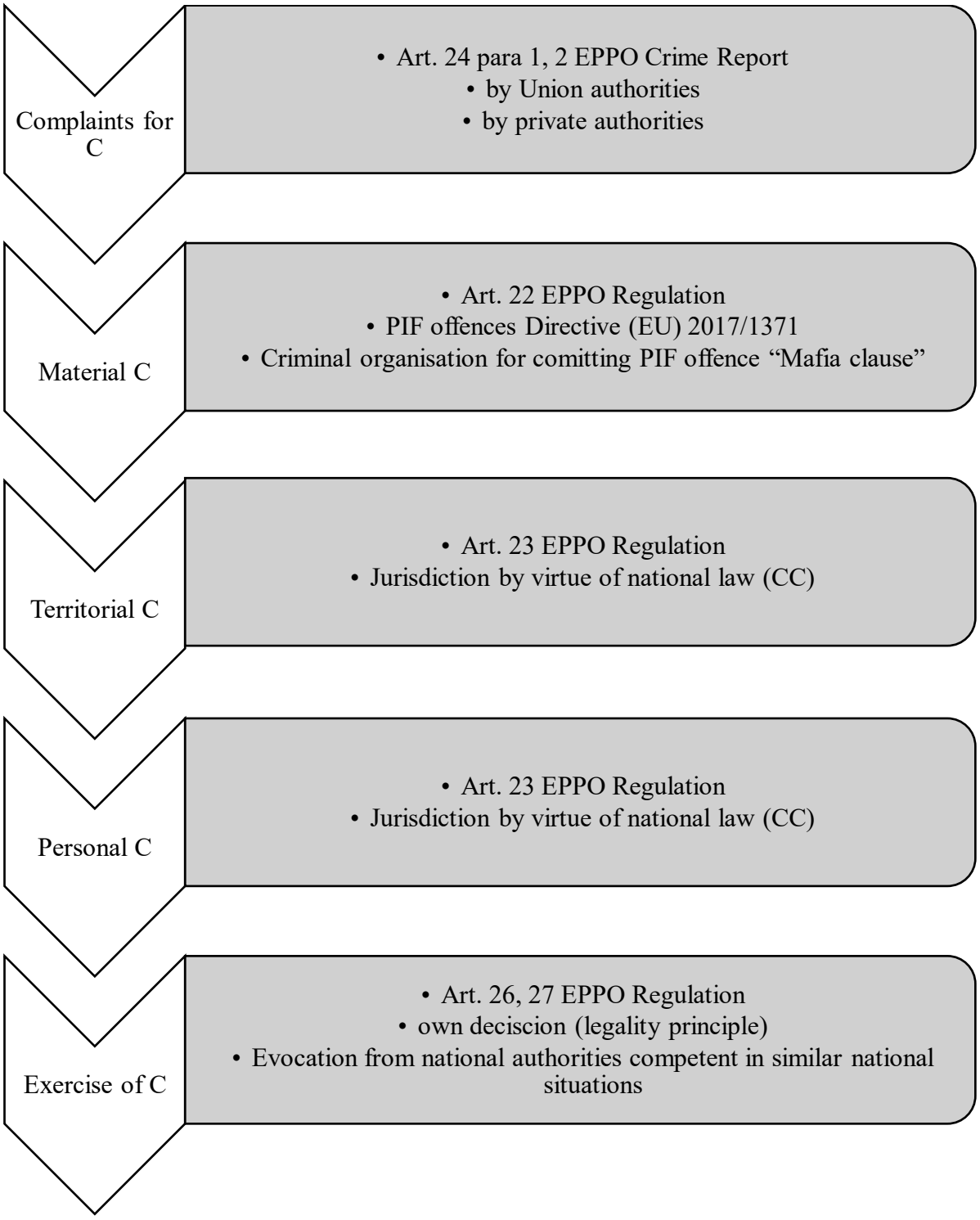
Section 4[40] **Director of investigations**

In the preliminary investigation conducted by the Customs, the head of the investigation is a Customs official entitled to arrest as referred to in Chapter 2, Section 9, Subsection 1, Clause 2 of the Coercive Measures Act. Another customs officer working in customs crime prevention duties may, based on the order he received, lead an investigation for quality-related or other similar justified reasons.

[39] 2 § Laki rikostorjunnasta Tullissa
Ilmoittamisvelvollisuus
Tullin on ilmoitettava poliisille tietoonsa tulleesta epäillystä vakavasta rikoksesta ja käynnistämästään toimenpiteestä sellaisen rikoksen selvittämiseksi. Ilmoitusvelvollisuuden piiriin kuuluvista rikoksista ja ilmoituksen käytännön toteutuksesta sovitaan Tullin ja poliisin välisessä yhteistoiminnassa.

[40] 4 § Laki rikostorjunnasta Tullissa
Tutkinnanjohtaja
Tullin toimittamassa esitutkinnassa tutkinnanjohtajana on pakkokeinolain 2 luvun 9 §:n 1 momentin 2 kohdassa tarkoitettu pidättämiseen oikeutettu Tullin virkamies. Muu tullirikostorjuntatehtävissä toimiva tullimies saa saamansa määräyksen perusteella asiaan laatuun liittyvästä tai muusta vastaavasta perustellusta syystä johtaa tutkintaa.

Figure 1: EPPO – Exercise of competence in general



The table above shows in an abstract way how the EPPO acts.

But what is the effect of the reference to national law? How have the cases been exercised in practice and what is the situation after one year of operational work? **6**

The EPPO Annual Report 2021 provides information on the exercise of jurisdiction under Articles 26 and 27 EPPO Reg. **7**

b) Relevant sources of the indications for a criminal offense falling within the competence of the EPPO and Reporting Obligations

"In order to achieve its goals, the EPPO will need to establish smart information flows between the central office in Luxembourg, delegated prosecutors, and national authorities and, at the same time, avoid causing delays in the information exchange. […] In this regard, some of the existing EU mechanisms concerning de facto reporting of PIF crimes seem to be obsolete, as well as national law duties to report such information to a national prosecution office in advance or in parallel to the EPPO."[41] **8**

One main reporting obligation of EU frauds is and PIF Acquis Offences is enshrined in Section 17 of the National Audit Office Act. The law was amended in 2019 and the reasoning of the amendments was affirmed again in 2021, when Finland designed its national strategy to obtain the EU Recovery and Resilience Funds: **9**

> "Reporting of abuse
> In section 6, paragraph 5 of the government's proposal, the support authority must report on crimes related to the use of recovery and recovery support funds, of which the support authority has the obligation, according to section 17, subsection 1 of the Act on the State Audit Office (676/2000), to file a criminal report, as well as other irregularities ordered to be reported by the National Treasury to the various entities listed in the regulation to the authorities. According to Section 17 of the Act on the State Audit Office, the state authority, the institution, business institution and state fund must file a criminal report for a crime committed in its operations, against the funds or property it manages or is responsible for. A criminal report may not be filed if the act is considered minor considering the circumstances. **Section 17 of the National Audit Office Act** has been amended in 2019 so that, according to **Section 17, subsection 3, the inspection office must notify the European Anti-Fraud Office and other competent European Union authorities of all actions that it becomes aware of in the course of performing its duties**, which can be classified as financial activities of the Union of the EU Directive on combating fraud against benefits by means of criminal law, the so-called **Union Fraud Directive (EU) 2017/1371** requirements.

[41] Klement 2021, pp. 51–52.

17 (231/2018) of the Government's proposal on the Criminal Law and the State Audit Office according to the reasons (page 58), taking into account the underlying purpose of the obligation to prevent crimes according to the directive, it is justified that the obligation is supported as meaning a notification obligation already at the stage when it is suspected that the act could be classified as a crime according to the directive. On the basis of the Pretrial Investigations Act (805/2011), investigation and investigation of crimes are included to the police and prosecution authorities.

However, in order for the authority to act in accordance with Section 17 of the National Audit Office Act, the authorities must, based on the inves-tigations or inspections carried out, have some idea of whether the course of events can be considered to meet the hallmarks of a crime. According to Section 16 of the National Audit Office Act, a state authority, institution, business establishment and Valio's fund must, regardless of confidentiality regulations, immediately notify the Audit Office of any misuse of assets and property it manages or is responsible for."[42]

[42] See LAUSUNTO 4.2.2022 VIITE VN/26950/2021 VAHVA, Lausuntopyyntö hallituksen esitysluonnoksesta Euroopan unionin elpymis- ja palautumistukivälineen hallinnoinnista, valvonnasta ja tarkastuksesta sekä Valtiokonttorista annetun lain 2 §:n muuttamisesta ja tulotietojärjestelmästä annetun lain 13 §:n väliaikaisesta muuttamisesta https://vm.fi/documents/10623/21730205/Sis%C3%A4isen+tarkastuksen+jaoston+lausunto+hallituksen+esityksest%C3%A4+koskien+EUn+elpymis-+ja+palautumistukiv%C3%A4linett%C3%A4.pdf/e3f3bff6-1e4f-b0f3-450f-a84061ad670a/Sis%C3%A4isen+tarkastuksen+jaoston+lausunto+hallituksen+esityksest%C3%A4+koskien+EUn+elpymis-+ja+palautumistukiv%C3%A4linett%C3%A4.pdf?t=1643978059191. Accessed 31 December 2024. „Väärinkäytöstietojen ilmoittaminen Hallituksen esitysluonnoksen 6 §:n 5 kohdassa tukiviranomaisen tulee ilmoittaa elpymis- ja palautumistukivälineenvarojen käyttöön liittyvistä rikoksista, joista tukiviranomaisella on valtiontalouden tarkastusvirastosta annetun lain (676/2000) 17 §:n 1 momentin mukaan velvollisuus tehdä rikosilmoitus sekä Valtiokonttorin ilmoittavaksi määräämistä muista epäsäännönmukaisuuksista säännöksessä luetelluille eri viranomaisille. Valtiontalouden tarkastusvirastosta annetun lain 17 §:n mukaan valtion viranomaisen, laitoksen, liikelaitoksen ja valtion rahaston on tehtävä rikosilmoitus toiminnassaan tehdystä, sen hoitamiin tai vastattavina oleviin varoihin tai omaisuuteen kohdistuneesta rikoksesta. Rikosilmoitus saadaan jättää tekemättä, jos tekoa on olosuhteet huomioon ottaen pidettävä vähäisenä. Valtiontalouden tarkastusvirastosta annetun lain 17 §:ää on muutettu vuonna 2019 niin, että tarkastusviraston on 17 §:n 3 momentin mukaan ilmoitettava Euroopan petostentorjuntavirastolle ja muille toimivaltaisille Euroopan unionin viranomaisille kaikki sen tehtäviensä hoitaessaan tietoonsa saamat teot, jotka voidaan luokitella EU:n direktiivin unionin taloudellisiin etuihin kohdistuvien petosten torjunnasta rikosoikeudellisin keinoin ns. unionin petosdirektiivi (EU) 2017/1371 vaatimuksia. Hallituksen esityksen rikoslain ja valtiontalouden tarkastusvirastosta annetun lain 17 (231/2018) vp. perustelujen (sivu 58) mukaan ottaen huomioon velvoitteen taustalla oleva tarkoitus estää direktiivin mukaisia rikoksia on perusteltua, että velvoitteen tukitaan tarkoittavan ilmoitusvelvollisuutta jo siinä vaiheessa, kun epäillään, että teko voitaisiin luokitella direktiivin mukaiseksi rikokseksi. Esitutkintalain (805/2011) perusteella rikosten selvittäminen ja tutkiminen kuuluvat poliisi- ja syyttäjäviranomaisille.

Jotta viranomainen voi toimia em. valtiontalouden tarkastusvirastosta annetun lain 17 §:n mukaisesti viranomaisilla täytyy kuitenkin olla tehtyjen selvitysten tai tarkastusten perusteella jonkin asteinen kuva siitä, voidaanko katsoa tapahtumakulun täyttävän jonkin rikoksen tunnusmerkistön. Valtiontalouden tarkastusvirastosta annetun lain 16 §:n mukaan valtion viranomaisen, laitoksen, liikelaitoksen ja valion rahaston on salassapitosäännösten estämättä ilmoitettava viipymättä toiminnassaan tehdystä sen hoitamiin tai vastattavina oleviin varoihin ja omaisuuteen kohdistuneesta väärinkäytöksestä tarkastusvirastolle.!

The National Audit Office Act (*Laki valtiontalouden tarkastusvirastosta* – 676/2000) contains further provisions on reporting and the initiation of administrative investigations by the State Audit Office. **10**

Section 17 National Audit Office Act[43]
Reporting a crime and providing confidential information
A state authority, institution, business institution and state fund **must file a criminal report for a crime** committed in its operations, against the assets or property it manages or is responsible for. A criminal report may not be filed if the act is considered minor considering the circumstances.

The audit agency must file a criminal report for a crime detected in the course of the audit, committed in the course of the activities of a state authority, institution, business establishment, and state fund, directed at funds or property managed or held by it, unless the person being audited has filed a criminal report himself. The inspection agency may not make a notification if the act is considered to be minor, taking into account the circumstances.

The **Audit Office must notify the European Anti-Fraud Office and other competent authorities of the European Union [e.g. scil. the EPPO]** of all acts it becomes aware of in the course of performing its duties, which can be classified as crimes referred to in Article 3, 4 or 5 of Directive (EU) 2017/1371 of the European Parliament and of the Council on combating fraud against the financial interests of the Union by criminal means.
In order to investigate a crime that occurred in the activities of a state authority, institution, business institution or state fund, and against the funds or property managed by it

[43] 17 § Laki valtiontalouden tarkastusvirastosta (29.3.2019/369)
Rikoksesta ilmoittaminen ja salassa pidettävien tietojen antaminen
Valtion viranomaisen, laitoksen, liikelaitoksen ja valtion rahaston on tehtävä rikosilmoitus toiminnassaan tehdystä, sen hoitamiin tai vastattavina oleviin varoihin tai omaisuuteen kohdistuneesta rikoksesta. Rikosilmoitus saadaan jättää tekemättä, jos tekoa on olosuhteet huomioon ottaen pidettävä vähäisenä.
Tarkastusviraston on tehtävä tarkastustoiminnassa havaitsemastaan valtion viranomaisen, laitoksen, liikelaitoksen ja valtion rahaston toiminnassa tehdystä, sen hoitamiin tai vastattavina oleviin varoihin tai omaisuuteen kohdistuneesta rikoksesta rikosilmoitus, jollei tarkastettava ole itse tehnyt rikosilmoitusta. Tarkastusvirasto saa jättää ilmoituksen tekemättä, jos tekoa on olosuhteet huomioon ottaen pidettävä vähäisenä.
Tarkastusviraston on ilmoitettava Euroopan petostentorjuntavirastolle ja muille toimivaltaisille Euroopan unionin viranomaisille kaikki sen tehtäviään hoitaessaan tietoonsa saamat teot, jotka voidaan luokitella unionin taloudellisiin etuihin kohdistuvien petosten torjunnasta rikosoikeudellisin keinoin annetun Euroopan parlamentin ja neuvoston direktiivin (EU) 2017/1371 3, 4 tai 5 artiklassa tarkoitetuiksi rikoksiksi.
Valtion viranomaisen, laitoksen, liikelaitoksen tai valtion rahaston toiminnassa tapahtuneen, sen hoitamiin tai vastattavina oleviin varoihin tai omaisuuteen kohdistuneen rikoksen selvittämiseksi saadaan salassapitoa koskevien säännösten estämättä asianomaisen valtion viranomaisen, laitoksen, liikelaitoksen ja rahaston sekä tarkastusviraston tehtäväänsä hoitaessaan saamia tietoja luovuttaa esitutkinta-, poliisi- ja muille tutkintaviranomaisille sekä syyttäjäviranomaisille.

or for which it is responsible, information obtained by the relevant state authority, institution, business institution and fund, as well as the inspection agency while performing its duties, may be disclosed to preliminary investigation, police and to other investigative authorities and prosecutorial authorities.

11 A further distinction can be made between the direct and the indirect path for the transfer of information related to the competence:

Figure 2: National (indirect way of) Obtaining information for the EPPO competence and the exercise of jurisdiction

Art. 24 para 8[44]: Tax Departement, Finnish Customs, Police, Border Guards.

Example: During a tax audit a national tax authority might obtain information about irregularities that lead to the conclusion that the relevant conduct of an Economic operator in the area of revenue duties constitute the conduct forbidden by penal sanction by the PIF offences. The Tax Procedure Code forsees in Chapter 2 tax audits on a regular basis:

12

Section 14[45] Tax audit

At the request of the Tax Administration, during the tax year or later, the taxpayer must present his accounting, records, as well as everything related to business activities or other income-generating activities, as well as other materials and assets that may be necessary for his taxation or when handling appeals regarding his taxation, for inspection in Finland. (11.6.2010/520)

The tax payer must be notified in advance of the start date and location of the tax audit, unless there is a special reason for another procedure. (9/9/2016/772)

[44] See https://www.eppo.europa.eu/sites/default/files/2021-11/01-FI.pdf. Accessed 31 December 2024.

[45] 14 § Laki verotusmenettelystä

Verotarkastus

Verovelvollisen on Verohallinnon kehotuksesta verovuoden aikana tai myöhemmin esitettävä Suomessa tarkastettavaksi kirjanpitonsa, muistiinpanonsa samoin kuin kaikki se elinkeinotoimintaan tai muuhun tulonhankkimistoimintaan liittyvä sekä muu aineisto ja omaisuus, joka saattaa olla tarpeen hänen verotuksessaan tai hänen verotustaan koskevaa muutoksenhakua käsiteltäessä. (11.6.2010/520)

Verotarkastuksen aloittamisajankohdasta ja tarkastuspaikasta on ilmoitettava verovelvolliselle etukäteen, jollei erityisestä syystä ole aihetta muuhun menettelyyn. (9.9.2016/772)

Suoritetusta verotarkastuksesta on laadittava verotarkastuskertomus, jollei erityisistä syistä muuta johdu.

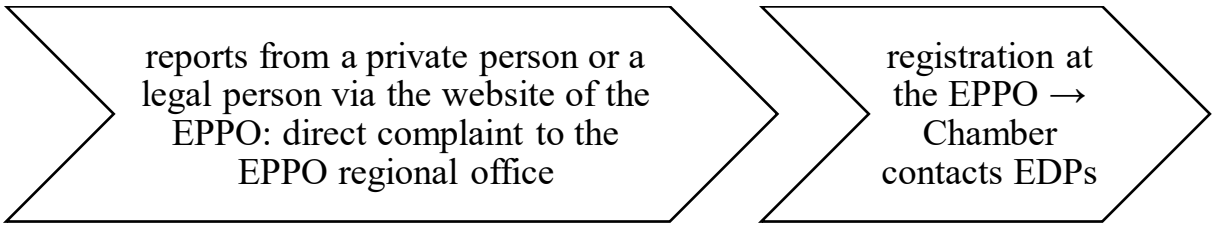
Toisen viranomaisen edustaja voi avustaa asiantuntijana verotarkastuksessa. (13.11.2020/782)

Verotarkastuksessa noudatettavasta menettelystä sekä esitettävästä aineistosta ja omaisuudesta säädetään tarkemmin valtioneuvoston asetuksella. (9.9.2016/772)

A tax audit report must be drawn up on the performed tax audit, unless there are special reasons.
A representative of another authority can assist as an expert in the tax audit. (13/11/2020/782)
The procedure to be followed in the tax audit, as well as the material and assets to be presented, are regulated in more detail by a government decree. (9/9/2016/772)

In this case the authority needs to assess whether it needs to inform OLAF (Art. 3 et seq, OLAF Regulation) and OLAF needs to decide whether it needs to inform the EPPO on the basis of the OLAF Regulation and the Working Agreement. The other way would be that the authority informs the EPPO directly if it is certain that a criminal conduct under the competence of the EPPO can be assessed. **13**

Figure 3: Supranational (direct way of) Obtaining information for the EPPO competence and the exercise of jurisdiction



Another, third source of information are the Union bodies, which are obliged to report either to OLAF or to the EPPO (e.g. obliged by Working Agreements) – depending on the seriousness of the suspected conduct: only irregularities or clear foundations for potential criminal offences. National authorities who report to OLAF need to obey the EPPO's Guidelines on how to report irregularities and fraud to the European Commission. OLAF will either way report conduct that falls in the EPPO's competence by virtue of Art. 12c OLAF Reg. **14**

As seen from the Statistics in relation to the Crime Reports for national offences (similar cases e.g. tax fraud damaging the Budget of the Finnish State) the numbers in this area of special economic crime are quite high (as seen in the 4. Quarter of 2022): **15**

Table 5: Crimes that have come to our attention by quarter according to the reporting date, advance as variables Quarter, Crime reports and fines, Authority, Crime group and details of the crime description and Information

2022Q4*	**Crimes brought to the attention of the authorities (number)**
In total	
Authorities in total	
1112a1 Incidents of embezzlement and light embezzlement	753
1113 Aggravated embezzlement 28:5	86
1113a1 Cases of aggravated embezzlement	86
1116 Fraud, slight fraud 36:1,3	9,066
1117 Aggravated fraud 36:2	397
1118 Payment instrument fraud, minor payment instrument fraud, preparation of payment instrument fraud 37:8,10,11	2,940
1122 Tax fraud, mild tax fraud 29:1,3	195
1123 Gross tax fraud 29:2	185
1124 Tax offense 29:4	0
1125 Accounting crime, aggravated accounting crime, negligent accounting crime 30:9,9a,10	232
1127 Forgery, minor forgery, possession of counterfeit material 33:1,3,4	319
1128 Aggravated forgery 33:2	4
1132 Smuggling, minor smuggling 46:4-5	429

Source: Statistics Office.

aa. Determination of the competence and verification of Crime Reports

16 The first task of the EDPs in a Finnish regional office is to determine whether the EPPO has competence and jurisdiction or can obtain competence and exercise jurisdiction (see below → Art. 27). The Pre-Trial Investigation Act contains rules on complaints. The

Assessment Committee from 2018, that planned on how to issue an EPPO Adoption Act proposed to amend Chapter 5, Section 1 of the Pre-Trial Investigation Act in order to accommodate the requesites of Art. 24 EPPO Regulation.

The **government's proposal to parliament** for a law on Finland's participation in the activities of the European Public Prosecutor's Office (EPPO) and related laws[46] states the following on including a subsection to Section 1 of the fifth Chapter in the Pre-Trial Investigation Act: "A new subsection 2 is proposed to be added to Chapter 5 § 1 of the Pre-Trial Investigation Act, which would complement the provisions of Article 24 of the EPPO Regulation on the notification of a criminal case within the EPPO's jurisdiction. In accordance with the proposed regulation, the preliminary investigation authority should inform the prosecutor about the criminal case that has been inves-tigated, which, based on the facts that have been brought up, could fall under the EPPO's jurisdiction. After this, further reporting to the EPPO would take place by the national prosecution authority in accordance with Section 7 of the proposed EPPO Act."[47] And: "In the chain of criminal proceedings, the question of identifying a case that may fall within the competence of the EPPO primarily belongs to the preliminary investigation authorities."[48] **17**

[46] Hallituksen esitys eduskunnalle laiksi Suomen osallistumisesta Euroopan syyttäjänviraston (EPPO) toimintaan sekä siihen liittyviksi laeiksi, HE 184/2020, 4.1.

[47] „Esitutkintalain 5 luvun 1 §:ään ehdotetaan lisättäväksi uusi 2 momentti, jolla täydennettäisiin EPPO-asetuksen 24 artiklan säännöksiä EPPO:n toimivaltaan kuuluvan rikosasian ilmoittamisesta. Ehdotetun säännöksen mukaisesti esitutkintaviranomaisen tulisi ilmoittaa syyttäjälle tutkittavaksi tulleesta rikosasiasta, joka esille tulleiden seikkojen perusteella voisi kuulua EPPO:n toimivaltaan. Tämän jälkeen ilmoittaminen edelleen EPPO:lle tapahtuisi kansallisen syyttäjäviranomaisen toimesta ehdotettavan EPPO-lain 7 §:n mukaisesti.", Hallituksen esitys eduskunnalle laiksi Suomen osallistumisesta Euroopan syyttäjänviraston (EPPO) toimintaan sekä siihen liittyviksi laeiksi, HE 184/2020, 4.1.

[48] „Rikosprosessiketjussa kysymys EPPO:n toimivaltaan mahdollisesti kuuluvan jutun tunnistamisesta kuuluu ensisijaisesti esitutkintaviranomaisille." Hallituksen esitys eduskunnalle laiksi Suomen osallistumisesta Euroopan syyttäjänviraston (EPPO) toimintaan sekä siihen liittyviksi laeiksi, HE 184/2020, 2.2. Chapter 4.

18 The amended Section 1 now looks like this:

19

Chapter 5 Preliminary investigation cooperation between the preliminary investigation authority and the prosecutor
Section 1 Pre-Trial Investigation Act[49]
Notice to the prosecutor: The preliminary investigation authority must immediately notify the prosecutor of a matter in which the suspect of a crime is a police officer, unless the matter is dealt with in the procedure provided for in the law on the imposition of fines and misdemeanor fines. In addition, the prosecutor must be notified of a crime that has come under investigation, which the preliminary investigation and prosecutorial authorities have jointly decided to fall within the scope of the reporting obligation based on their powers, or about which the prosecutor has requested to be notified.

The preliminary investigation authority must also immediately inform the prosecutor of a criminal case in which the European Public Prosecutor's Office can exercise jurisdiction. (15.1.2021/67)

20 The EPPO Adoption Act nevertheless contains a section on the notification of a criminal case to the Finnish Regional Office of the EPPO:

Section 7[50] **Reporting a criminal case to the European Public Prosecutor's Office**
The prosecutor shall inform the authorised European Public Prosecutor of the criminal case referred to in Article 24 of the EPPO Regulation.
Notwithstanding the provisions on confidentiality, the notification may include the information referred to in Article 24 (4) of the EPPO Regulation and other information necessary to deal with the pending case.

21 These are formal, but essential questions. They are determined by means of Union secondary legislation (Art. 24 EPPO Regulation) and special delegated guidelines required

[49] 5 luku
Esitutkintaviranomaisen ja syyttäjän esitutkintayhteistyö
1 § (18.11.2016/988) Esitutkintalaki
Ilmoitus syyttäjälle
Esitutkintaviranomaisen on viipymättä ilmoitettava syyttäjälle asiasta, jossa rikoksesta epäiltynä on poliisimies, jollei asiaa käsitellä sakon ja rikesakon määräämisestä annetussa laissa säädetyssä menettelyssä. Syyttäjälle on lisäksi ilmoitettava tutkittavaksi tulleesta rikoksesta, jonka esitutkinta- ja syyttäjäviranomaiset ovat yhdessä niille kuuluvan toimivallan perusteella päättäneet kuuluvan ilmoitusvelvollisuuden piiriin tai josta syyttäjä on pyytänyt ilmoittamaan.
Esitutkintaviranomaisen on viipymättä ilmoitettava syyttäjälle myös rikosasiasta, jossa Euroopan syyttäjänvirasto voi käyttää toimivaltaa. (15.1.2021/67)
[50] 7 § Rikosasiasta ilmoittaminen Euroopan syyttäjänvirastolle
Syyttäjän tulee ilmoittaa valtuutetulle Euroopan syyttäjälle EPPO-asetuksen 24 artiklassa tarkoitetusta rikosasiasta.
Ilmoitukseen saa salassapitosäännösten estämättä sisällyttää EPPO-asetuksen 24 artiklan 4 kohdassa tarkoitetut tiedot ja muut vireillä olevan asian käsittelemiseksi välttämättömät tiedot.

by secondary legislation, the so-called **Internal Rules on Procedure [of the EPPO]**. This depends on the criteria of the Regulation (see → Art. 22, 23).

Nota bene: There are rules issued by the EPPO Chamber, but they apply for Art. 27 Right of evocation. Art. 26 para 5 and 6 refer to special rules on splitting or merging cases if different regional offices have intiated an investigation in similar cases.

(1) The Union standards, Art. 24 para 6 et seq. EPPO Regulation

For the EPPO to be competent, the requirements of the Regulation must be met. **22**

Either an examination according to Art. 24 para 6 must show that the EPPO is competent or the delegated prosecutor carries out an examination and assessement by virtue of Art. 26 para 1 EPPO Regultion himself/herself without informing the Permanent Chamber and initiates an investigation about which he/she subsequently informs the Permanent Chamber. **23**

The IRP rules state the following: **24**

Article 40: Verification of information [Internal Rules of Procedure, 2020-12-/2020.003 IRP – EPPO]
1. The verification for the purpose of initiating an investigation shall assess whether:
a) the reported conduct constitutes a criminal offence falling under the material, territorial, personal and temporal competence of the EPPO;
b) **there are reasonable grounds under the applicable national law** to believe that an offence is being or has been committed;
c) there are obvious legal grounds that bar prosecution;
d) where applicable, the conditions prescribed by Article 25(2), (3) and (4) of the Regulation are met.
2. The verification for the purpose of evocation shall additionally assess:
a) the maturity of the investigation;
b) the relevance of the investigation with regard to ensuring the coherence of the EPPO's investigation and prosecution policy;
c) the cross-border aspects of the investigation;
d) the existence of any other specific reason, which suggests that the EPPO is better placed to continue the investigation.
3. The **verification shall be carried out using all sources of information available** to the EPPO as well as any sources **available to the European Delegated Prosecutor**, **in accordance with applicable national law**, including **those otherwise available to him / her if acting in a national capacity**. The European Delegated Prosecutor may make use of the staff of the EPPO for the purpose of the verification. Where appropriate, the EPPO may consult and exchange information with Union institutions, bodies, offices or

agencies, as well as national authorities, subject to the protection of the integrity of a possible future criminal investigation.
4. The European Delegated Prosecutor shall finalise the verification related to the evocation of an investigation at least 2 days before the expiration of the deadline prescribed by Article 27(1) of the Regulation. The verification related to initiating an investigation shall be finalised no later than 20 days following the assignment.
5. If the European Delegated Prosecutor does not finalise the verification on whether or not to initiate an investigation within the prescribed time limit, or he/she informs their inability to do so within the foreseen time limit, the European Prosecutor shall be informed and where deemed appropriate extend the time available or issue an appropriate instruction to the European Delegated Prosecutor.
6. Where it concerns a decision on evocation, the European Delegated Prosecutor may ask the European Chief Prosecutor to extend the time limit needed to adopt a decision on evocation by up to 5 days.
7. Where the European Delegated Prosecutor does not issue a decision within the time limit, it shall be treated as a consideration not to evoke a case, and Article 42 applied accordingly.

25 The requirements of Art. 25 para. 2 and 3 must be observed but he/she can still initiate an investigation "without prejudice to the rules set out in Article 25(2) and (3)".
The provisions, jurisdiction (e.g. territory), thresholds i.e. "€" of the Regulation and orders of the Luxembourg Chamber must exist for the exercise of competence.

Article 22 Material competence of the EPPO

- PIF Implementation
- National databases and information according to Art. 40 para 3 IRP

26 **Article 23 Territorial and personal competences of the EPPO**

27 The EPPO is competent if:

- the criminal offenses were committed, in whole or in part, on the territory of one or more participating EU Member States;
- the criminal offenses were committed by a national of a participating EU Member State,
- the criminal offenses were committed by a person subject to the Staff Regulations or rules applicable to EU officials.

SECTION 2 Exercise of the competence of the EPPO **28**

Article 24 Communication, registration and verification of information

The transfer of information to the relevant EDPs or the chamber of the EPPO is mainly regulated by Art. 24 EPPO Regulation. This provision has been made public to all author-ities in Italy by virtue of the EPPO Adoption Act, which indicates how the transfer of information should take place in order to comply with the supranational law. The transfer of information that could establish an inital suspicion for a PIF offence depends on the suspected concrete offence.

The notification of the Government from 2021 by virtue of Art. 117 EPPO Regulation helps to understand the transfer of information.[51]

(2) Jurisdiction of the European Delegated Prosecutor

The jurisdiction of the EDPs in Finland depend on the EPPO Regulation (→ Art. 22 et seq.) and the rules in the Finnish EPPO Adoption Act: **29**

Section 6 Acting as a national prosecutor by the accredited European Public Prosecutor See above → Sources of law. **30**

It depends as well on the jurisdiction of the authorities that may be coordinated by the Finnish EDPs, such as tax and customs authorities. **31**

The Customs Crime Prevention Act provides for the following rule: **32**

Chapter 1 Section 3 Customs Crime Prevention Act[52] Jurisdiction of customs **33**

Customs is responsible for combating customs crime as stipulated in this law or elsewhere in the law. Customs is the preliminary investigation authority referred to in the Pre-Trial Investigation Act.

The Public Prosecutor's Office Act contains another provision on jurisdiction in criminal matters but it applies only if it does not limit the scope of the EPPO Rules in the EPPO Regulation, which apply through their status as secondary Union Law directly in Finland: **34**

[51] From the point-of-view of Brodowski, Herrnfeld 2022, in: Herrnfeld H H, Esser R, Handbuch der EUStA, Art. 117 EPPO is only an indication for PIF implementation laws and has no legal validity character.

[52] 3 § Laki rikostorjunnasta Tullissa
Tullin toimivalta
Tulli vastaa tullirikostorjunnasta siten kuin siitä tässä laissa tai muualla laissa säädetään. Tulli on esitutkintalaissa tarkoitettu esitutkintaviranomainen.

Chapter 1 Section 10 Public Prosecutor's Office Act[53]
Jurisdiction of the Prosecutor The prosecutor has independent and independent prosecutorial discretion. The prosecutor independently and independently makes the decisions regarding the implementation of criminal liability in the criminal case under his/her decision-making authority. The prosecutor is competent in prosecutorial duties throughout the country.

bb. How to assess and verify the suspicion level according to Art. 26 para 1 and the CPC for a criminal offense falling within the competence of the EPPO

35 The initial suspicion is only to determine the impetus, it is, so to say, "the ball that gets the criminal proceedings rolling."

36 The way in which the public prosecutor's office learns, for example, of the suspicion of subsidy fraud or an offence detrimental to the Union's financial interests according to the EPPO Adoption Act and PIF Implementation Law, is addressed by Union law and the communication with the national authorities and Art. 40 para 3 IRP [2020.003 EPPO].

[53] 10 § Laki Syyttäjälaitoksesta
Syyttäjän toimivalta
Syyttäjällä on itsenäinen ja riippumaton syyteharkintavalta. Syyttäjä tekee itsenäisesti ja riippumattomasti päätösvaltaansa kuuluvat, rikosoikeudellisen vastuun toteuttamista koskevat ratkaisut käsiteltävänään olevassa rikosasiassa. Syyttäjä on toimivaltainen syyttäjäntehtävissä koko maassa.

(1) The PIF offences in Finland

Finland has implemented the PIF Directive 2017/1371 in 2019: "The Directive's obligations have been implemented in Finland by the laws that entered into force on April 1, 2019 (368/2019 and 369/2019)."[54] **37**

Sources and national sections 1: PIF offences in Finland **38**

Fraud offences	Corruption + AML offences	Tax and Customs (Decree/Code) offences
• Chapter 36, s. 1 et seq. General Fraud Offence • Chapter 29, s. 5 Subsidy fraud • Chapter 29, s. 6 Aggravated subsidy fraud • Chapter 29, s. 7 Subsidy misuse • Chapter 29, s. 8 Subsidy violation • Chapter 29 ss. 1 et seq. in connection with s. 10 (Corporate criminal liability of these offences) • ection 11 (782/2013) • Relationship of punitive tax increase and punitive customs duty increase to tax fraud and tax violation	• Chapter 40 Offences in Public Office	• Chapter 29, ss. 1 et seq. Tax fraud • Chapter 29, s. 2 Aggravated Tax fraud • Chapter 29, s. 3 Petty tax fraud • Chapter 29, sw. 4 Tax violation • Chapter 29 ss. 1 et seq. in connection with s. 10 (Corporate criminal liability of these offences)

(a) General Fraud Offences

The general fraud offence in Finland is still highly important as it encompasses all situations that are not tax fraud and not customs fraud by lex specialis. It is regulated by the Criminal Code. **39**

[54] Ministry of Justice, Publications, EPPO, Helsinki 2019, p. 8.

40 **Chapter 36 (769/1990) rules on fraud and other dishonesty**

Section 1[55] **(769/1990) Fraud** A person who, to obtain unlawful economic benefit for himself or herself or another person or to cause damage to another person, deceives another person or takes advantage of an error of another person so as to have this person perform or abstain from performing an act, and this way causes economic loss to the deceived person or to the person over whose benefits this person is able to dispose shall be sentenced for fraud to a fine or to imprisonment for at most two years.

A person who, with the intent referred to in subsection 1, by entering, altering, deleting or removing data or by otherwise interfering with the operation of an information system, falsifies the end result of data processing and this way causes economic loss to another person shall also be sentenced for fraud. (514/2003) An attempt is punishable.

Section 2[56] **(769/1990) Aggravated fraud**

If, in fraud,

1) considerable benefit is sought,

2) considerable or particularly significant damage is caused,

3) the offence is committed by taking advantage of special confidence based on a position of trust, or

4) the offence is committed by taking advantage of a special weakness or other vulnerable state of another person, and the fraud is also aggravated when assessed as a whole, the perpetrator shall be sentenced for aggravated fraud to imprisonment for at least four months and at most four years. An attempt is punishable.

[55] 36 luku (24.8.1990/769)
Petoksesta ja muusta epärehellisyydestä 1 § (24.8.1990/769) Rikoslaki Petos
Joka, hankkiakseen itselleen tai toiselle oikeudetonta taloudellista hyötyä taikka toista vahingoittaakseen, erehdyttämällä tai erehdystä hyväksi käyttämällä saa toisen tekemään tai jättämään tekemättä jotakin ja siten aiheuttaa taloudellista vahinkoa erehtyneelle tai sille, jonka eduista tällä on ollut mahdollisuus määrätä, on tuomittava petoksesta sakkoon tai vankeuteen enintään kahdeksi vuodeksi.
Petoksesta tuomitaan myös se, joka 1 momentissa mainitussa tarkoituksessa dataa syöttämällä, muuttamalla, tuhoamalla tai poistamalla taikka tietojärjestelmän toimintaan muuten puuttumalla saa aikaan tietojenkäsittelyn lopputuloksen vääristymisen ja siten aiheuttaa toiselle taloudellista vahinkoa. (13.6.2003/514)
Yritys on rangaistava.

[56] 2 § (24.8.1990/769) Rikoslaki Törkeä petos Jos petoksessa
1) tavoitellaan huomattavaa hyötyä,
2) aiheutetaan huomattavaa tai erityisen tuntuvaa vahinkoa,
3) rikos tehdään käyttämällä hyväksi vastuulliseen asemaan perustuvaa erityistä luottamusta tai
4) rikos tehdään käyttämällä hyväksi toisen erityistä heikkoutta tai muuta turvatonta tilaa
ja petos on myös kokonaisuutena arvostellen törkeä, rikoksentekijä on tuomittava törkeästä petoksesta vankeuteen vähintään neljäksi kuukaudeksi ja enintään neljäksi vuodeksi.
Yritys on rangaistava.

Section 3[57] **(769/1990) Petty fraud**
If, taking into consideration the amount of benefit sought or damage caused or the other circumstances connected with the offence, the fraud is of minor significance when assessed as a whole, the perpetrator shall be sentenced for petty fraud to a fine.

Section 8[58] **(769/1990) Right to bring charges**
The prosecutor shall not bring charges for petty fraud or misuse of a position of trust unless the injured party reports the offence for prosecution. (441/2011) However, reporting misuse of a position of trust for prosecution is not necessary if a particularly important public interest requires that charges be brought, or if the management of affairs is based on a provision of law or an order issued by a public authority, or if the offence was committed by an attorney-at-law or other person who is subject to public supervision in his or her duties or is in another comparable position, or if the act is directed at a corporate entity, foundation or other legal person subject to public supervision in those operations which are subject to the public supervision. (317/1994)

Section 9[59] **(368/2019) Corporate criminal liability**
The provisions on corporate criminal liability apply to fraud referred to in section 1, subsection 2 of this chapter and to aggravated fraud when it has been committed in the manner specified in section 1, subsection 2.
The provisions on corporate criminal liability also apply to an offence referred to in sections 1 and 2 of this chapter, **if the act is fraud affecting the Union's financial**

[57] 3 § (24.8.1990/769) Rikoslaki
Lievä petos
Jos petos, huomioon ottaen tavoitellun hyödyn tai aiheutetun vahingon määrä taikka muut rikokseen liittyvät seikat, on kokonaisuutena arvostellen vähäinen, rikoksentekijä on tuomittava lievästä petoksesta sakkoon.
[58] 8 § (24.8.1990/769) Rikoslaki
Syyteoikeus
Syyttäjä ei saa nostaa syytettä lievästä petoksesta eikä luottamusaseman väärinkäytöstä, ellei asianomistaja ilmoita sitä syytteeseen pantavaksi. (13.5.2011/441)
Syyteilmoitus ei ole kuitenkaan tarpeen luottamusaseman väärinkäytöstä, jos erittäin tärkeä yleinen etu vaatii syytteen nostamisen tai jos asioiden hoitaminen perustuu lain tai viranomaisen määräykseen tai jos rikoksen on tehnyt asianajaja tai muu henkilö, joka on tehtävässään julkisen valvonnan alainen tai siihen rinnastettavassa asemassa, taikka teko kohdistuu julkisen valvonnan alaiseen yhteisöön, säätiöön tai muuhun oikeushenkilöön sen julkisen valvonnan alaisessa toiminnassa. (29.4.1994/317)
[59] 9 § (29.3.2019/368) Rikoslaki
Oikeushenkilön rangaistusvastuu
Tämän luvun 1 §:n 2 momentissa tarkoitettuun petokseen sekä törkeään petokseen silloin, kun se on tehty mainitussa momentissa säädetyllä tavalla, sovelletaan, mitä oikeushenkilön rangaistusvastuusta säädetään.
Mitä oikeushenkilön rangaistusvastuusta säädetään, sovelletaan myös tämän luvun 1 ja 2 §:ssä tarkoitettuun rikokseen, jos teko on unionin taloudellisiin etuihin kohdistuvien petosten torjunnasta rikosoikeudellisin keinoin annetun Euroopan parlamentin ja neuvoston direktiivin (EU) 2017/1371 3 artiklan 2 kohdassa tarkoitettu unionin taloudellisiin etuihin vaikuttava petos.

interests referred to in Article 3(2) of Directive (EU) 2017/1371 of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law.

(b) Tax Frauds

41 Chapter 29 of the Criminal Code requires a certain understanding of words and provisions, which is described by s. 9 of the relevant chapter:

Section 9[60] Definitions and allocation of liability
In this chapter, tax also means: 1) a tax to be prepaid and a public charge that is comparable to a tax, and
2) a levy collected on behalf of the European Union, to be forwarded to the European Union for inclusion in the general budget of the European Union or another budget maintained by or for the European Union. (368/2019) In this chapter, subsidy means financial support, granted for purposes other than personal consumption,
1) statutorily or discretionarily from the funds of the State, a municipality or another public sector entity or, as separately provided by law, from the funds of another corporate entity or foundation, or
2) from the general budget of the European Union or another budget maintained by or for the European Union. (368/2019) A loan, interest subsidy and security for a loan are also deemed financial support. Subsidy also means central government transfers and discretionary government grants to local government or joint municipal authorities.
The provisions of chapter 47, section 8, subsection 1, paragraph 1 regarding an employer and the provisions of subsection 2 regarding a representative of an employer apply to the employer and his or her representative referred to in sections 4a–4c of this chapter.

[60] 9 § (13.11.1998/814) Rikoslaki Määritelmät ja vastuun kohdentaminen (19.5.2006/398) Verolla tarkoitetaan tässä luvussa myös:
1) veron ennakkoa ja veroon rinnastettavaa julkista maksua; ja
2) Euroopan unionin lukuun kannettavaa maksua, joka tilitetään Euroopan unionille sisällytettäväksi Euroopan unionin yleiseen talousarvioon, Euroopan unionin hoidossa oleviin tai sen puolesta hoidettuihin talousarvioihin. (29.3.2019/368)
Avustuksella tarkoitetaan tässä luvussa taloudellista tukea, joka myönnetään muuhun kuin henkilökohtaiseen kulutukseen:
1) lakisääteisesti tai harkinnanvaraisesti valtion, hyvinvointialueen, hyvinvointiyhtymän, kunnan, kuntayhtymän tai muun julkisyhteisön taikka, sen mukaan kuin siitä lailla erikseen säädetään, muun yhteisön tai säätiön varoista; tai
2) Euroopan unionin yleisestä talousarviosta, Euroopan unionin hoidossa olevista tai sen puolesta hoidetuista talousarvioista.
(29.6.2021/641)
Taloudellisena tukena pidetään myös lainaa, korkotukea ja lainan vakuutta.
Avustuksella tarkoitetaan myös valtionosuutta kunnalle tai kuntayhtymälle sekä valtionavustusta hyvinvointialueelle, hyvinvointiyhtymälle, kunnalle tai kuntayhtymälle. (29.6.2021/641)
Tämän luvun 4 a–4 c §:ssä tarkoitettuun työnantajaan ja tämän edustajaan sovelletaan, mitä 47 luvun 8 §:n 1 momentin 1 kohdassa säädetään työnantajasta ja 2 kohdassa työnantajan edustajasta. (24.4.2015/484)
Tämän luvun 4 a–4 c §:ssä mainittuun rikokseen sovelletaan, mitä 47 luvun 7 §:ssä säädetään vastuun kohdentamisesta. (24.4.2015/484)

(484/2015) The provisions of chapter 47, section 7 on the allocation of liability apply to the offences referred to in sections 4a–4c of this chapter. (484/2015).

Section 10[61] **(368/2019) Corporate criminal liability**

The provisions on corporate criminal liability apply to such tax fraud and aggravated tax fraud that is targeted at a value-added tax or a tax referred to in section 9, subsection 1, paragraph 2, and to subsidy fraud, aggravated subsidy fraud, subsidy misuse and aggravated subsidy misuse.

Chapter 29 (769/1990) Offences against public finances **42**

Section 1[62] **(1228/1997) Tax fraud**

A person who 1) for the purposes of taxation provides an authority with false information on a fact that affects the determination of tax,

2) files a tax return concealing a fact that affects the determination of tax,

3) for the purpose of avoiding tax, fails to observe a statutory duty pertaining to taxation that is of significance in the determination of tax, or

4) otherwise acts fraudulently, and thus causes or attempts to cause a tax not to be determined, to be determined at too low a rate or to be unduly refunded, shall be sentenced for tax fraud to a fine or to imprisonment for at most two years

Section 2[63] **(769/1990) Aggravated tax fraud**

If, in tax fraud, 1) considerable economic benefit is sought, or

[61] 10 § (29.3.2019/368) Rikoslaki
Oikeushenkilön rangaistusvastuu
Sellaiseen veropetokseen ja törkeään veropetokseen, joka kohdistuu arvonlisäveroon tai 9 §:n 1 momentin 2 kohdassa tarkoitettuun veroon, sekä avustuspetokseen, törkeään avustuspetokseen, avustuksen väärinkäyttöön ja törkeään avustuksen väärinkäyttöön sovelletaan, mitä oikeushenkilön rangaistusvastuusta säädetään.

[62] 29 luku (24.8.1990/769)
Rikoksista julkista taloutta vastaan
1 § (19.12.1997/1228) Rikoslaki
Veropetos
Joka
1) antamalla viranomaiselle verotusta varten väärän tiedon veron määräämiseen vaikuttavasta seikasta,
2) salaamalla verotusta varten annetussa ilmoituksessa veron määräämiseen vaikuttavan seikan,
3) veron välttämistarkoituksessa laiminlyömällä verotusta varten säädetyn velvollisuuden, jolla on merkitystä veron määräämiselle, tai
4) muuten petollisesti,
aiheuttaa tai yrittää aiheuttaa veron määräämättä jättämisen tai sen määräämisen liian alhaiseksi taikka veron aiheettoman palauttamisen, on tuomittava veropetoksesta sakkoon tai vankeuteen enintään kahdeksi vuodeksi.

[63] 2 § (24.8.1990/769) Rikoslaki
Törkeä veropetos
Jos veropetoksessa
1) tavoitellaan huomattavaa taloudellista hyötyä tai
2) rikos tehdään erityisen suunnitelmallisesti
ja veropetos on myös kokonaisuutena arvostellen törkeä, rikoksentekijä on tuomittava törkeästä veropetoksesta vankeuteen vähintään neljäksi kuukaudeksi ja enintään neljäksi vuodeksi.

2) the offence is committed in a particularly premeditated manner, and the tax fraud is also aggravated when assessed as a whole, the perpetrator shall be sentenced for aggravated tax fraud to imprisonment for at least four months and at most four years.

Section 3[64] Petty tax fraud
If, taking into consideration the amount of economic benefit sought or the other circumstances connected with the offence, the tax fraud is of minor significance when assessed as a whole, the perpetrator shall be sentenced for petty tax fraud to a fine. Subsection 2 was repealed by Act 782/2013

Section 4[65] Tax violation
A person who, to obtain economic benefit for himself or herself or for another person and for a reason other than insolvency or a stay on payments imposed by a court, fails to pay within the set time limit 1) a withholding tax, a tax-at-source or an asset transfer tax,
2) a turnover tax calculated per calendar month or a comparable tax on certain insurance premiums,
3) a value-added tax, or
4) an employer's social security contribution shall, unless the act is punishable as tax fraud, be sentenced for a tax violation to a fine or to imprisonment for at most six months.
However, a minor neglect that has been rectified without delay is not deemed a tax violation.

[64] 3 § (24.8.1990/769) Rikoslaki
Lievä veropetos
Jos veropetos, huomioon ottaen tavoitellun taloudellisen hyödyn määrä tai muut rikokseen liittyvät seikat, on kokonaisuutena arvostellen vähäinen, rikoksentekijä on tuomittava lievästä veropetoksesta sakkoon.
2 momentti on kumottu L:lla 8.11.2013/782.
[65] 4 § (24.8.1990/769) Rikoslaki
Verorikkomus
Joka hankkiakseen itselleen tai toiselle taloudellista hyötyä jättää muun syyn kuin maksukyvyttömyyden tai tuomioistuimen määräämän maksukiellon takia määräajassa suorittamatta
1) ennakonpidätyksen, lähdeveron tai tilitettävän varainsiirtoveron,
2) kalenterikuukaudelta lasketun liikevaihtoveron tai vastaavan eräistä vakuutusmaksuista suoritettavan veron,
3) tilitettävän arvonlisäveron tai
4) työnantajan sosiaaliturvamaksun
on tuomittava, jollei teko ole rangaistava veropetoksena, verorikkomuksesta sakkoon tai vankeuteen enintään kuudeksi kuukaudeksi.
(29.11.1996/934)
Verorikkomuksena ei kuitenkaan pidetä vähäistä laiminlyöntiä, joka on viivyttelemättä korjattu.
3 momentti on kumottu L:lla 8.11.2013/782.

(c) Subsidy Frauds

43

Chapter 29 Criminal Code
Section 5[66] Subsidy fraud
A person who
1) provides an authority deciding on a subsidy false information on a fact that is conducive to essentially affecting the granting, amount or conditions of a subsidy, or conceals such a fact, or
2) fails to provide information on such a change in circumstances that essentially affects the granting, amount or conditions of a subsidy, and an obligation to provide such information was set in connection the decision to grant the subsidy or otherwise, and thus obtains or attempts to obtain economic benefit for himself or herself or for another person, shall be sentenced for subsidy fraud to a fine or to imprisonment for at most two years.

Section 6[67] Aggravated subsidy fraud
If, in subsidy fraud, considerable benefit is sought and the subsidy fraud is also aggravated when assessed as a whole, the perpetrator shall be sentenced for aggravated subsidy fraud to imprisonment for at least four months and at most four years.

Section 7[68] Subsidy misuse
A person who, in violation of the conditions or provisions laid down in a decision to grant a subsidy, uses the subsidy in a manner that is essentially contrary to its intended purpose shall be sentenced for subsidy misuse to a fine or to imprisonment for at most two years.

[66] 5 § (13.11.1998/814) Rikoslaki
Avustuspetos
Joka
1) antaa avustuksesta päättävälle väärän tiedon seikasta, joka on omiaan olennaisesti vaikuttamaan avustuksen saantiin, määrään tai ehtoihin, tai salaa sellaisen seikan tai
2) jättää ilmoittamatta sellaisesta avustuksen saantiin, määrään tai ehtoihin olennaisesti vaikuttavasta olosuhteiden muutoksesta, josta myöntämispäätöksen yhteydessä tai muuten on erityisesti velvoitettu ilmoittamaan,
ja siten hankkii tai yrittää hankkia itselleen tai toiselle taloudellista hyötyä, on tuomittava avustuspetoksesta sakkoon tai vankeuteen enintään kahdeksi vuodeksi.
[67] 6 § (24.8.1990/769) Rikoslaki
Törkeä avustuspetos
Jos avustuspetoksessa tavoitellaan huomattavaa hyötyä ja avustuspetos on myös kokonaisuutena arvostellen törkeä, rikoksentekijä on tuomittava törkeästäavustuspetoksesta vankeuteen vähintään neljäksi kuukaudeksi ja enintään neljäksi vuodeksi.
[68] 7 § (24.8.1990/769) Rikoslaki
Avustuksen väärinkäyttö
Joka avustuksen myöntämispäätöksen ehtojen tai määräysten vastaisesti käyttää avustusta olennaisesti vastoin sen käyttötarkoitusta, on tuomittava avustuksenväärinkäytöstä sakkoon tai vankeuteen enintään kahdeksi vuodeksi.

Section 7a[69] **Aggravated subsidy misuse**
If in subsidy misuse, the amount of the subsidy at which the offence is directed is very high and the subsidy misuse is also aggravated when assessed as a whole, the perpetrator shall be sentenced for aggravated subsidy misuse to imprisonment for at least four months and at most four years.

Section 8[70] **(769/1990) Subsidy violation**
If, taking into consideration the amount of benefit sought or the other circumstances connected with the offence, the subsidy fraud or subsidy misuse is of minor significance when assessed as a whole, the perpetrator shall be sentenced for a subsidy violation to a fine. If the recovery of the subsidy is deemed a sufficient sanction, a subsidy violation need not be reported or prosecuted, or the punishment for it may be waived.

(d) Giving a Bribe

44 In Chapter 16 ss. 13, 14a Criminal Code giving a bribe and giving a bribe to a Member of Parliament are penalised.

Section 13[71] **(12.7.2002/604) Giving a bribe**
Anyone who promises, offers or gives to a civil servant a gift or other benefit intended for him or someone else for his activities in a service relationship, which influences or is intended to influence or which is capable of influencing the activities of a civil servant in a service relationship, must be sentenced for giving a bribe to a fine or imprisonment for a maximum of two years.
Anyone who promises, offers or gives a gift or benefit referred to in subsection 1 to another person in connection with the official's activities in the service relationship is also convicted of giving a bribe.

[69] 7 a § (29.3.2019/368) Rikoslaki
Törkeä avustuksen väärinkäyttö
Jos avustuksen väärinkäytössä rikoksen kohteena oleva avustuksen määrä on erittäin suuri ja avustuksen väärinkäyttö on myös kokonaisuutena arvostellen törkeä, rikoksentekijä on tuomittava törkeästä avustuksen väärinkäytöstä vankeuteen vähintään neljäksi kuukaudeksi ja enintään neljäksi vuodeksi.
[70] 8 § (24.8.1990/769) Rikoslaki
Avustusrikkomus
Jos avustuspetos tai avustuksen väärinkäyttö, huomioon ottaen tavoitellun hyödyn määrä tai muut rikokseen liittyvät seikat, on kokonaisuutena arvostellen vähäinen, rikoksentekijä on tuomittava avustusrikkomuksesta sakkoon. Avustusrikkomuksesta voidaan jättää ilmoitus tekemättä, syyte ajamatta tai rangaistus tuomitsematta, jos avustuksen takaisinperinnän harkitaan riittävän.
[71] 13 § (12.7.2002/604) Rikoslaki
Lahjuksen antaminen
Joka virkamiehelle lupaa, tarjoaa tai antaa hänen toiminnastaan palvelussuhteessa hänelle tai toiselle tarkoitetun lahjan tai muun edun, jolla vaikutetaan tai pyritään vaikuttamaan taikka joka on omiaan vaikuttamaan virkamiehen toimintaan palvelussuhteessa, on tuomittava lahjuksen antamisesta sakkoon tai vankeuteen enintään kahdeksi vuodeksi.
Lahjuksen antamisesta tuomitaan myös se, joka virkamiehen toiminnasta palvelussuhteessa lupaa, tarjoaa tai antaa 1 momentissa tarkoitetun lahjan tai edun toiselle.

Section 14a[72] **(10.6.2011/637) Giving a bribe to a Member of Parliament**
Anyone who promises, offers or gives to a member of parliament a gift other than usual hospitality, or any other unjustified benefit intended for him or someone else, in order for the latter to act or not act for the sake of interest in his representative office in a certain way or as a reward for such an activity, and the act is clearly apt to undermine trust in the independence of the performance of the representative office, is punishable by a fine or imprisonment for a maximum of two years for giving a bribe to a Member of Parliament.

Giving a bribe to a member of parliament is not considered election financing according to the Act on Election Financing of a Candidate (273/2009), unless its purpose is to circumvent subsection 1.

(e) Money Laundering

Money laundering offences are penalised in chapter 32 of the Criminal Code. **45**

Chapter 32 Receiving and money laundering offences
Section 1[73] **Receiving offence**
A person who hides, acquires, takes into his or her possession or conveys property that has been obtained from another person through theft, embezzlement, robbery, extortion, fraud, usury or means of payment fraud, or otherwise handles such property shall, unless the act is punishable as money laundering, be sentenced for a receiving offence to a fine or to imprisonment for at most one year and six months.

[72] 14 a § (10.6.2011/637) Rikoslaki
Lahjuksen antaminen kansanedustajalle
Joka kansanedustajalle lupaa, tarjoaa tai antaa hänelle tai toiselle tarkoitetun muun kuin tavanomaiseksi vieraanvaraisuudeksi katsottavan lahjan tai muun oikeudettoman edun, jotta tämä toimisi tai jättäisi toimimatta edun vuoksi edustajantoimessaan tietyllä tavalla taikka palkkiona sellaisesta toiminnasta, ja teko on omiaan selvästi horjuttamaan luottamusta edustajantoimen hoitamisen riippumattomuuteen, on tuomittava lahjuksen antamisesta kansanedustajalle sakkoon tai vankeuteen enintään kahdeksi vuodeksi.
Lahjuksen antamisena kansanedustajalle ei pidetä ehdokkaan vaalirahoituksesta annetun lain (273/2009) mukaista vaalirahoitusta, ellei sen tarkoituksena ole 1 momentin kiertäminen.

[73] 32 luku (24.8.1990/769) Kätkemis- ja rahanpesurikoksista (31.1.2003/61) 1 § (31.1.2003/61) Rikoslaki Kätkemisrikos Joka kätkee, hankkii, ottaa huostaansa tai välittää toiselta varkaus-, kavallus-, ryöstö-, kiristys-, petos-, kiskonta- tai maksuvälinepetosrikoksella saatua omaisuutta taikka muulla tavoin ryhtyy sellaiseen omaisuuteen, on tuomittava, jollei teko ole rangaistava rahanpesuna, kätkemisrikoksesta sakkoon tai vankeuteen enintään yhdeksi vuodeksi kuudeksi kuukaudeksi.

Section 6[74] **Money laundering**
A person who
1) receives, uses, converts, conveys, transfers, transmits or possesses property obtained through an offence, proceeds of crime or property replacing these, in order to obtain benefit for himself of herself or for another person or to conceal or disguise the illegal origin of such proceeds or property, or in order to assist the perpetrator to evade the legal consequences of the offence, or
2) conceals or disguises the true nature, source, location or disposition of, or rights with respect to, property obtained through an offence, proceeds of crime or property replacing these, or assists another person in such concealment or disguise shall be sentenced for money laundering to a fine or to imprisonment for at most two years. An attempt is punishable

Section 7[75] **(61/2003) Aggravated money laundering**
If, in money laundering,
1) the property obtained through an offence has been very valuable, or
2) the offence is committed in a particularly premeditated manner, and the money laundering is also aggravated when assessed as a whole, the perpetrator shall be sentenced for aggravated money laundering to imprisonment for at least four months and at most six years. An attempt is punishable.

[74] 6 § (4.3.2011/191) Rikoslaki Rahanpesu Joka
1) ottaa vastaan, käyttää, muuntaa, luovuttaa, siirtää, välittää tai pitää hallussaan rikoksella hankittua omaisuutta, rikoksen tuottamaa hyötyä tai näiden tilalle tullutta omaisuutta hankkiakseen itselleen tai toiselle hyötyä tai peittääkseen tai häivyttääkseen hyödyn tai omaisuuden laittoman alkuperän tai avustaakseen rikoksentekijää välttämään rikoksen oikeudelliset seuraamukset taikka
2) peittää tai häivyttää rikoksella hankitun omaisuuden, rikoksen tuottaman hyödyn taikka näiden tilalle tulleen omaisuuden todellisen luonteen, alkuperän, sijainnin tai siihen kohdistuvat määräämistoimet tai oikeudet taikka avustaa toista tällaisessa peittämisessä tai häivyttämisessä,
on tuomittava rahanpesusta sakkoon tai vankeuteen enintään kahdeksi vuodeksi.
Yritys on rangaistava.
[75] 7 § (31.1.2003/61) Rikoslaki Törkeä rahanpesu Jos rahanpesussa
1) rikoksen kautta saatu omaisuus on ollut erittäin arvokas tai
2) rikos tehdään erityisen suunnitelmallisesti,
ja rahanpesu on myös kokonaisuutena arvostellen törkeä, rikoksentekijä on tuomittava törkeästä rahanpesusta vankeuteen vähintään neljäksi kuukaudeksi ja enintään kuudeksi vuodeksi.
Yritys on rangaistava.

Section 8[76] **Conspiracy for the commission of aggravated money laundering**
A person who agrees with another person to commit aggravated money laundering that is directed at proceeds derived from giving of a bribe, acceptance of a bribe, aggravated tax fraud directed at a tax referred to in chapter 29, section 9, subsection 1, paragraph 2 or aggravated subsidy fraud or that is directed at property replacing such proceeds shall be sentenced for conspiracy for the commission of aggravated money laundering to a fine or to imprisonment for at most one year.

Section 9[77] **Negligent money laundering**
A person who through gross negligence undertakes actions referred to in section 6 shall be sentenced for negligent money laundering to a fine or to imprisonment for at most two years.

Section 10[78] **Money laundering violation**
If, taking into consideration the value of the property or the other circumstances connected with the offence, the money laundering or the negligent money laundering is of minor significance when assessed as a whole, the perpetrator shall be sentenced for a money laundering violation to a fine.

Section 11[79] **Restrictive provisions**
A person shall not be sentenced for any of the offences referred to in this chapter if he or she is an accomplice to the offence through which the property was obtained from another person or from which the proceeds were derived (predicate offence). However,

[76] 8 § (31.1.2003/61) Rikoslaki
Salahanke törkeän rahanpesun tekemiseksi
Joka sopii toisen kanssa sellaisen törkeän rahanpesurikoksen tekemisestä, jonka kohteena on lahjuksen antamisen, lahjuksen ottamisen, 29 luvun 9 §:n 1 momentin 2 kohdassa tarkoitettuun veroon kohdistuvan törkeän veropetoksen tai törkeän avustuspetoksen tuottama hyöty tai sen tilalle tullut omaisuus, on tuomittava salahankkeesta törkeän rahanpesun tekemiseksi sakkoon tai vankeuteen enintään yhdeksi vuodeksi.
[77] 9 § (31.1.2003/61) Rikoslaki
Tuottamuksellinen rahanpesu
Joka törkeästä huolimattomuudesta ryhtyy 6 §:ssä tarkoitettuihin toimiin, on tuomittava tuottamuksellisesta rahanpesusta sakkoon tai vankeuteen enintään kahdeksi vuodeksi.
[78] 10 § (31.1.2003/61) Rikoslaki
Rahanpesurikkomus
Jos rahanpesu tai tuottamuksellinen rahanpesu, huomioon ottaen omaisuuden arvo tai muut rikokseen liittyvät seikat, on kokonaisuutena arvostellen vähäinen, rikoksentekijä on tuomittava rahanpesurikkomuksesta sakkoon.
[79] 11 § (27.4.2012/187) Rikoslaki
Rajoitussäännökset
Tässä luvussa tarkoitetusta rikoksesta ei tuomita henkilöä, joka on osallinen siihen rikokseen, jolla omaisuus on toiselta saatu tai joka on tuottanut hyödyn (esirikos). Henkilö, joka syyllistyy 6 §:n 1 momentin 1 kohdassa tarkoitettuun hyödyn tai omaisuuden muuntamiseen tai siirtämiseen peittääkseen tai häivyttääkseen hyödyn tai omaisuuden laittoman alkuperän tai avustaakseen toista rikoksentekijää välttämään rikoksen oikeudelliset seuraamukset tai 2 kohdassa tarkoitettuun peittämiseen tai häivyttämiseen tai mainitun teon yritykseen, voidaan kuitenkin tuomita rahanpesusta tai törkeästä rahanpesusta tai mainitun rikoksen yrityksestä. (11.12.2020/943)
Tämän luvun säännöksiä ei sovelleta rikoksentekijän kanssa yhteistaloudessa asuvaan, joka ainoastaan käyttää tai kuluttaa rikoksentekijän yhteistalouden tavanomaisiin tarpeisiin hankkimaa omaisuutta.

a person who is guilty of having converted or transferred proceeds or property to conceal or disguise the illicit origin of the proceeds or property or to assist another perpetrator to evade the legal consequences of the offence, as referred to in section 6, subsection 1, paragraph 1, or is guilty of concealment or disguise referred to in paragraph 2 of the said subsection or an attempt at such an act, may be sentenced for money laundering or aggravated money laundering or for an attempt at one of these offences. (943/2020) The provisions of this chapter shall not apply to a person living in a joint household with the perpetrator who only uses or consumes property acquired by the perpetrator for ordinary needs in the joint household.

Section 14[80] Corporate criminal liability
The provisions on corporate criminal liability apply to a receiving offence, an aggravated receiving offence, a professional receiving offence, money laundering, aggravated money laundering and negligent money laundering.

(f) Forgery Offences in Connection with PIF Acquis Offences

46 Forgery offences are stipulated by the chapter 33, sections 1 et seq.

Chapter 33 Forgery offences
Section 1[81] Forgery
A person who prepares a false document or other exhibit or falsifies one for it to be used as misleading evidence, or uses a false or falsified exhibit as misleading evidence shall be sentenced for forgery to a fine or imprisonment for at most two years. An attempt is punishable.

[80] 14 § (4.3.2011/191) Rikoslaki
Oikeushenkilön rangaistusvastuu
Kätkemisrikokseen, törkeään kätkemisrikokseen, ammattimaiseen kätkemisrikokseen, rahanpesuun, törkeään rahanpesuun ja tuottamukselliseen rahanpesuun sovelletaan, mitä oikeushenkilön rangaistusvastuusta säädetään.
[81] 33 luku (24.8.1990/769)
Väärennysrikoksista
1 § (24.8.1990/769) Rikoslaki
Väärennys
Joka valmistaa väärän asiakirjan tai muun todistuskappaleen tai väärentää sellaisen käytettäväksi harhauttavana todisteena taikka käyttää väärää tai väärennettyä todistuskappaletta tällaisena todisteena, on tuomittava väärennyksestä sakkoon tai vankeuteen enintään kahdeksi vuodeksi.
Yritys on rangaistava. (13.6.2003/514)

Section 2[82] **Aggravated forgery**
If, in forgery,
1) the exhibit that is the object of the offence is an archival document stored by an authority or a general register kept by an authority and the document or register is of general importance, or the exhibit otherwise has particularly significant probative value, or
2) the perpetrator uses technical equipment acquired for the commission of forgery offences or otherwise acts in a particularly premeditated manner, and the forgery is also aggravated when assessed as a whole, the perpetrator shall be sentenced for aggravated forgery to imprisonment for at least four months and at most four years. An attempt is punishable.

Section 3[83] **Petty forgery**
If, taking into consideration the nature of the exhibit or the other circumstances connected with the offence, the forgery is of minor significance when assessed as a whole, the perpetrator shall be sentenced for petty forgery to a fine.

Section 4[84] **Possession of forgery materials**
A person who, without an acceptable reason,
1) receives, acquires, transports or possesses a false or falsified exhibit, or
2) manufactures, receives, acquires, sells, hands over or possesses a device or equipment that can justifiably be suspected of being primarily used for committing forgery offences shall be sentenced for possession of forgery materials to a fine or to imprisonment for at most six months.

[82] 2 § (24.8.1990/769) Rikoslaki Törkeä väärennys Jos väärennyksessä
1) rikoksen kohteena oleva todistuskappale on yleiseltä kannalta tärkeä viranomaisen säilyttämä arkistoasiakirja tai viranomaisen pitämä yleinen rekisteri taikka jos todistuskappale on todistusarvoltaan muuten erityisen merkityksellinen tai
2) rikoksentekijä käyttää väärennysrikosten tekemistä varten hankittua teknistä laitteistoa taikka muuten toimii erityisen suunnitelmallisesti
ja väärennys on myös kokonaisuutena arvostellen törkeä, rikoksentekijä on tuomittava törkeästäväärennyksestä vankeuteen vähintään neljäksi kuukaudeksi ja enintään neljäksi vuodeksi.
Yritys on rangaistava. (13.6.2003/514)
[83] 3 § (24.8.1990/769) Rikoslaki Lievä väärennys Jos väärennys, huomioon ottaen todistuskappaleen laatu tai muut rikokseen liittyvät seikat, on kokonaisuutena arvostellen vähäinen, rikoksentekijä on tuomittava lievästä väärennyksestä sakkoon.
[84] 4 § (13.6.2003/514) Rikoslaki
Väärennysaineiston hallussapito
Joka ilman hyväksyttävää syytä
1) vastaanottaa, hankkii, kuljettaa tai pitää hallussaan väärän tai väärennetyn todistuskappaleen tai
2) valmistaa, vastaanottaa, hankkii, myy, luovuttaa tai pitää hallussaan sellaisen välineen tai tarvikkeen, jota voidaan perustellusti epäillä pääasiallisesti käytettävän väärennysrikosten tekemiseen,
on tuomittava väärennysaineiston hallussapidosta sakkoon tai vankeuteen enintään kuudeksi kuukaudeksi.

Section 7[85] **Corporate criminal liability**
The provisions on corporate criminal liability apply to forgery, aggravated forgery and possession of forgery instruments.

(g) Chapter 40, Offences in Public Office

47 Chapter 40 is highly important for the PIF Acquis and it contains Definitions in section 11, which shall be presented here in advance:

48 **Section 11**[86] **Definitions**
In this Code: 1) public official means a person who is in a public-service employment relationship or a comparable employment relationship to the State, a municipality or a joint municipal authority or another inter-municipal cooperation body governed by public law, Parliament, an unincorporated state enterprise, the Evangelical Lutheran Church or the Orthodox Church or a parish or a cooperation body among parishes, the Province of Åland, the Bank of Finland, the Social Insurance Institution of Finland, the Finnish Institute of Occupational Health, a municipal pension institution, the Municipal Guarantee Board, or KT Local Government Employers,
2) person holding a public position of trust means a local councillor and any other member of the representative body of a public sector entity referred to in paragraph 1 elected

[85] 7 § (13.6.2003/514) Rikoslaki Oikeushenkilön rangaistusvastuu Väärennykseen, törkeään väärennykseen ja väärennysaineiston hallussapitoon sovelletaan, mitä oikeushenkilön rangaistusvastuusta säädetään.
[86] 11 § (12.7.2002/604) Rikoslaki Määritelmät Tässä laissa tarkoitetaan:
1) virkamiehellä henkilöä, joka on virka- tai siihen rinnastettavassa palvelussuhteessa valtioon, hyvinvointialueeseen, hyvinvointiyhtymään tai kuntaan taikka kuntayhtymään tai muuhun kuntien julkisoikeudelliseen yhteistoimintaelimeen, eduskuntaan, valtion liikelaitokseen taikka evankelis-luterilaiseen kirkkoon tai ortodoksiseen kirkkoon tai sen seurakuntaan tai seurakuntien yhteistoimintaelimeen, Ahvenanmaan maakuntaan, Suomen Pankkiin, Kansaneläkelaitokseen, Työterveyslaitokseen, Kevaan, Kuntien takauskeskukseen tai Kunta- ja hyvinvointialuetyönantajat KT:hen; (29.6.2021/641)
2) julkista luottamustehtävää hoitavalla henkilöllä aluevaltuutettua, kunnanvaltuutettua ja muuta yleisillä vaaleilla valittua 1 kohdassa tarkoitetun julkisyhteisön edustajiston jäsentä kuin kansanedustajaa edustajantoimessaan sekä 1 kohdassa tarkoitetun julkisyhteisön tai laitoksen toimielimen, kuten valtioneuvoston, aluehallituksen, kunnanhallituksen, lautakunnan, johtokunnan, komitean, toimikunnan ja neuvottelukunnan, jäsentä sekä muuta 1 kohdassa tarkoitetun julkisyhteisön tai laitoksen luottamushenkilöä; (29.6.2021/641)
3) julkisyhteisön työntekijällä henkilöä, joka on työsopimussuhteessa 1 kohdassa mainittuun julkisyhteisöön tai laitokseen taikka yliopistoon; (24.7.2009/562)
4) ulkomaisella virkamiehellä henkilöä, joka on nimitetty tai valittu vieraan valtion tai julkisen kansainvälisen järjestön, toimielimen tai tuomioistuimen hallinnolliseen tai oikeudelliseen virkaan tai tehtävään tai joka muuten hoitaa julkista tehtävää vieraan valtion tai julkisen kansainvälisen järjestön, toimielimen tai tuomioistuimen puolesta;
5) julkista valtaa käyttävällä henkilöllä
a) sitä, jonka tehtäviin lain tai asetuksen nojalla kuuluu antaa toista velvoittava määräys tai päättää toisen edusta, oikeudesta tai velvollisuudesta taikka joka lain tai asetuksen nojalla tehtävässään tosiasiallisesti puuttuu toisen etuun tai oikeuteen, sekä
b) sitä, jonka lain tai asetuksen nojalla taikka viranomaiselta lain tai asetuksen nojalla saadun toimeksiannon perusteella kuuluu osallistua a kohdassa tarkoitetun päätöksen valmisteluun tekemällä päätösesitys tai -ehdotus, laatimalla selvitys tai suunnitelma, ottamalla näyte tai suorittamalla tarkastus taikka muulla vastaavalla tavalla;
6) ulkomaisen parlamentin jäsenellä henkilöä, joka on vieraan valtion kansanedustuslaitoksen tai kansainvälisen parlamentaarisen yleiskokouksen jäsen.

in a general election other than a Member of Parliament acting under his or her parliamentary mandate, and a member of a body of a public sector entity or institution referred to in paragraph 1, such as the Government, a local executive, a board, a board of directors, a committee, a commission and an advisory board, and any other elected official of the said public sector entity or institution,
3) employee of a public sector entity means a person in a contractual employment relationship to a public sector entity or institution referred to in paragraph 1 or to a university, (562/2009)
4) foreign public official means a person who has been appointed or elected to an administrative or judicial office or position in a foreign state or in a public international organisation, body or court, or who otherwise attends to a public function on behalf of a foreign state or a public international organisation, body or court,
5) person exercising public authority means
a) a person whose duties include, under an act or a decree, issuing binding orders or deciding on the interests, rights or duties of another person, or who in his or her duties, under an act or a decree, actually interferes with the interests or rights of another person, and
b) a person who, under an act or a decree or by commission of an authority given under an act or a decree, shall participate in the preparation of a decision referred to in subparagraph a by presenting a draft decision or a proposal for a decision, preparing a report or plan, taking a sample, carrying out an inspection or in another equivalent manner,
6) member of a foreign parliament means a person who is a member of the parliament of a foreign state or an international parliamentary assembly.

Section 12[87] **(368/2019) Provisions on the scope of application**

The provisions of this chapter concerning public officials also apply to persons holding a public position of trust and to persons exercising public authority. Sections 1–3, 5 and 14 of this chapter also apply, with the exception of removal from office, to employees of public sector entities. With the exception of removal from office, the following sections of this chapter apply to foreign public officials: 1) sections 1–3 and 14, 2) sections 5 and 7–10, if the foreign public official acts in the territory of Finland in duties related to inspection, surveillance, pursuit, maintenance of public order and security, crime prevention or criminal investigation under an international agreement or another international obligation, or in the territory of Finland in criminal investigation or other official duties under the Act on International Legal Assistance in Criminal Matters on the basis of a request for legal assistance issued or approved by a Finnish authority,

3) sections 7 and 8, if the act is misappropriation referred to in Article 4(3) of Directive (EU) 2017/1371 of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law.

Sections 1–3, 5, 7–10 and 14 of this chapter apply, with the exception of removal from office, to a foreign public official who acts or uses an intelligence gathering method in the territory of Finland in the manner referred to in chapter 5a, section 57, subsection 3 of the Police Act or in section 20, subsection 3 of the Act on Military Intelligence. (586/2019) Sections 4, 4a, 8a, 8b and 14 of this chapter also apply to a member of a foreign parliament.

Separate provisions on the application of provisions on criminal liability for acts in office in certain cases are issued by an act.

---

[87] 12 § (29.3.2019/368) Rikoslaki

Soveltamisalasäännökset

Tämän luvun virkamiestä koskevia säännöksiä sovelletaan myös julkista luottamustehtävää hoitavaan henkilöön ja julkista valtaa käyttävään henkilöön.

Tämän luvun 1–3, 5 ja 14 §:ää sovelletaan, viraltapanoseuraamusta lukuun ottamatta, myös julkisyhteisön työntekijään.

Ulkomaiseen virkamieheen sovelletaan, viraltapanoseuraamusta lukuun ottamatta, tämän luvun:

1) 1–3 ja 14 §:ää;

2) 5 ja 7–10 §:ää, jos ulkomainen virkamies toimii Suomen alueella kansainvälisen sopimuksen tai muun kansainvälisen velvoitteen nojalla tarkastus-, tarkkailu-, takaa-ajo-, yleisen järjestyksen ja turvallisuuden ylläpitämis- tai rikosten ennalta estämis- ja esitutkintatehtävissä taikka Suomen alueella kansainvälisestä oikeusavusta rikosasioissa annetun lain nojalla Suomen viranomaisen esittämän tai hyväksymän oikeusapupyynnön perusteella esitutkinta- tai muissa virkatehtävissä;

3) 7 ja 8 §:ää, jos teko on unionin taloudellisiin etuihin kohdistuvien petosten torjunnasta rikosoikeudellisin keinoin annetun Euroopan parlamentin ja neuvoston direktiivin (EU) 2017/1371 4 artiklan 3 kohdassa tarkoitettu varojen väärinkäyttö.

Tämän luvun 1–3, 5, 7–10 ja 14 §:ää sovelletaan, viraltapanoseuraamusta lukuun ottamatta, ulkomaiseen virkamieheen, joka poliisilain 5 a luvun 57 §:n 3 momentissa tai sotilastiedustelusta annetun lain 20 §:n 3 momentissa tarkoitetulla tavalla toimii tai käyttää tiedustelumenetelmää Suomen alueella. (26.4.2019/586)

Tämän luvun 4, 4 a, 8 a, 8 b ja 14 §:ää sovelletaan myös ulkomaisen parlamentin jäseneen.

Rikosoikeudellista virkavastuuta koskevien säännösten soveltamisesta eräissä tapauksissa säädetään erikseen lailla.

Chapter 40 Offences in public office **49**

Section 1[88] **Acceptance of a bribe**

If a public official, for his or her actions in an employment relationship, for himself or herself or for another person, 1) requests a gift or other undue advantage or otherwise takes an initiative to receive such an advantage, 2) receives a gift or other advantage that influences or aims to influence or is conducive to influencing the public official's actions in the employment relationship, or 3) accepts a gift or an advantage referred to in paragraph 2 or a promise or offer of such, the public official shall be sentenced for acceptance of a bribe to a fine or to imprisonment for at most two years. A public official shall also be sentenced for acceptance of a bribe if he or she, for his or her actions in an employment relationship, accepts the giving of a gift or other advantage referred to in subsection 1, paragraph 2 to another person or a promise or offer of such. A public official may also be sentenced to be removed from office, if the offence demonstrates that the public official is manifestly unsuitable for his or her duties.

Section 2[89] **Aggravated acceptance of a bribe**

If, in acceptance of a bribe, 1) the public official sets the bribe as a condition for his or her actions, or acts or it is his or her intention to act, because of the gift or advantage, in his or her employment relationship contrary to his or her duties to the considerable benefit of the party giving the gift or of another person, or to the considerable loss or detriment of another person, or 2) the gift or advantage is of significant value nd the acceptance of a bribe is also aggravated when assessed as a whole, the public official shall

[88] 40 luku (8.9.1989/792)
Virkarikoksista (12.7.2002/604)
1 § (12.7.2002/604) Rikoslaki
Lahjuksen ottaminen
Jos virkamies toiminnastaan palvelussuhteessa itselleen tai toiselle
1) pyytää lahjan tai muun oikeudettoman edun taikka tekee muutoin aloitteen sellaisen edun saamiseksi,
2) ottaa vastaan lahjan tai muun edun, jolla vaikutetaan tai pyritään vaikuttamaan taikka joka on omiaan vaikuttamaan hänen toimintaansa palvelussuhteessa, taikka
3) hyväksyy 2 kohdassa tarkoitetun lahjan tai edun tai lupauksen tai tarjouksen siitä,
hänet on tuomittava lahjuksen ottamisesta sakkoon tai vankeuteen enintään kahdeksi vuodeksi.
Virkamies on tuomittava lahjuksen ottamisesta myös, jos hän toiminnastaan palvelussuhteessa hyväksyy 1 momentin 2 kohdassa tarkoitetun lahjan tai muun edun antamisen toiselle taikka lupauksen tai tarjouksen siitä.
Virkamies voidaan tuomita myös viralta pantavaksi, jos rikos osoittaa hänet ilmeisen sopimattomaksi tehtäväänsä.
[89] 2 § (12.7.2002/604) Rikoslaki
Törkeä lahjuksen ottaminen
Jos lahjuksen ottamisessa
1) virkamies asettaa lahjuksen toimintansa ehdoksi taikka toimii tai hänen tarkoituksenaan on toimia lahjan tai edun vuoksi palvelussuhteessaan velvollisuuksiensa vastaisesti lahjanantajaa tai toista huomattavasti hyödyttäen tai toiselle tuntuvaa vahinkoa tai haittaa aiheuttaen taikka
2) lahjan tai edun arvo on huomattava
ja lahjuksen ottaminen on myös kokonaisuutena arvostellen törkeä, virkamies on tuomittava törkeästä lahjuksen ottamisesta vankeuteen vähintään neljäksi kuukaudeksi ja enintään neljäksi vuodeksi sekä lisäksi viralta pantavaksi.

be sentenced for aggravated acceptance of a bribe to imprisonment for at least four months and at most four years and to be removed from office.

Section 3[90] Bribery violation
If a public official, for himself or herself or for another person,
1) requests a gift or other undue advantage or otherwise takes an initiative to receive such an advantage, or
2) receives or accepts a gift or other advantage or accepts a promise or offer of such, so that the conduct is conducive to weakening confidence in the impartiality of the official activities, the public official shall, unless the act is punishable as acceptance of a bribe or aggravated acceptance of a bribe, be sentenced for a bribery violation to a fine or to imprisonment for at most six months.

Section 4[91] Acceptance of a bribe by a Member of Parliament
If a Member of Parliament, for himself or herself or for another person,
1) requests a gift or other undue advantage or otherwise takes an initiative to receive such an advantage, or
2) receives or accepts a gift or other undue advantage that is to be deemed other than customary hospitality, or accepts a promise or offer of such in order to act or refrain from acting under his or her parliamentary mandate in a certain manner in exchange for the advantage or as a reward for such action, and the act is conducive to clearly undermining confidence in the independence of the execution of the Member's mandate, the person shall be sentenced for acceptance of a bribe by a Member of Parliament to a fine or to imprisonment for at most two years. Election funding referred to in the Act on a

[90] 3 § (12.7.2002/604) Rikoslaki
Lahjusrikkomus
Jos virkamies itselleen tai toiselle
1) pyytää lahjan tai muun oikeudettoman edun taikka tekee muutoin aloitteen sellaisen edun saamiseksi taikka
2) ottaa vastaan tai hyväksyy lahjan tai muun edun taikka hyväksyy sitä koskevan lupauksen tai tarjouksen
siten, että menettely on omiaan heikentämään luottamusta viranomaistoiminnan tasapuolisuuteen, hänet on tuomittava, jollei tekoa ole rangaistava lahjuksen ottamisena tai törkeänä lahjuksen ottamisena, lahjusrikkomuksesta sakkoon tai vankeuteen enintään kuudeksi kuukaudeksi.
[91] 4 § (10.6.2011/637) Rikoslaki
Lahjuksen ottaminen kansanedustajana
Jos kansanedustaja itselleen tai toiselle
1) pyytää lahjan tai muun oikeudettoman edun taikka tekee muutoin aloitteen sellaisen edun saamiseksi taikka
2) ottaa vastaan tai hyväksyy muun kuin tavanomaiseksi vieraanvaraisuudeksi katsottavan lahjan tai muun oikeudettoman edun taikka hyväksyy sitä koskevan lupauksen tai tarjouksen
toimiakseen tai jättääkseen toimimatta edun vuoksi edustajantoimessaan tietyllä tavalla taikka palkkiona sellaisesta toiminnasta ja teko on omiaan selvästi horjuttamaan luottamusta edustajantoimen hoitamisen riippumattomuuteen, hänet on tuomittava lahjuksen ottamisesta kansanedustajana sakkoon tai vankeuteen enintään kahdeksi vuodeksi.
Lahjuksen ottamisena kansanedustajana ei pidetä ehdokkaan vaalirahoituksesta annetun lain mukaista vaalirahoitusta, ellei sen tarkoituksena ole 1 momentin kiertäminen.

Candidate's Election Funding is not deemed acceptance of a bribe by a Member of Parliament, unless its purpose is to circumvent subsection 1.

Section 4a[92] Aggravated acceptance of a bribe by a Member of Parlia-ment
If, in acceptance of a bribe by a Member of Parliament, 1) the Member of Parliament sets the gift or advantage as a condition for his or her actions, or acts or it is his or her intention to act under the parliamentary mandate to the considerable benefit of the briber or of another person or to the considerable loss or detriment of another person, or 2) the gift or advantage is of significant value, and the acceptance of a bribe by a Member of Parliament is also aggravated when assessed as whole, the Member of Parliament shall be sentenced for aggravated acceptance of a bribe by a Member of Parliament to imprisonment for at least four months and at most four years.

Section 7[93] Abuse of public office
If a public official, to obtain benefit for himself or herself or another person or to cause harm or damage to another person,
1) violates an official duty that is based on the provisions or regulations to be followed in official activities, while participating in decision-making or in the preparation of decision-making or while exercising public authority in his or her other official functions, or
2) misuses his or her position in relation to a person who is under his or her command or immediate supervision, the public official shall be sentenced for abuse of public office to a fine or to imprisonment for at most two years. A public official may also be sentenced to be removed from office, if the offence demonstrates that the public official is manifestly unsuitable for his or her duties.

[92] 4 a § (10.6.2011/637) Rikoslaki
Törkeä lahjuksen ottaminen kansanedustajana
Jos lahjuksen ottamisessa kansanedustajana
1) kansanedustaja asettaa lahjan tai edun toimintansa ehdoksi taikka toimii tai hänen tarkoituksenaan on toimia edustajantoimessaan lahjuksen antajaa tai toista huomattavasti hyödyttäen tai toiselle tuntuvaa vahinkoa tai haittaa aiheuttaen taikka
2) lahjan tai edun arvo on huomattava
ja lahjuksen ottaminen kansanedustajana on myös kokonaisuutena arvostellen törkeä, kansanedustaja on tuomittava törkeästä lahjuksen ottamisesta kansanedustajana vankeuteen vähintään neljäksi kuukaudeksi ja enintään neljäksi vuodeksi.

[93] 7 § (12.7.2002/604) Rikoslaki Virka-aseman väärinkäyttäminen Jos virkamies hankkiakseen itselleen tai toiselle hyötyä taikka aiheuttaakseen toiselle haittaa tai vahinkoa
1) rikkoo virkatoiminnassa noudatettaviin säännöksiin tai määräyksiin perustuvan virkavelvollisuutensa osallistuessaan päätöksentekoon tai sen valmisteluun tai käyttäessään julkista valtaa muissa virkatehtävissään taikka
2) käyttää väärin asemaansa käskyvallassaan tai välittömässä valvonnassaan olevaan henkilöön nähden,
hänet on tuomittava virka-aseman väärinkäyttämisestä sakkoon tai vankeuteen enintään kahdeksi vuodeksi.
Virkamies voidaan tuomita myös viralta pantavaksi, jos rikos osoittaa hänet ilmeisen sopimattomaksi tehtäväänsä.

Section 8[94] **Aggravated abuse of public office**
If, in abuse of public office,
1) considerable benefit is sought, or
2) the aim is to cause particularly significant harm or damage, or
3) the offence is committed in a particularly premeditated or unscrupulous manner, and the abuse of public office is also aggravated when assessed as a whole, the public official shall be sentenced for aggravated abuse of public office to imprisonment for at least four months and at most four years and to be removed from office.

(h) Missapropriation of Funds, Chapter 40, s. 8a (368/2019)

50 The missapropriation of funds is penalised in chapter 4 of the Finnish Criminal Code.

Section 8a[95]
Misappropriation of funds of the European Union by a Member of Parliament
If a Member of Parliament entrusted with the management of funds or other assets, in the performance of this duty, allocates, appropriates, disburses or uses these assets for a specific purpose, contrary to the purpose for which they were intended, to damage the Union's financial interests referred to in Article 2(1)(a) of Directive (EU) 2017/1371 of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law, the Member of Parliament shall be sentenced for misappropriation of funds of the European Union by a Member of Parliament to a fine or to imprisonment for at most two years.

[94] 8 § (8.9.1989/792) Rikoslaki Törkeä virka-aseman väärinkäyttäminen Jos virka-aseman väärinkäyttämisessä
1) tavoitellaan huomattavan suurta hyötyä tai
2) pyritään aiheuttamaan erityisen tuntuvaa haittaa tai vahinkoa tai
3) rikos tehdään erityisen suunnitelmallisesti tai häikäilemättömästi
ja virka-aseman väärinkäyttäminen on myös kokonaisuutena arvostellen törkeä, virkamies on tuomittava törkeästä virka-aseman väärinkäyttämisestä vankeuteen vähintään neljäksi kuukaudeksi ja enintään neljäksi vuodeksi sekä viralta pantavaksi.

[95] 8 a § (29.3.2019/368) Rikoslaki
Euroopan unionin varojen väärinkäyttö kansanedustajana
Jos kansanedustaja, jonka tehtävänä on varojen tai muun omaisuuden hallinnointi, tässä tehtävässään varaa, osoittaa, maksaa tai käyttää tällaista omaisuutta tiettyyn tarkoitukseen omaisuuden käyttötarkoituksen vastaisesti vahingoittaakseen unionin taloudellisiin etuihin kohdistuvien petosten torjunnasta rikosoikeudellisin keinoin annetun Euroopan parlamentin ja neuvoston direktiivin (EU) 2017/1371 2 artiklan 1 kohdan a alakohdassa tarkoitettua unionin taloudellista etua, hänet on tuomittava Euroopan unionin varojen väärinkäytöstä kansanedustajana sakkoon tai vankeuteen enintään kahdeksi vuodeksi.

Section 8b[96] Aggravated misappropriation of funds of the European Union by a Member of Parliament

If, in misappropriation of funds of the European Union by a Member of Parliament, 1) considerable benefit is sought, or 2) the aim is to cause particularly significant harm or damage, and the offence is also aggravated when assessed as a whole, the Member of Parliament shall be sentenced for aggravated misappropriation of funds of the European Union by a Member of Parliament to imprisonment for at least four months and at most four years.

Section 9[97] Violation of official duty

If a public official, when acting in his or her public office, intentionally and in a manner other than those referred to above in this chapter or in chapter 11, section 9a, violates an official duty that is based on the provisions or regulations to be followed in official activities and the act, taking into consideration its harmful and damaging nature and the other circumstances connected with it, is not of minor significance when assessed as a whole, the public official shall be sentenced for a violation of official duty to a fine or to imprisonment for at most one year. (990/2009) The public official may also be sentenced to be removed from office if he or she has committed the offence referred to in subsection 1 by continuously or essentially acting in violation of his or her official duty and if the offence demonstrates that the public official is manifestly unsuitable for his or her duties.

Section 10[98] Negligent violation of official duty

If a public official, when acting in his or her office, through negligence and in a manner other than that referred to in section 5, subsection 2, violates an official duty that is based

[96] 8 b § (29.3.2019/368) Rikoslaki Törkeä Euroopan unionin varojen väärinkäyttö kansanedustajana Jos Euroopan unionin varojen väärinkäytössä kansanedustajana
1) tavoitellaan huomattavan suurta hyötyä tai
2) pyritään aiheuttamaan erityisen tuntuvaa haittaa tai vahinkoa
ja rikos on myös kokonaisuutena arvostellen törkeä, kansanedustaja on tuomittava törkeästä Euroopan unionin varojen väärinkäytöstä kansanedustajana vankeuteen vähintään neljäksi kuukaudeksi ja enintään neljäksi vuodeksi.

[97] 9 § (12.7.2002/604) Rikoslaki Virkavelvollisuuden rikkominen Jos virkamies virkaansa toimittaessaan tahallaan muulla kuin edellä tässä luvussa tai 11 luvun 9 a §:ssä säädetyllä tavalla rikkoo virkatoiminnassa noudatettaviin säännöksiin tai määräyksiin perustuvan virkavelvollisuutensa, eikä teko huomioon ottaen sen haitallisuus ja vahingollisuus ja muut tekoon liittyvät seikat ole kokonaisuutena arvostellen vähäinen, hänet on tuomittava virkavelvollisuuden rikkomisesta sakkoon tai vankeuteen enintään yhdeksi vuodeksi. (4.12.2009/990)
Virkamies voidaan tuomita myös viralta pantavaksi, jos hän on syyllistynyt 1 momentissa mainittuun rikokseen rikkomalla jatkuvasti tai olennaisesti virkavelvollisuutensa ja rikos osoittaa hänet ilmeisen sopimattomaksi tehtäväänsä.

[98] 10 § (12.7.2002/604) Rikoslaki
Tuottamuksellinen virkavelvollisuuden rikkominen
Jos virkamies virkaansa toimittaessaan huolimattomuudesta muulla kuin 5 §:n 2 momentissa tarkoitetulla tavalla rikkoo virkatoiminnassa noudatettaviin säännöksiin tai määräyksiin perustuvan virkavelvollisuutensa, eikä teko huomioon ottaen sen haitallisuus ja vahingollisuus ja muut tekoon liittyvät seikat ole kokonaisuutena arvostellen vähäinen, hänet on tuomittava tuottamuksellisesta virkavelvollisuuden rikkomisesta varoitukseen tai sakkoon.

on the provisions or regulations to be followed in official activities and the act, taking into consideration its harmful and damaging nature and the other circumstances connected with it, is not of minor significance when assessed as a whole, the public official shall be sentenced for a negligent violation of official duty to a warning or to a fine.

(i) Customs Offences in relation to the EU Budget, Chapter 46

51 Chapter 46 of the Criminal Code holds the customs offences to the detriment of the EU budget. Chapter 46 of the Criminal Code holds the customs offences to the detriment of the EU budget. The next provisions from Chapter 46 (769/1990) relate to various offenses connected to import and export, with a focus on regulation compliance, smuggling, customs clearance, false declarations, and corporate criminal liability.

52 These offenses might be significant for investigations conducted by the EPPO, as they often involve cross-border financial and trade-related crimes that fall under the EPPO's jurisdiction. Smuggling e.g. is central to VAT fraud, customs fraud, and evasion schemes, which are common targets of EPPO investigations (see → German volume for exemplary cases of the EPPO). As we know from the past, the EPPO and Finish EDPs, too might need to investigates criminal networks that distribute illegally imported goods, especially in high-value industries like excise goods (e.g. tobacco or alcohol). It follows an overview of the provisions and their relevance:

Chapter 46 Offences connected to import and export
Section 1[99] Regulation offence
A person who violates or attempts to violate a regulatory provision laid down in or issued under
1) the Act on the Fulfilment of Certain Obligations of Finland as a Member of the United Nations and of the European Union (659/1967),
2) the Foreign Exchange Act (954/1985),
3) the Price Freeze Act (717/1988),
4) the Emergency Powers Act (1552/2011),
5) the Act on the Adoption of Certain Provisions of the Agreement on the International Energy Programme and on the Application of the Agreement (1682/1991), 6) the Act on Foreign Trade Administration and the Supervision and Protection Measures Applicable in Certain Situations (1521/1994),
7) regulations on import or export issued by the European Union,
8) the Act on the Control of Exports of Dual-Use Goods (562/1996), or
9) regulations issued under Article 215 of the Treaty on the Functioning of the European Union within the scope of the Common Foreign and Security Policy of the European Union, on the interruption of economic and financial relationships with third countries or on the directing of restrictive measures against natural or legal persons and groups or non-State entities shall be sentenced for a regulation offence to a fine or to imprisonment for at most two years. (506/2015) A person who violates the prohibition to transfer or

[99] 46 luku (24.8.1990/769)
Maahantuontiin ja maastavientiin liittyvät rikokset (12.6.2009/425)
1 § (29.12.1994/1522) Rikoslaki
Säännöstelyrikos (24.7.1997/706)
Joka rikkoo tai yrittää rikkoa
1) eräiden Suomelle Yhdistyneiden Kansakuntien ja Euroopan unionin jäsenenä kuuluvien velvoitusten täyttämisestä annetussa laissa (659/1967),
2) valuuttalaissa (954/1985),
3) hintasulusta annetussa laissa (717/1988),
4) valmiuslaissa (1552/2011),
5) kansainvälisestä energiaohjelmasta tehdyn sopimuksen eräiden määräysten hyväksymisestä ja sopimusten soveltamisesta annetussa laissa (1682/1991),
6) ulkomaankaupan hallinnosta sekä tarkkailu- ja suojatoimenpiteistä eräissä tapauksissa annetussa laissa (1521/1994),
7) Euroopan unionin antamissa tuontia ja vientiä koskevissa asetuksissa,
8) kaksikäyttötuotteiden vientivalvonnasta annetussa laissa (562/1996) tai
9) Euroopan unionin yhteisen ulko- ja turvallisuuspolitiikan alaan kuuluvissa Euroopan unionin toiminnasta tehdyn sopimuksen 215 artiklan nojalla talous- ja rahoitussuhteiden keskeyttämisestä kolmannen maan kanssa tai rajoittavien toimenpiteiden kohdistamisesta luonnollisiin tai oikeushenkilöihin, ryhmiin tai muihin kuin valtiollisiin yhteisöihin annetuissa asetuksissa
säädettyä tai mainittujen säädösten nojalla annettua säännöstelymääräystä, on tuomittava säännöstelyrikoksesta sakkoon tai vankeuteen enintään kahdeksi vuodeksi.
(24.4.2015/506)
Säännöstelyrikoksesta tuomitaan myös se, joka rikkoo varojen jäädyttämisestä terrorismin torjumiseksi annetun lain (325/2013) 6 §:ssä säädettyä kieltoa siirtää tai muuntaa varoja taikka 7 §:ssä säädettyä kieltoa luovuttaa varoja. (3.5.2013/326)

alter funds laid down in section 6 of the Act on the Freezing of Funds with a View to Combating Terrorism (325/2013) or the prohibition to assign funds laid down in section 7 of the said Act shall also be sentenced for a regulation offence. (326/2013) The Foreign Exchange Act (954/1985) and the Prize Freeze Act (717/1988) are no longer in force

Section 4[100] Smuggling
A person who, without appropriate permit or otherwise in violation of the provisions or regulations governing import or export, imports, exports or attempts to import or export goods, the import or export of which is prohibited or requires a permit or inspection of an authority, shall be sentenced for smuggling to a fine or to imprisonment for at most two years. Subsection 2 was repealed by Act 77/2021. However, violation of a provision or regulation governing import or export referred to in sections 1–3 is not deemed smuggling.

Section 5[101] Petty smuggling
If, taking into consideration the value or quantity of goods or the other circumstances connected with the offence, the smuggling is of minor significance when assessed as a whole, the perpetrator shall be sentenced for petty smuggling to a fine.

Section 6[102] Illegal dealing with imported goods
A person who hides, acquires, takes into his or her possession or conveys property, the import of which has involved an offence referred to in sections 1–5 or in chapter 29, sections 1–3, or in another manner handles such property, although he or she knows that the property was imported in the said manner, shall be sentenced for illegal dealing with

[100] 4 § (24.8.1990/769) Rikoslaki
Salakuljetus
Joka ilman asianmukaista lupaa taikka muuten tuontia tai vientiä koskevien säännösten tai määräysten vastaisesti tuo tai yrittää tuoda maahan taikka vie tai yrittää viedä maasta tavaraa, jonka tuonti tai vienti on kielletty tai edellyttää viranomaisen lupaa tai tarkastusta, on tuomittava salakuljetuksesta sakkoon tai vankeuteen enintään kahdeksi vuodeksi.
2 momentti on kumottu L:lla 15.1.2021/77.
Salakuljetuksena ei kuitenkaan pidetä 1–3 §:ssä tarkoitetun tuontia tai vientiä koskevan säännöksen tai määräyksen rikkomista.
[101] 5 § (24.8.1990/769) Rikoslaki
Lievä salakuljetus
Jos salakuljetus, huomioon ottaen tavaran arvo tai määrä tai muut rikokseen liittyvät seikat, on kokonaisuutena arvostellen vähäinen, rikoksentekijä on tuomittava lievästä salakuljetuksesta sakkoon.
[102] 6 § (14.10.1999/951) Rikoslaki
Laiton tuontitavaraan ryhtyminen
Joka kätkee, hankkii, ottaa huostaansa tai välittää sellaista omaisuutta, johon nähden sitä maahan tuotaessa on tehty 1–5 §:ssä tai 29 luvun 1–3 §:ssä tarkoitettu rikos, taikka muulla tavoin ryhtyy sellaiseen omaisuuteen, vaikka hän tietää, että omaisuus on tällä tavalla maahan tuotu, on tuomittava laittomasta tuontitavaraan ryhtymisestä sakkoon tai vankeuteen enintään yhdeksi vuodeksi kuudeksi kuukaudeksi.
Laittomasta tuontitavaraan ryhtymisestä tuomitaan myös se, joka 1 momentissa tarkoitetulla tavalla ryhtyy sellaiseen valmisteveron alaiseen tuotteeseen, jonka osalta on sen maahan tuonnin jälkeen tehty 29 luvun 1–3 §:ssä tarkoitettu rikos. (14.8.2009/641)

imported goods to a fine or to imprisonment for at most one year and six months. A person who in the manner referred to in subsection 1 handles a product that is subject to excise duty and in respect of which an offence referred to in chapter 29, sections 1–3 has been committed after it was imported shall also be sentenced for illegal dealing with imported goods. (641/2009) Section 6a (951/1999) Petty illegal dealing with imported goods If, taking into consideration the value of the property or the other circumstances connected with the offence, the illegal dealing with imported goods is of minor significance when assessed as a whole, the perpetrator shall be sentenced for petty illegal dealing with imported goods to a fine.

Section 7[103] Customs clearance offence

A person who neglects the obligation to declare goods or the obligation to provide information laid down in the customs legislation or, when fulfilling such an obligation, provides false or incomplete information so that the act is conducive to causing

1) a tax not to be determined, to be determined at too low a rate or to be unduly refunded,

2) a guarantee for a customs debt to be determined at too low a level, or

3) import or export of goods in violation of a provision or condition provided by law or under the law shall, unless the act is punishable as a tax fraud offence referred to in chapter 29, sections 1–3, as a regulation or smuggling offence referred to in sections 1–5 of this chapter, or as a violation of the obligation to declare cash referred to in section 12 of the Act on Controls on Cash Entering or Leaving the European Union (432/2021), be sentenced for a customs clearance offence to a fine or to imprisonment for at most one year and six months.

[103] 7 § (27.5.2021/433) Rikoslaki

Tulliselvitysrikos

Joka jättää täyttämättä tullilainsäädännössä säädetyn ilmoitus- tai tiedonantovelvollisuuden taikka sellaista velvollisuutta täyttäessään antaa väärän tai puutteellisen tiedon siten, että teko on omiaan aiheuttamaan

1) veron määräämättä jättämisen, sen määräämisen liian alhaisena tai veron aiheettoman palauttamisen,

2) tullivelkaa koskevan vakuuden määräämisen liian pieneksi taikka

3) laissa säädetyn tai sen nojalla annetun kiellon tai ehdon vastaisen tavaran maahantuonnin tai maastaviennin,

on tuomittava, jollei teko ole rangaistava 29 luvun 1–3 §:ssä tarkoitettuna veropetosrikoksena, tämän luvun 1–5 §:ssä tarkoitettuna säännöstely- tai salakuljetusrikoksena taikka Euroopan unioniin saapuvien tai sieltä poistuvien käteisvarojen valvonnasta annetun lain (432/2021) 12 §:n mukaisena käteisvarojen ilmoittamisrikkomuksena, tulliselvitysrikoksesta sakkoon tai vankeuteen enintään yhdeksi vuodeksi kuudeksi kuukaudeksi.

Section 8[104] **Aggravated customs clearance offence**
If, in a customs clearance offence,
1) considerable economic benefit is sought,
2) the offence is committed in a particularly premeditated manner, of
3) the offence is committed as part of the activities of an organised criminal group referred to in chapter 6, section 5, subsection 2 or professionally, (564/2015) and the customs clearance offence is also aggravated when assessed as a whole, the perpetrator shall be sentenced for an aggravated customs clearance offence to imprisonment for at least four months and at most three years.

Section 9[105] **Petty customs clearance offence**
If, taking into consideration the minor amount of the risk of unjustified economic benefit or the other circumstances connected with the offence, the customs clearance offence is of minor significance when assessed as a whole, the perpetrator shall be sentenced for a petty customs clearance offence to a fine.

Section 10[106] **False declaration of the origin of exported goods**
A person who provides false information on the origin of exported goods to a Finnish authority or other body entitled to issue a certificate of origin, in order to obtain from the said authority or body a certificate of origin necessary for receiving preferential tariff treatment or other equivalent preferential treatment in a foreign state, shall be sentenced for false declaration of the origin of exported goods to a fine or to imprisonment for at

[104] 8 § (12.6.2009/425) Rikoslaki
Törkeä tulliselvitysrikos
Jos tulliselvitysrikoksessa
1) teko on omiaan aiheuttamaan huomattavaa taloudellista hyötyä,
2) rikos tehdään erityisen suunnitelmallisesti taikka
3) rikos tehdään osana 6 luvun 5 §:n 2 momentissa tarkoitetun järjestäytyneen rikollisryhmän toimintaa tai ammattimaisesti (8.5.2015/564)
ja tulliselvitysrikos on myös kokonaisuutena arvostellen törkeä, rikoksentekijä on tuomittava törkeästä tulliselvitysrikoksesta vankeuteen vähintään neljäksi kuukaudeksi ja enintään kolmeksi vuodeksi.
[105] 9 § (12.6.2009/425) Rikoslaki
Lievä tulliselvitysrikos
Jos tulliselvitysrikos, huomioon ottaen oikeudettoman taloudellisen hyödyn vaaran vähäisyys tai muut rikokseen liittyvät seikat, on kokonaisuutena arvostellen vähäinen, rikoksentekijä on tuomittava lievästä tulliselvitysrikoksesta sakkoon.
[106] 10 § (12.6.2009/425) Rikoslaki
Vientitavaran alkuperää koskevan väärän tiedon antaminen
Joka ilmoittaa alkuperätodistuksen antamiseen oikeutetulle Suomen viranomaiselle tai muulle toimielimelle väärän tiedon vientitavaran alkuperästä hankkiakseen tältä tullietuuskohtelun tai muun vastaavan etuuskohtelun saamiseksi vieraassa valtiossa tarvittavan alkuperätodistuksen, on tuomittava vientitavaran alkuperää koskevan väärän tiedon antamisesta sakkoon tai vankeuteen enintään kahdeksi vuodeksi.
Vientitavaran alkuperää koskevan väärän tiedon antamisesta on tuomittava myös se, joka tavaraa Suomesta vieraaseen valtioon vietäessä ilmoittaa kyseisen valtion viranomaiselle väärän tiedon tavaran alkuperästä tulli- tai muun vastaavan etuuskohtelun saamiseksi kyseisessä valtiossa.

most two years. A person who, in exporting goods from Finland to a foreign state, provides an authority of that state false information on the origin of the goods in order to receive preferential tariff treatment or other equivalent preferential treatment in that state shall also be sentenced for false declaration of the origin of exported goods.

Section 13[107] **Corporate criminal liability**

The provisions on corporate criminal liability apply to a regulation offence, an aggravated regulation offence, smuggling, an aggravated customs clearance offence and a defence materiel export offence.

Section 14[108] **Definitions**

In this chapter, tax means a tax referred to in chapter 29, section 9, paragraph 1 with the exception of tax to be prepaid. In this chapter, customs legislation means the legislation referred to in Article 5(1)(2) of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Act.

Section 15[109] **Restrictive provision**

A minor neglect of the obligation to declare goods or the obligation to provide information or other minor violation of a procedural provision is not deemed an offence referred to in sections 1–5, 7–10 or 12 of this chapter. A person who is an accomplice to an offence committed upon or after importing goods shall not be sentenced for an offence referred to in section 6 or 6a of this chapter. (641/2009) The provisions of sections 6 and 6a of this chapter shall not apply to a person living in a joint household with the perpetrator who only uses or consumes property acquired by the perpetrator for ordinary needs in the joint household.

---

[107] 13 § (12.6.2009/425) Rikoslaki
Oikeushenkilön rangaistusvastuu
Säännöstelyrikokseen, törkeään säännöstelyrikokseen, salakuljetukseen, törkeään tulliselvitysrikokseen ja puolustustarvikkeiden maastavientirikokseen sovelletaan, mitä oikeushenkilön rangaistusvastuusta säädetään.

[108] 14 § (12.6.2009/425) Rikoslaki
Määritelmät
Verolla tarkoitetaan tässä luvussa veron ennakkoa lukuun ottamatta 29 luvun 9 §:n 1 momentissa tarkoitettua veroa.
Tullilainsäädännöllä tarkoitetaan tässä luvussa unionin tullikoodeksista annetun Euroopan parlamentin ja neuvoston asetuksen (EU) N:o 952/2013 5 artiklan 1 kohdan 2 alakohdassa tarkoitettua lainsäädäntöä. (29.4.2016/317)

[109] 15 § (12.6.2009/425) Rikoslaki
Rajoitussäännös
Tämän luvun 1–5, 7–10 ja 12 §:ssä tarkoitettuna rikoksena ei pidetä vähäistä ilmoittamis- tai tiedonantovelvollisuuden laiminlyöntiä eikä muuta vähäistä menettelytapamääräyksen rikkomista.
Tämän luvun 6 ja 6 a §:ssä tarkoitetusta rikoksesta ei tuomita henkilöä, joka on osallinen tavaraa maahan tuotaessa tai tavaran maahan tuonnin jälkeen tehtyyn rikokseen. (14.8.2009/641)
Tämän luvun 6 ja 6 a §:ää ei sovelleta rikoksentekijän kanssa yhteistaloudessa asuvaan henkilöön, joka ainoastaan käyttää tai kuluttaa rikoksentekijän yhteistalouden tavanomaisiin tarpeisiin hankkimaa omaisuutta.

Section 16[110] **Relationship of punitive tax increase and punitive customs duty increase to smuggling and customs clearance offence**
A criminal case referred to in section 4, 5, 7 or 9 need not be reported and the criminal investigation, prosecution and punishment may be waived in the case, if a punitive tax increase or a punitive customs duty increase is deemed a sufficient sanction. In assessing this, consideration is given to the seriousness and recurrence of the act or omission, the expected punishment, the amount of the tax or customs duty related to the act or omission, the amount of the punitive tax increase or the punitive customs duty increase, and the possible other consequences of the act or omission to the taxpayer. Charges shall not be brought or a court judgment passed in a criminal case referred to in section 4, 5 or 7–9 if a punitive tax increase or a punitive customs duty increase has already been imposed on the same person in the same case. However, charges may be brought and a court judgment passed if, after the punitive tax increase or the punitive customs duty increase was imposed, evidence has been received of new or previously unrevealed essential circumstances, and the punitive tax increase previously imposed in the same case has been annulled in accordance with section 3 of the Act on Punitive Tax Increases and Punitive Customs Duty Increases Imposed by Separate Decisions.

(2) Methods of investigation, Collecting information and documenting the initiation of an investigation for an indictement (Art. 34 et seq. EPPO Regulation, Art. 40 para 3 IRP)

(a) Impetus of fraud knowledge patterns

53 Recent studies frequently analyse the peculiarities and typologies of (EU) frauds quite extensively and they are therefore important for EDPs and their knowledge about the structures of this crime area (criminological insights):
National level: National Statistics,[111] “Gray economy and economic crime”
EU-level: PIF Reports, Rule of law Report, “Impact of Organised Crime on the EU’s Financial Interests”[112]

[110] 16 § (8.11.2013/782) Rikoslaki
Veron- ja tullinkorotuksen suhde salakuljetukseen ja tulliselvitysrikokseen
Edellä 4, 5, 7 ja 9 §:ssä tarkoitetussa rikosasiassa voidaan jättää ilmoitus tekemättä, esitutkinta toimittamatta, syyte ajamatta tai rangaistus määräämättä, jos veron- tai tullinkorotus harkitaan riittäväksi seuraamukseksi. Asiaa arvioitaessa otetaan huomioon teon tai laiminlyönnin vakavuus ja toistuvuus, odotettavissa oleva rangaistus, tekoon tai laiminlyöntiin liittyvän veron tai tullin määrä, veron- tai tullinkorotuksen suuruus sekä verovelvolliselle teosta tai laiminlyönnistä mahdollisesti aiheutuneet muut seuraukset.
Edellä 4 ja 5 sekä 7–9 §:ssä tarkoitetussa rikosasiassa syytettä ei voida nostaa eikä tuomiota antaa, jos samasta asiasta samalle henkilölle on jo määrätty veron- tai tullinkorotus. Syyte voidaan kuitenkin nostaa ja tuomio antaa, jos veron- tai tullinkorotuksen määräämisen jälkeen on saatu näyttöä uusista tai vasta esiin tulleista olennaisista tosiseikoista ja samassa asiassa aikaisemmin määrätty veronkorotus on erillisellä päätöksellä määrättävästä veron- tai tullinkorotuksesta annetun lain 3 §:n mukaisesti poistettu.
[111] Official Statistics of Finland (SVT): Accused, sentenced and punishments [online publication]. Helsinki: Statistics Finland [cited: 23.1.2023]., Access: http://www.stat.fi/til/syyttr/kas.html.
[112] See the Malan, Bosch Chen 2021, passim.

Nota bene: The Anti-Fraud Knowledge Centre hosted by the EU Commission/OLAF provides information on fraud patterns, prevention tools and case studies.

(b) Special national databases for PIF offences/Digital investigations, Art. 40 para 3 IRP 2020.003

There is a Finnish official website providing information on "gray economy and economic crime".[113] It is established by various ministries and Finnish authorities to inform the citizen on the combating of financial crimes and offers education on the right behaviour. Reports on the fight against economic crime are published by the authorities on this website. The site also carries statistics and a "Strategy and action program for combating the gray economy and financial crime" for the period 2020-2023. **54**

A new resource monitoring tool is on the way: **55**

"Through the new resource monitoring tool, the transparency of the key operational resources of the gray economy and financial crime prevention and the results achieved with them will increase significantly, when the information will be published in the future on the Gray Economy & Financial Crime website. **56**
The resource monitoring tool can be used to quickly form an overall picture of the available resources of certain closely related authorities, their development and possible shortcomings. The presentation is based on chain thinking about the authorities' resources and their mutual dependence on each other. An increase in resources by another authority or a significant lack of them can cause significant challenges for other authorities. In the future, the resource monitoring tool can be used to prepare a forecast based on information about how resource additions or reductions would likely affect the work situation of other authorities."[114]

It is an interactive tool that allows all collected information to be viewed by the user. **57**

[113] https://www.vero.fi/harmaa-talous-rikollisuus/. Accessed 31 December 2024.
[114] Official Website, https://www.vero.fi/harmaa-talous-rikollisuus/torjunta/resurssiseuranta/, latest access on 05.09.2023.

Figure 4: Finnish Resource Monitoring Tool Overview

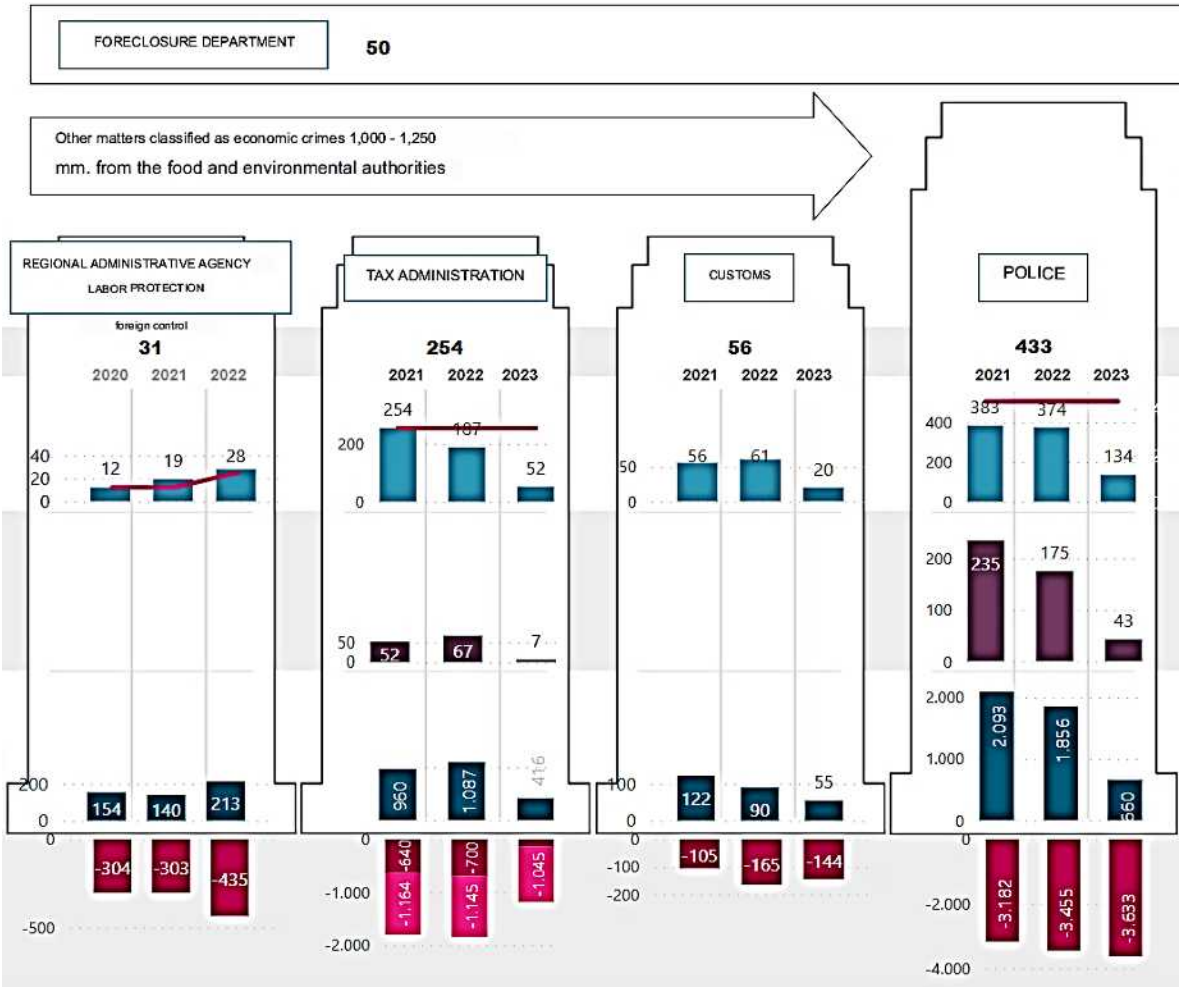


Figure 5: Finnish Resource Monitoring Tool – Tax Administration data

Tax administration

Function	Used HTVs	HTV < 2 years
Combating the gray economy	40	
Other operational functions	2	
Criminal case supervision	10	
In total	**52**	

Gray economy investigation unit

Mission	Used HTVs
Information production services	6
Liability settlement settlement services	2
In total	**8**

In this context, the resources of the tax administration are monitored in the fight against the gray economy, a resource specialized in risk management, registration and notification supervision, tax audit, criminal case supervision and collection, international taxation tasks and supervision of foreign transactions, control of contract and transit permit data in the construction industry, and in the control and management tasks of the fight against the gray economy. In addition, the resources of the gray economy settlement unit are monitored.

Function	Simultaneous tax audit and preliminary investigation	Other real-time monitoring
Combating the gray economy	7	173
In total	**7**	**173**

Figure 6: Finnish Resource Monitoring Tool – Police data

Police Unit	Years	Annouce-ments	Open things	Decided things
Central Crim-inal Police	31	0,2	2,0	0,2
Helsinki	21	11,0	49,5	6,6
South-western Finland	12	8,3	19,0	8,6
Inner Finland	12	6,0	24,2	5,5
East Uusimaa	11	7,3	66,5	7,3
Ostrobothnia	9	5,9	23,4	7,8
Oulu	9	4,3	15,9	4,8
Western Uusimaa	7	9,1	39,5	9,8
East Finland	6	4,1	38,8	3,5
Southeast Finland	6	4,0	20,9	1,4
Skirt	6	6,1	28,4	5,0
Lapland	3	4,3	19,9	5,8

Figure 7: Finnish Resource Monitoring Tool – Customs data

Unit	HTV
Investigation	20,0
Company inspection	7,0
Analysis and inspection	4,5
In total	**31,5**

Figure 8: Finnish Resource Monitoring Tool – Prosecutor's Office data

Unit	**Cast**	**HTV**	
Specialized prosecutors S 17	29	26	
Specialized prosecutors S 14	32	21	
Prosecutors S 11–13	18	4	
In total	**79** Stuff the came in 1389	**51** Solved cases 1328	Remains in stock 61
	Annuel need of personnel 45		Annual need for personnel 3,1

Source: https://www.vero.fi/harmaa-talous-rikollisuus/torjunta/resurssiseuranta/. Accessed 31 December 2024.

cc. Examples and precedents

(1) In national case-law

58 There are distinct types of fraud against the EU budget. A basic distinction must be made between fraud on the revenue side and fraud on the expenditure side. This separation applies not only to investigations by the delegated public prosecutors, but also to OLAF investigators and national authorities in administrative procedures (especially on the expenditure side, for example in the case of subsidies). The first EPPO crime report therefore correctly distinguishes between:

59 All information that is not derived from a judgment comes from the EPPO's inaugural crime report, published in March 2022. This report provides a foundation for outlining the initial suspicion scenarios within this context. Additionally, references may be made to relevant national case law.

- Non-procurement expenditure fraud
- Procurement expenditure fraud
- VAT revenue fraud
- Non-VAT revenue fraud
- corruption cases (4% in 2021).

(a) Fraud

(aa) Revenue frauds

Revenue frauds are manifold. They may encompass customs fraud, which is why the customs authorities have the right to stop goods entering and exciting the Finnish territory. During the customs clearance procedure, a suspicion of a criminal offence may arise – e.g. in cases where a customs official detects an instance of EU fraud. In such cases, the official must comply with the obligations set out in Article 24 et seq. EPPO Regulation, see above → Art. 26 1. b). **60**

Section 32[115] **Customs Act**
Stopping goods to prevent or investigate a crime other than a customs crime
Customs may stop goods being exported, imported or transported through Finland, if there is a justified reason for doing so in order to prevent or investigate a crime other than a customs crime. In this case, the relevant authority deciding on confiscation must be immediately notified of the stopping of the goods.

The Customs Authorities are as well competent to act in the area of VAT duties, see Chapter 16 of the Finnish VAT Act: **61**

Chapter 16
Section 157[116] **Tax authorities**
The Tax Administration is responsible for taxation and its supervision in accordance with the separate regulations. (9/9/2016/773)
Subsection 2 has been repealed by L 9/9/2016/773.
The Tax Administration decides the right to a refund referred to in § 122 and performs other duties related to the refund. (11.6.2010/529)
The Tax Administration receives and forwards the refund applications referred to in Section 156m to other member states through the electronic information system it has established and performs other tasks related to the further submission of applications.

[115] 32 § Tullilaki Tavaran pysäyttäminen muun rikoksen kuin tullirikoksen estämiseksi tai selvittämiseksi
Tulli saa pysäyttää maasta vietävän, maahan tuotavan tai Suomen kautta kuljetettavan tavaran, jos siihen on perusteltua syytä muun rikoksen kuin tullirikoksen estämiseksi tai selvittämiseksi. Tavaran pysäyttämisestä on tällöin viipymättä ilmoitettava asianomaiselle takavarikosta päättävälle viranomaiselle.
[116] 157 § Arvonlisäverolaki
Verotuksesta ja sen valvonnasta vastaa Verohallinto sen mukaan kuin siitä erikseen säädetään. (9.9.2016/773)
2 momentti on kumottu L:lla 9.9.2016/773.
Verohallinto ratkaisee oikeuden 122 §:ssä tarkoitettuun palautukseen ja suorittaa muut palautukseen liittyvät tehtävät. (11.6.2010/529)
Verohallinto vastaanottaa ja toimittaa edelleen 156 m §:ssä tarkoitetut toisille jäsenvaltioille tehtävät palautushakemukset perustamansa sähköisen tietojärjestelmän kautta ja suorittaa muut hakemusten edelleen toimittamiseen liittyvät tehtävät. (22.12.2009/1359)

Section 160[117]
Customs is responsible for the taxation and control of the import of goods, if the person liable for tax on the import is not entered in the VAT register at the time the obligation to pay the tax arises. The tax authority is Customs also when the taxpayer is a natural person and the import is not related to his business.

If the import of goods takes place when the customs procedure referred to in Section 86 a has ended due to the situation referred to in Article 79, Paragraph 1, letter a or c of the Customs Act, or if the imported goods have not been presented to Customs in the situation referred to in the said provisions, the tax on the import in question will nevertheless be borne by Customsconnection with the company inspection related to the customs clearance of imported or imported goods and other controls related to customs clearance, the Customs also supervises the correctness of the value added tax on imports, even when the Tax Administration is the tax authority for the import in question. Customs has the right to provide the Tax Administration with information on control observations relevant to the assessment of the correctness of value-added taxation, regardless of confidentiality regulations and other restrictions on access to information. Information can be provided using an electronic data transmission method.

62 First, the scheme should be identified. For this, it is worthwhile to compare the suspected behaviour with known behaviour patterns. From a legal as well as a police point of view, the overview of crime patterns is useful. Especially in Covid-times there has been an increase in characteristics. Assessment can also be based on known cases and the professional groups suspected in these cases.

[117] 160 § (11.8.2017/523) Arvonlisäverolaki
Tavaran maahantuonnin verotuksesta ja valvonnasta vastaa Tulli, jos tuonnista verovelvollista ei ole merkitty arvonlisäverovelvollisten rekisteriin veron suorittamisvelvollisuuden syntymishetkellä. Veroviranomaisena on Tulli myös silloin, kun verovelvollinen on luonnollinen henkilö ja tuonti ei liity hänen liiketoimintaansa.
Jos tavaroiden maahantuonti tapahtuu 86 a §:ssä tarkoitetun tullimenettelyn päättyessä tullikoodeksin 79 artiklan 1 kohdan a tai c alakohdassa tarkoitetun tilanteen johdosta tai jos maahantuotuja tavaroita ei ole mainittujen säännösten tarkoittamassa tilanteessa esitetty Tullille, veron kyseisestä tuonnista kantaa kuitenkin Tulli.
Tulli valvoo suorittamansa maahantuotavien tai maahantuotujen tavaroiden tulliselvitykseen liittyvän yritystarkastuksen ja muun tulliselvitystä koskevan valvonnan yhteydessä myös maahantuonnista suoritettavan arvonlisäveron oikeellisuutta silloinkin, kun Verohallinto on kyseisen tuonnin osalta veroviranomainen. Tullilla on oikeus antaa arvonlisäverotuksen oikeellisuuden arvioinnin kannalta merkityksellisiä valvontahavaintoja koskevat tiedot Verohallinnolle salassapitosäännösten ja muiden tietojen saantia koskevien rajoitusten estämättä. Tiedot voidaan antaa sähköistä tiedonsiirtomenetelmää käyttäen.

Case Study 1: National Statistics reveal the Impact of EU Fraud in Finland **63**

Case Studies: EU Frauds in Finland

We have researched via AFOCS and OLAF reports, because there were no any public sources in the time prior to the establishment of the EPPO. These reveal: "According to the assessment presented by the Customs, your crimes fall under the formal jurisdiction of the EPPO 18 there would be around 50–100 such cases in Finland each year. The customs crimes under investigation are all evasion or attempted evasion of customs duties on imports crossing the EU's external border. In general, the acts in question are also related to other tax crimes. As a comparison, statistics on tax fraud crimes investigated by the Customs from the last few years can be presented. In 2018, the total number of tax fraud crimes investigated by the Customs was 1294, of which 116 were gross tax frauds and 251 tax frauds. In 2017, the total number was 1,086 cases, of which 83 were gross tax frauds and 181 were tax frauds. In 2016, the total number of tax frauds investigated was 914, of which 109 were classified as aggravated tax fraud and 183 were tax fraud."[118]

(bb) Expenditure frauds

Expenditure frauds involve e.g. subsidy frauds or procurement frauds, which might happen in every sector that is influenced by European Union Law. **64**

(b) Corruption offences

Statisics and finish sources state that: "Economic crime reported to the police is continuously acquiring new features. Economic crime increasingly involves international connections, organised crime, and other organised and professional criminal activities, such as cybercrime. Criminals are keen to exploit companies as a means of committing crimes such as fraud and tax offences. On the other hand, companies themselves fall victim to crimes such as identity theft. In cases of **corruption**, corporate structures and positions of power are being abused to the benefit of the perpetrator or for financial gain. In Finland, corruption occurs in the construction sector in particular."[119] **65**

(c) Money laundering with PIF crimes

Money Laundering may happen at a border or customs clearance center. This is why the customs has the right to control the economic operators: **66**

[118] OMML 2019, Euroopan syyttäjävirasto EPPO, p. 18.
[119] https://www.vero.fi/en/grey-economy-crime/about-this-website/authorities/. Accessed on 31 October 2024.

Section 30[120] **Customs Act – Checking of funds**
The customs officer has the right to check the money and other property in his possession in order to reveal the money laundering crime referred to in chapter 32 of the Criminal Code and the financing of terrorism referred to in chapter 34 a of the Criminal Code, which is considered a customs crime.

(2) Data on economic crime cases at the District Courts

67 The Resources Monitoring Tool presents the following data on cases entering the district courts in the area of grey economy and economic crime. District courts do not have separate personnel working on financial crimes, and the work effort used to resolve financial crime cases cannot be separated. De facto disctrict courts decide financial crime cases as first instance courts. In short it can be said that the Finish courts received 254 financial crimes case, solved 245 and 9 remained unresolved in 2023. One can find more detailed information about solved cases in the following diagram:

68 *Figure 9: Finnish Resource Monitoring Tool – Court Data*

Tuesday 15 August 2023
Information updated

Unit	Arrivals things	Solved things	Received and resolved difference
⊟ Helsinki District Court of Appeal	**70**	**88**	**-18**
Helsinki District Court	27	41	-14
District Court of Eastern Uusimaa	23	27	-4
West Uusimaa District Court	20	20	0
⊟ Court of Appeal of Eastern Finland	**36**	**50**	**-14**
District Court of South Karelia	7	10	-3
South Savo district court	5	3	2
Kymenlaakso district court	11	12	-1
District Court of Päijät-Häme	6	11	-5
District Court of North Karelia	2	5	-3
District Court of Pohjois Savo	5	9	-4
⊟ Rovaniemi Court of Appeal District	**19**	**45**	**-26**
Kainuu district court	1	0	1
The district court of Lapland	11	24	-13
Oulu district court	7	21	-14
⊟ Turku District Court of	**98**	**41**	**57**
Appeal Åland District Court	0	0	0
District Court of Kanta-Häme	7	4	3
District Court of Pirkanmaa	49	21	28
The District Court of Actual Finland	42	16	26
⊟ Court of Appeals District of Vaasa	**31**	**21**	**10**
District Court of Southern Ostrobothnia	5	5	0
District Court of Central Finland	4	3	1
District Court of Ostrobothnia	6	7	-1
Satakunta district court	16	6	10
In total	**254**	**245**	**9**

Source: https://www.vero.fi/harmaa-talous-rikollisuus/torjunta/resurssiseuranta/.

[120] 30 § Tullilaki Rahavarojen tarkastaminen Tullimiehellä on oikeus tarkastaa henkilön mukana olevat rahavarat ja muu hänen hallussaan oleva omaisuus tullirikoksena pidettävän, rikoslain 32 luvussa tarkoitetun rahanpesurikoksen ja rikoslain 34 a luvussa tarkoitetun terrorismin rahoittamisen paljastamiseksi.

dd. The level of sufficiency

Table 6: Level of sufficiency for criminal offences **69**

For all CC offences: "reason to suspect that an offence has been committed", see s. 3 chapt. 3 Pre-Trial Investigation Act. **Pre-Trial Investigation Act, Chapter 1 Section 2**[121] **Matters to be clarified in the preliminary investigation** In the preliminary investigation, the following is investigated: 1) as required by the quality of the case, the suspected crime, the circumstances of its commission, the damage caused by it and the benefit received from it, the parties involved, and other facts necessary for the consideration of charges and the sanction imposed as a result of the crime; 2) the possibilities for the return of property obtained by crime and the enforcement of the penalty of forfeiture imposed as a result of the crime or the compensation to be paid to the interested party; 3) the private claim of the interested party, if he has requested the prosecutor to pursue his claim pursuant to Chapter 3 § 9 of the Law on Trial in Criminal Matters (689/1997); and 4) does the interested party agree and does the criminal suspect intend to agree to the case being dealt with in the district court in the written procedure referred to in chapter 5a of the Act on Trial in Criminal Matters. In the preliminary investigation, the case must be prepared in such a way that the consideration of the charges and the monitoring of the interests of the parties involved can be carried out properly and that the evidence can be accepted at the main hearing at one time or the case can be resolved in a written procedure.

[121] 2 § Esitutkintalaki
Esitutkinnassa selvitettävät asiat
Esitutkinnassa selvitetään:
1) asian laadun edellyttämällä tavalla epäilty rikos, sen teko-olosuhteet, sillä aiheutettu vahinko ja siitä saatu hyöty, asianosaiset sekä muut syyteharkintaa ja rikoksen johdosta määrättävää seuraamusta varten tarvittavat seikat;
2) mahdollisuudet rikoksella saadun omaisuuden palauttamiseksi ja rikoksen johdosta tuomittavan menettämisseuraamuksen tai asianomistajalle tulevan vahingonkorvauksen täytäntöönpanemiseksi;
3) asianomistajan yksityisoikeudellinen vaatimus, jos hän oikeudenkäynnistä rikosasioissa annetun lain (689/1997) 3 luvun 9 §:n nojalla on pyytänyt syyttäjää ajamaan hänen vaatimustaan; ja
4) suostuuko asianomistaja ja aikooko rikoksesta epäilty suostua asian käsittelemiseen käräjäoikeudessa oikeudenkäynnistä rikosasioissa annetun lain 5 a luvussa tarkoitetussa kirjallisessa menettelyssä.
Esitutkinnassa asia on valmisteltava siten, että syyteharkinta ja asianosaisten etujen valvominen voidaan suorittaa asianmukaisesti ja että todistelu voidaan pääkäsittelyssä ottaa vastaan yhdellä kertaa tai asia voidaan ratkaista kirjallisessa menettelyssä.

c) Actions if "Decision to open a case" (Regulation + Rules in IRP, 2020.003 EPPO)

70 If he/she decides to initiate an investigation he/she **must note this in the case management system (Art. 45 para 1 EPPO Regulation, 38 IRP**[122]**)**. In addition, the numerous obligations to provide information from Art. 24 para 3 to 8.

71 If an investigation is opened by virtue of Art. 26 para 1 EPPO Regulation, he/she must insert the following information in the Case Management System according to **Art. 38 para 3 IRP**:

72 "a) the possible legal qualification of the reported criminal conduct, including if it was committed by an organised group;
b) a short description of the reported criminal conduct, including the date when it was committed;
c) the amount and nature of the estimated damage;
d) the Member State(s) where the focus of the criminal activity is, respectively where the bulk of the offenses, if several, was committed;
e) other Member States that may be involved;
f) the names of the potential suspects and any other involved persons in line with Article 24(4) of the Regulation, their date and place of birth, identification numbers, habitual residence and / or nationality, their occupation, suspected membership of a criminal organisation;
g) whether privileges or immunities may apply;
h) the potential victims (other than the European Union);
i) the place where the main financial damage has occurred;
j) inextricably linked offences; […]"
k) any other additional information, if deemed appropriate by the inserter

73 Specific information is presented by the IRP, Art. 41 relates to the initiation according to Art. 26 EPPO Regulation:

Article 41: Decision to initiate an investigation or to evoke a case
1. Where, following the verification, the European Delegated Prosecutor decides to exercise EPPO's competence by initiating an investigation or evoking a case, a case file shall be opened and it shall be assigned an identification number in the index of the case files (hereinafter the Index). A permanent link to the related registration under Article 38(1) above shall be automatically created by the Case Management System.
If an investigation procedure is to be started, the competent national authorities must be informed:
2. The corresponding reference in the Index shall contain, to the extent available:

[122] See https://www.eppo.europa.eu/sites/default/files/2020-12/2020.003%20IRP%20-%20final.pdf. Accessed 31 December 2024.

a) As regards suspected or accused persons in the criminal proceedings of the EPPO or persons convicted following the criminal proceedings of the EPPO,
i. surname, maiden name, given names and any alias or assumed names;
ii. date and place of birth;
iii. nationality;
iv. sex;
v. place of residence, profession and whereabouts of the person concerned,
vi. social security numbers, ID-codes, driving licences, identification documents, passport data, customs and tax identification numbers;
vii. description of the alleged offences, including the date on which they were committed;
viii. category of the offences, including the existence of inextricably linked offences;
ix. the amount of the estimated damages;
x. suspected membership of a criminal organisation;
xi. details of accounts held with banks and other financial institutions;
xii. telephone numbers, SIM-card numbers, email addresses, IP addresses, and account and user names used on on line platforms;
xiii. vehicle registration data;
xiv. identifiable assets owned or utilised by the person, such as crypto-assets and real estate.
xv. information whether potential privileges or immunities may apply.
b) as regards natural persons who reported or are victims of offences that fall within the competence of the EPPO,
i. surname, maiden name, given names and any alias or assumed names;
ii. date and place of birth;
iii. nationality;
iv. sex;
v. place of residence, profession and whereabouts of the person concerned;
vi. ID-codes, identification documents, and passport data;
vii. description and nature of the offences involving or reported by the person concerned, the date on which the offences were committed and the criminal category of the offences.
c) as regards contacts or associates of one of the persons referred to in point (a) above,
i. surname, maiden name, given names and any alias or assumed names;
ii. date and place of birth;
iii. nationality;
iv. sex;
v. place of residence, profession and whereabouts of the person concerned;
vi. ID-codes, identification documents, and passport data. The categories of personal data referred to above under points (a) (x) - (xv) shall be entered in the Index only to the

extent practicable, taking into account the operational interest and available resources. The reference in the Index shall be maintained up to date during the investigation of a case file. The Case Management System shall periodically notify the European Delegated Prosecutor if certain categories of information are not entered in the Index.
3. The Case Management System shall notify the supervising European Prosecutor and the European Chief Prosecutor and shall randomly assign the monitoring of the investigation to a Permanent Chamber, in accordance with Article 19.
4. Where the handling European Delegated Prosecutor considers that in order to preserve the integrity of the investigation it is necessary to temporarily defer the obligation to inform the authorities referred to in Articles 25(5), 26(2) and 26(7) of the Regulation, he/she shall inform the monitoring Permanent Chamber without delay. The latter may object to this decision and instruct the European Delegated Prosecutor to proceed with the relevant notification immediately.

d) Consequences to the "Decision to open a case"

74 If this decision has been achieved the EDPs will need to plan on how to conduct the investigation and gather the relevant evidence in order to collect all information that is necessary to prove a criminal offence i.e., a criminal liability and the elements that constitute the whole concept of crime in general. A PIF offence will need to be assessed by the relevant conditions for a crime i.e., the elements of a particular PIF offence of the present country.

75 The EDPs will need to focus on the actus reus and the mens rea conditions of the relevant offence.[123] What Finish criminal justice calls the elements of crime[124], (*rikoksen tunnusmerkistö*), in relation to the substantive PIF criminal law enshrined in the Crimi-nal Code (*rikoslaki*) or partly in ancillary criminal law (*sivulainsäädäntö*), such as the Fiscal Code (*verolaki*), needs to be assessed according to the requirements that the legis-lator has established. This includes the concretisation of the objective elements (actus reus, see above)[125] of the crime, the subjective elements (*mens rea*, see above)[126], as well as the unlawfulness of the conduct (i.e., no written or unwritten justi-fications/justificatory defenses[127] must intervene) and, last but not least, the guilt of the offender, which is

[123] See for the common terms in comparing criminal law and criminal procedure Child et al. 2022, Chapter 4 et seq., Chapter 5, Chapter 15 on Fraud (relevant for Ireland, Malta, Cyprus).
[124] Bohlander 2009, pp. 29 et seq.
[125] These include in the most criminal law systems questions of causual links, Authorship, causality, "scientific causation" (emphasis added to the cited book) adequacy, limitation of an endless *sine qua non formula*, etc., see recently Walen, Weiser 2022, pp. 57–94.
[126] See only out of many Safferling 2008, who points at the fact that the traditional german terms are "Intention" and culpability. But even if the terminology is not congruent and differs in detail, it can be said that these are elements of the subjective offense that occur in continental European criminal codes and are also required separately by the PIF Directive for PIF offenses.
[127] This is a worldwide recognized condition as a basic element of the concept of crime, see Stasi 2021, pp. 31–47.

given if the potential perpetrator is not excused for his/her conduct in relation to a PIF offence.[128]

Similar or the same conditions exist in relation to the general part of the offense (i.e., a PIF offence, Art. 22 EPPO Regulation, Art. 1–5 PIF Directive) in every country in the EU, with a divide running where common law differs and civil law countries encounter. **76**

In addition, it is important to determine how the formal accusation should look like: Are several people involved, and is there not an isolated act, but possibly a complicity (*osallisuus*) or an indirect perpetrator (*epäsuora tekijä*)? In addition, the questions of the criminal liability of a participant must be clarified in order to be able to determine whether an incitement (kehotus) to a PIF offense or an abetting (*avustaminen*) to such an act exists.[129] **77**

If there is no success to a crime, the question arises as to whether a criminal offense can be determined because of the attempt of a PIF offence.[130] **78**

For all of these questions and purposes, the EDPs can additionally to the present presentations, analysis and compendium references rely on the existing legal com-mentaries on the penal codes of the EU Member States and the Criminal Procedure Acts of the Member States, which participate in the EPPO, insofar as national law is concerned, e.g. in the concept of a criminal offence or the start of an investigation. **79**

[128] See Eser 1987, pp. 17–65, online: https://d-nb.info/112342229X/34 on the historical implications and the differences between the common law and civil law approach; Bohlander 2009, pp. 29 et seq., 77 et seq. (Rechtswidrigkeit), 115 et seq. ("Guilt and Excusatory Defences").
[129] See Hauck (soon to be published), EU Fraud Commentary, Commentary on PIF Directive, Art. 5. For the various translations of these terms see the EUR-Lex database translations of the PIF Directive 2017/1371.
[130] See Hauck (soon to be published), EU Fraud Commentary, Commentary on PIF Directive, Art. 5.

2. Article 27 Right of evocation

a) Provisions with a precluding effect for the Right of evocation of the EPPO, para 2 121
aa. Statute of limitations 121
bb. Amnesty 125
cc. Prosecution before the trial court..... 126
dd. Opposing legal validity (*Rechtskraft*)..... 126
ee. Abatement of action (dispense with prosecution) 128
b) Competent national authorities in paras 3 to 7 of Art. 27 129
c) Provisions regarding the finalisation of the national investigation, para 7.....129

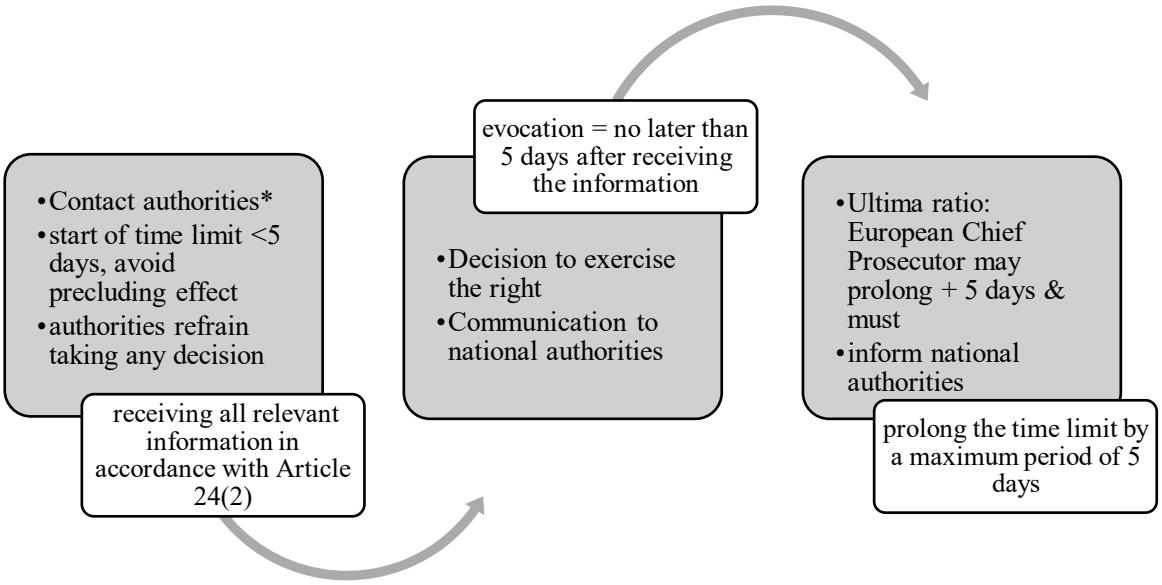
1. Upon receiving all relevant information in accordance with Article 24(2), the EPPO shall take its decision on whether to exercise its right of evocation as soon as possible, but no later than 5 days after receiving the information from the national authorities and **shall inform the national authorities** of that decision. The European Chief Prosecutor may in a specific case take a reasoned decision to prolong the time limit by a maximum period of 5 days, and shall **inform the national authorities** accordingly.
2. During the periods referred to in paragraph 1, the national authorities shall refrain from taking **any decision under national law** that may have the effect of precluding the EPPO from exercising its right of evocation.
The national authorities shall take any urgent measures necessary, **under national law**, to ensure effective investigation and prosecution.
3. If the EPPO becomes aware, by means other than the information referred to in Article 24(2), of the fact that an investigation in respect of a criminal offence for which it could be competent is already undertaken by the competent authorities of a Member State, it shall **inform these authorities** without delay. After being duly informed in accordance with Article 24(2), the EPPO shall take a decision on whether to exercise its right of evocation. The decision shall be taken within the time limits set out in paragraph 1 of this Article.
4. The EPPO shall, where appropriate, consult **the competent authorities of the Member State** concerned before deciding whether to exercise its right of evocation.
5. Where the EPPO exercises its right of evocation, **the competent authorities of the Member States** shall transfer the file to the EPPO and refrain from carrying out further acts of investigation in respect of the same offence.
6. The right of evocation set out in this Article may be exercised by a European Delegated Prosecutor from any Member State whose competent authorities have initiated an investigation in respect of an offence that falls within the scope of Articles 22 and 23.
Where a European Delegated Prosecutor, who has received the information in accordance with Article 24(2), considers not to exercise the right of evocation, he/she shall

inform the competent Permanent Chamber through the European Prosecutor of his/her Member State with a view to enabling the Permanent Chamber to take a decision in accordance with Article 10(4).
7. Where the EPPO has refrained from exercising its competence, it shall **inform the competent national authorities** without undue delay. At any time in the course of the proceedings, the **competent national authorities** shall inform the EPPO of any new facts which could give the EPPO reasons to reconsider its decision not to exercise competence.
The EPPO may exercise its right of evocation after receiving such information, provided that the national investigation has not already been finalised and that an indictment has not been submitted to a court. The decision shall be taken within the time limit set out in paragraph 1.
8. Where, with regard to offences which caused or are likely to cause damage to the Union's financial interests of less than EUR 100 000, the College considers that, with reference to the degree of seriousness of the offence or the complexity of the proceedings in the individual case, there is no need to investigate or to prosecute at Union level, it shall in accordance with Article 9(2), issue general guidelines allowing the European Delegated Prosecutors to decide, independently and without undue delay, not to evoke the case.
The guidelines shall specify, with all necessary details, the circumstances to which they apply, by establishing clear criteria, taking specifically into account the nature of the offence, the urgency of the situation and the **commitment of the competent national authorities** to take all necessary measures in order to fully recover the damage to the Union's financial interests.
9. To ensure coherent application of the guidelines, a European Delegated Prosecutor shall inform the competent Permanent Chamber of each decision taken in accordance with paragraph 8 and each Permanent Chamber shall report annually to the College on the application of the guidelines.

If the EDPs do not exercise the EPPO's competence by virtue of the Union's legality principle in due time on their own and hereby on behalf (*proprio motu*) of the Union and the Union's interests by analysing the notitiae crimini europea, i.e. the obligatory European PIF offences notices, which are sent to the European Prosecution Office in order to inform that a PIF offence is alleged or has been committed, the EDPs and the Chambers must decide on the evocation of cases from the national authorities on to the level of the Union competence. If the national prosecutor or a national office vested with investigative powers have already started investigating or the relevant person has taken any steps applying national law afterwards, these actions may have a precluding effect on the Right of evocation of the EPPO (cf. para 2 of Art. 27 EPPO Regulation). **1**

Nota bene: In addition, it should be noted that some of the following provisions will also apply to EDPs when filing an indictment under the EPPO Regulation. This aspect, however, falls outside the primary focus of this compendium, as the country chapters concentrate on the initiation of investigations – a phase during which many operations are likely to be terminated. Nonetheless, the same provisions that govern national authorities while awaiting the EPPO's decision on whether to exercise its right of evocation (→ Article 27) will also apply in cases of EPPO indictments (→ Article 34 and subsequent articles). These provisions preclude the filing of a formal accusation under national law in a national court until the EPPO has made its decision.

2 *Figure 10: Right of evocation/time limits/refrain taking decisions that have a precluding effect*



* Caption: Finnish Authorities[131]: Public Prosecutor's Office.

[131] See Section 7, 8 Finnish Act for the Execution of the European Public Prosecutor's Office.

a) Provisions with a precluding effect for the Right of evocation of the EPPO, para 2

aa. Statute of limitations

Criminal Code/*Rikoslaki* **3**

Chapter 8 (297/2003) Limitation

Section 1[132] **(297/2003) Limitation of the right to bring charges**

The right to bring charges for an offence for which the most severe punishment provided is life imprisonment does not become time-barred. (212/2008)

The right to bring charges becomes time-barred if charges have not been brough

1) within twenty years, if the most severe punishment provided for the offence is imprisonment for a fixed term of more than eight years,

2) within ten years, if the most severe punishment is imprisonment for more than two years and at most eight years,

3) within five years, if the most severe punishment is imprisonment for more than one year and at most two years, and

4) within two years, if the most severe punishment is imprisonment for at most one year, a fine or a fixed fine. (985/2016) The most severe punishment means the maximum punishment provided in the penal provision applicable to the act. However, the minimum limitation period applicable to offences in public office is five years. The limitation period applicable to degradation of the environment, an environmental offence and a building protection offence is ten years. The limitation period applicable to degradation

[132] 8 luku (11.4.2003/297) mVanhentumisesta 1 § (11.4.2003/297) Rikoslaki Syyteoikeuden vanhentuminen
Oikeus syyttää rikoksesta, josta säädetty ankarin rangaistus on elinkautinen vankeus, ei vanhennu. (11.4.2008/212)
Syyteoikeus vanhentuu, jollei syytettä ole nostettu
1) kahdessakymmenessä vuodessa, jos rikoksesta säädetty ankarin rangaistus on vankeutta määräajaksi yli kahdeksan vuoden,
2) kymmenessä vuodessa, jos ankarin rangaistus on yli kaksi vuotta ja enintään kahdeksan vuotta vankeutta,
3) viidessä vuodessa, jos ankarin rangaistus on yli vuosi ja enintään kaksi vuotta vankeutta, ja
4) kahdessa vuodessa, jos ankarin rangaistus on enintään vuosi vankeutta, sakkoa tai rikesakko. (18.11.2016/985)
Ankarimmalla rangaistuksella tarkoitetaan sitä rangaistusta, joka tekoon sovellettavassa rangaistussäännöksessä on säädetty enimmäisrangaistukseksi.
Virkarikosten vanhentumisaika on kuitenkin vähintään viisi vuotta. Ympäristön turmelemisen, luonnonsuojelurikoksen ja rakennussuojelurikoksen vanhentumisaika on kymmenen vuotta. Merenkulun ympäristönsuojelulain 13 luvun 3 §:ssä tarkoitetun, ulkomaiselta alukselta Suomen talousvyöhykkeellä tehdyn ympäristön turmelemisen, törkeän ympäristön turmelemisen, ympäristörikkomuksen ja tuottamuksellisen ympäristön turmelemisen vanhentumisaika on kolme vuotta. Ulkomaiselta alukselta Suomen talousvyöhykkeellä tehdyn kalastusrikoksen lyhin vanhentumisaika on kolme vuotta. (29.12.2009/1680)
Lapsenraiskauksen, törkeän lapsenraiskauksen, seksuaalisen kajoamisen lapseen, törkeän seksuaalisen kajoamiseen lapseen ja lapsen seksuaalisen hyväksikäytön syyteoikeus vanhentuu aikaisintaan, kun asianomistaja täyttää kaksikymmentäkahdeksan vuotta. Sama koskee kahdeksaatoista vuotta nuorempaan henkilöön kohdistunutta raiskausta, törkeää raiskausta, seksuaalista kajoamista, törkeää seksuaalista kajoamista, seksuaalista hyväksikäyttöä, paritusta, törkeää paritusta, ihmiskauppaa ja törkeää ihmiskauppaa. Syyteoikeus vanhentuu rikoksen kohteena olleen henkilön täyttäessä kaksikymmentäkolme vuotta, jos kysymyksessä on 20 luvun 18 §:n 2 momentissa tarkoitettu lapsen houkutteleminen seksuaalisiin tarkoituksiin. (8.7.2022/723)

of the environment, aggravated degradation of the environment, an environmental violation and negligent degradation of the environment committed from on board a foreign vessel in the exclusive economic zone of Finland referred to in chapter 13, section 3 of the Act on Environmental Protection in Maritime Transport is three years. The minimum limitation period applicable to a fishing offence committed from on board a foreign vessel in the exclusive economic zone of Finland is three years. (1680/2009) The right to bring charges for sexual abuse of a child, aggravated sexual abuse of a child and aggravated rape of a child becomes time-barred at the earliest when the injured party reaches the age of 28 years. The same applies to rape, aggravated rape, coercion into a sexual act, sexual abuse, pandering, aggravated pandering, trafficking in human beings and aggravated trafficking in human beings directed at a person under 18 years of age. In the case of solicitation of a child for sexual purposes referred to in chapter 20, section 8b, subsection 2, the right to bring charges becomes time-barred when the person who was the object of the offence reaches the age of 23 years. (486/2019).

Section 2[133] (297/2003) Beginning of the limitation period for the right to bring charges

The periods mentioned in section 1 above are calculated from the date on which the offence was committed. If omission is punishable according to the statutory definition of the offence, the limitation period for the right to bring charges begins to run when the omitted act should have been performed at the latest. If the statutory definition of the offence requires that a certain consequence be brought about, the period is calculated from the date on which the said consequence occurred. If the criminal act involves maintenance of an unlawful condition, the limitation period for the right to bring charges begins to run when such a condition ends. The limitation period for the right to bring charges for complicity in an offence begins to run on the same date as the limitation period for the right to bring charges for the principal act.

[133] 2 § (11.4.2003/297) Rikoslaki Syyteoikeuden vanhentumisajan alkaminen Edellä 1 §:ssä mainitut ajat lasketaan rikoksen tekopäivästä. Jos rikoksen tunnusmerkistössä säädetään laiminlyönti rangaistavaksi, syyteoikeus alkaa vanhentua, kun laiminlyöty teko olisi viimeistään tullut tehdä. Jos rikoksen tunnusmerkistössä edellytetään määrätyn seurauksen syntymistä, aika lasketaan tuon seurauksen ilmenemispäivästä.
Jos rikolliseen tekoon sisältyy lainvastaisen asiaintilan ylläpitäminen, syyteoikeuden vanhentumisaika alkaa vasta sellaisen tilan päättymisestä.
Syyteoikeus osallisuudesta rikokseen alkaa vanhentua samana päivänä kuin syyteoikeus pääteosta.

Section 3[134] **(297/2003) Interruption of the limitation period for the right to bring charges**

Charges are deemed to have been brought in a manner interrupting the limitation period when the person to be prosecuted is lawfully served with a summons or when a request for punishment is made in judicial proceedings where the person is present. The bringing of charges in a case that is subsequently dismissed or in which the charges are withdrawn does not interrupt the limitation period for the right to bring charges. When a violation is considered in the procedure under the Act on Imposing Fines and Fixed Fines, the limitation period is interrupted when the suspect is served with a demand for a fine, an order for a fixed fine subject to objection, or a demand for a punishment. However, the limitation period is not interrupted if the demand is withdrawn, an objection is lodged against the order, or the suspect or injured party withdraws his or her consent referred to in section 4 or 5 of the said Act. (985/2016).

Section 3a[135] **(673/2014) Interruption of limitation of the right to bring charges on the basis of a proposal for judgment**

If the limitation of the right to bring charges has not already been interrupted under section 3, the limitation is interrupted when the suspect or the defendant in a criminal case signs a proposal for judgment referred to in chapter 1, section 10 of the Criminal Procedure Act. The submission of a proposal for judgment in a case that is subsequently dismissed does not interrupt the limitation of the right to bring charges. Section 4 (297/2003) Extension of the limitation period for the right to bring charges Upon application, the limitation period for the right to bring charges may be extended once by one year, if 1) the criminal investigation of the offence requires special, time-consuming investigative measures due to which the investigation would be clearly incomplete at the end of the limitation period, 2) the offence has been taken up for criminal investigation exceptionally late, or 3) the person to be summoned as defendant is evading and,

[134] 3 § (11.4.2003/297) Rikoslaki
Syyteoikeuden vanhentumisen katkeaminen
Syyte katsotaan vanhentumisajan kulumisen katkaisevalla tavalla nostetuksi, kun syytettävälle on laillisesti annettu haaste tiedoksi tai häntä vastaan on hänen henkilökohtaisesti oikeudenkäynnissä läsnä ollessaan tehty rangaistusvaatimus.
Syytteen nostaminen jutussa, joka sittemmin jää tutkimatta tai jossa syyte peruutetaan, ei katkaise syyteoikeuden vanhentumista.
Kun rikkomusta koskevaa asiaa käsitellään sakon ja rikesakon määräämisestä annetun lain mukaisessa menettelyssä, syyteoikeuden vanhentuminen katkeaa, kun sakkovaatimus, vastustuksenvarainen rikesakkomääräys tai rangaistusvaatimus annetaan rikkomuksesta epäillylle tiedoksi. Vanhentuminen ei kuitenkaan katkea, jos vaatimus peruutetaan tai määräystä vastustetaan taikka epäilty tai asianomistaja peruuttaa mainitun lain 4 tai 5 §:ssä tarkoitetun suostumuksensa. (18.11.2016/985)

[135] 3 a § (22.8.2014/673) Rikoslaki
Syyteoikeuden vanhentumisen katkeaminen tuomioesityksen perusteella
Jollei syyteoikeuden vanhentuminen ole jo katkennut 3 §:n nojalla, syyteoikeuden vanhentuminen katkeaa, kun rikoksesta epäilty tai rikosasian vastaaja allekirjoittaa oikeudenkäynnistä rikosasioissa annetun lain 1 luvun 10 §:ssä tuomioesityksen.
Tuomioesityksen tekeminen jutussa, joka sittemmin jää tutkimatta, ei katkaise syyteoikeuden vanhentumista.

for this reason, it is probable that he or she cannot be served with the summons before the end of the limitation period, and a very important public interest requires that the limitation period be extended.

Section 5[136] (297/2003) Procedure when extending the limitation period for the right to bring charges

The decision to extend the limitation period for the right to bring charges is made by the court where charges for the offence could be heard under chapter 4 of the Criminal Procedure Act (689/1997). An application for the extension of the limitation period may be made by the prosecutor and by the injured party, if he or she has the right to bring charges as referred to in chapter 1, section 14, subsection 1 or 2, or section 15, subsection 1 of the said Act. The application shall be made in writing before the limitation period expires. (441/2011).

The application for the extension of the limitation period shall be taken up for consideration by the court without delay. It may be considered in a district court by the chairperson alone. If it is likely that a certain person will be charged for the offence referred to in the application for the extension of the limitation period made under section 4, paragraph 1 or 2, the person shall be given an opportunity to be heard regarding the application. The summons may be delivered in person or by post. The decision given on the application is not subject to appeal. A complaint may be lodged with the appellate court within thirty days. The complaint shall be considered as an urgent matter.

[136] 5 § (11.4.2003/297) Rikoslaki Menettely syyteoikeuden vanhentumisaikaa jatkettaessa

Syyteoikeuden vanhentumisajan jatkamisesta päättää se tuomioistuin, jossa syyte rikoksesta voitaisiin oikeudenkäynnistä rikosasioissa annetun lain (689/1997) 4 luvun mukaan tutkia. Hakemuksen vanhentumisajan jatkamisesta voi tehdä syyttäjä sekä asianomistaja, jos hänellä on mainitun lain 1 luvun 14 §:n 1 tai 2 momentissa tai 15 §:n 1 momentissa tarkoitettu oikeus ajaa syytettä rikoksesta. Hakemus on tehtävä kirjallisesti ennen vanhentumisajan päättymistä. (13.5.2011/441)

Vanhentumisajan jatkamista koskeva hakemus on otettava tuomioistuimen käsiteltäväksi viipymättä. Se voidaan käsitellä käräjäoikeudessa, jossa on yksin puheenjohtaja.

Jos on todennäköistä, että tiettyä henkilöä tullaan syyttämään rikoksesta, jota 4 §:n 1 tai 2 kohdan perusteella tehty hakemus vanhentumisajan jatkamisesta koskee, hänelle on varattava tilaisuus tulla kuulluksi hakemuksesta. Kutsu voidaan toimittaa henkilökohtaisesti tai postitse.

Hakemuksen johdosta annettuun päätökseen ei saa hakea muutosta valittamalla. Päätöksestä saa kannella ylemmälle tuomioistuimelle kolmessakymmenessä päivässä. Kantelu on käsiteltävä kiireellisenä.

Section 6[137] **(297/2003) Limitation of the right to impose a punishment**
The right to impose a punishment for an offence referred to in section 1, subsection 1 does not become time-barred. (1161/2005) No punishment shall be imposed in court proceedings or in the procedure specified in the Act on Imposing Fines and Fixed Fines for an offence other than those referred to in subsection 1 after the time specified below has elapsed from the date referred to in section 2: 1) thirty years, if the most severe punishment provided for the offence is imprisonment for a fixed term of more than eight years, 2) twenty years, if the most severe punishment provided for the offence is imprisonment for more than two years and at most eight years, 3) ten years, if the most severe punishment provided for the offence is imprisonment for at most two years, a fine or a fixed fine. (985/2016) No punishment shall be imposed for an offence referred to in section 1, subsection 5 after the period referred to in subsection 2 of this section has elapsed and ten years have elapsed from the date on which the person who was the object of the offence reached the age of 28 or 23 years. (540/2011) An imposed punishment shall lapse if the judgment concerning it has not become enforceable before the period referred to in subsection 2 or 3 has expired. (1161/2005).

bb. Amnesty

The Constitution of Finland **4**

Section 105[138] **Act of grace**
In an individual case, after receiving a statement from the Supreme Court, the President of the Republic may pardon the punishment or other criminal sanction imposed by the court, either in whole or in part.
A general amnesty must be regulated by law.

[137] 6 § (11.4.2003/297) Rikoslaki
Rangaistuksen tuomitsemisen estävä vanhentuminen
Oikeus tuomita rangaistus 1 §:n 1 momentissa tarkoitetusta rikoksesta ei vanhennu. (22.12.2005/1161)
Rangaistusta muusta kuin 1 momentissa tarkoitetusta rikoksesta ei saa tuomita tai määrätä sakon ja rikesakon määräämisestä annetun lain mukaisessa menettelyssä, kun 2 §:ssä mainitusta päivästä on kulunut:
1) kolmekymmentä vuotta, jos rikoksesta säädetty ankarin rangaistus on vankeutta määräajaksi yli kahdeksan vuoden;
2) kaksikymmentä vuotta, jos rikoksesta säädetty ankarin rangaistus on vankeutta yli kaksi vuotta ja enintään kahdeksan vuotta; 3) kymmenen vuotta, jos rikoksesta säädetty ankarin rangaistus on vankeutta enintään kaksi vuotta, sakkoa tai rikesakko. (18.11.2016/985) Edellä 1 §:n 5 momentissa tarkoitetusta rikoksesta ei saa tuomita rangaistusta sen jälkeen, kun tämän pykälän 2 momentissa tarkoitettu määräaika on kulunut ja kymmenen vuotta on kulunut siitä, kun rikoksen kohteena ollut henkilö on täyttänyt kaksikymmentäkahdeksan tai kaksikymmentäkolme vuotta. (20.5.2011/540) Tuomittu rangaistus raukeaa, jos sitä koskeva tuomio ei ole tullut täytäntöönpanokelpoiseksi ennen 2 tai 3 momentissa tarkoitetun ajan täyttymistä. (22.12.2005/1161)

[138] 105 § Suomen perustuslaki Armahdus Tasavallan presidentti voi yksittäisessä tapauksessa saatuaan lausunnon korkeimmalta oikeudelta armahtaa tuomioistuimen määräämästä rangaistuksesta tai muusta rikosoikeudellisesta seuraamuksesta joko kokonaan tai osittain. Yleisestä armahduksesta on säädettävä lailla.

cc. Prosecution before the trial court

5 The prosecution before the trial court may interrupt or present an obstacle to the evocation of the EPPO. The following Act determines this area: Criminal Procedure Act/Laki oikeudenkäynnistä rikosasioissa (689/1997).

6

Chapter 1 On prosecution and prosecution (22 August 2014/670)
General provision
Section 1[139]
A criminal case is not accepted for investigation in court, unless the charge of the crime has been brought by the person who has the right to do so according to the law.

Section 2[140] **The task of the prosecutor is to file a criminal charge and prosecute it.**
The conditions for bringing charges are stipulated in section 6, subsection 1. In addition, what is stipulated in other parts of the law regarding the request for prosecution of the person concerned and other special conditions for bringing charges are followed. (22.8.2014/670).

7

Chapter 5 For prosecution
Challenge application
Section 1[141] The prosecutor files the charge by submitting a written subpoena application to the district court's office. The court can order, to the extent it deems appropriate, that the prosecutor may file the charge by issuing the summons himself. However, the prosecutor may always bring the charges himself if the matter is to be dealt with in a written procedure according to chapter 5a. (31.3.2006/243)
The criminal case starts when the subpoena application arrives at the office or, if the prosecutor issues a subpoena, when the subpoena is served.

dd. Opposing legal validity (*Rechtskraft*)

8 It may happen that the case is, before the EPPO can evocate the case, has legal validity and the case is therefore resolved. This can only happen if the communication between nthe national authorities and the EPPO would be very bad.

---

[139] 1 luku Syyteoikeudesta ja syyteharkinnasta (22.8.2014/670) Yleissäännös 1 § Laki oikeudenkäynnistä rikosasioissa Rikosasiaa ei oteta tuomioistuimessa tutkittavaksi, ellei syytettä rikoksesta ole nostanut se, jolla on siihen lain mukaan oikeus.

[140] Syyttäjän syyteoikeudesta (13.5.2011/455) 2 § Laki oikeudenkäynnistä rikosasioissa Syyttäjän tehtävänä on nostaa rikoksesta syyte ja ajaa sitä. (13.5.2011/455) Syytteen nostamisen edellytyksistä säädetään 6 §:n 1 momentissa. Lisäksi noudatetaan, mitä asianomistajan syyttämispyynnöstä ja muista erityisistä syytteen nostamisen edellytyksistä muualla laissa säädetään. (22.8.2014/670)

[141] 5 luku Syytteen vireillepanosta Haastehakemus 1 § Laki oikeudenkäynnistä rikosasioissa Syyttäjä nostaa syytteen toimittamalla kirjallisen haastehakemuksen käräjäoikeuden kansliaan. Tuomioistuin voi määrätä siinä laajuudessa kuin se katsoo aiheelliseksi, että syyttäjä saa nostaa syytteen antamalla haasteen itse. Syyttäjä saa kuitenkin aina itse nostaa syytteen, jos asia on tarkoitus käsitellä 5 a luvun mukaisessa kirjallisessa menettelyssä. (31.3.2006/243) Rikosasia tulee vireille, kun haastehakemus saapuu kansliaan tai, jos syyttäjä antaa haasteen, kun haaste annetaan tiedoksi.

This situation can thus easily be avoided and should not happen more than once e.g., through a communication failure: **9**

Criminal Procedure Act **10**

Chapter 5a Resolving the case without delivering the main hearing

Qualifications

Section 1[142]

The case can be resolved without submitting the main hearing (written procedure) if:

1) for any single crime referred to in the prosecutor's indictment, if committed under the circumstances mentioned in the indictment, a harsher punishment than a fine or imprisonment for a maximum of two years has not been prescribed;

2) the defendant acknowledges the act described in the prosecutor's indictment, and by giving an explicit notification to the district court, waives his right to an oral hearing and agrees to resolve the case in a written procedure;

3) the defendant was of legal age when committing the act;

4) the interested party has stated in the preliminary investigation that he has no claims in the case, or agrees to the handling of the case in a written procedure; and

5) delivery of the main hearing is unnecessary considering the settled state of the case as a whole.

In the written procedure, the penalty cannot be more severe than nine months of imprisonment. **11**

[142] 5 a luku (31.3.2006/243) Asian ratkaiseminen pääkäsittelyä toimittamatta Edellytykset 1 § (31.3.2006/243) Laki oikeudenkäynnistä rikosasioissa Asia voidaan ratkaista pääkäsittelyä toimittamatta (kirjallinen menettely), jos: 1) mistään syyttäjän syytteessä tarkoitetusta yksittäisestä rikoksesta ei syytteessä mainittujen seikkojen vallitessa tehtynä ole säädetty ankarampaa rangaistusta kuin sakko tai vankeutta enintään kaksi vuotta; (13.5.2011/455) 2) vastaaja tunnustaa syyttäjän syytteessä kuvatun teon sekä käräjäoikeudelle antamallaan nimenomaisella ilmoituksella luopuu oikeudestaan suulliseen käsittelyyn ja suostuu asian ratkaisemiseen kirjallisessa menettelyssä; (13.5.2011/455) 3) vastaaja on teon tehdessään ollut täysi-ikäinen;
4) asianomistaja on ilmoittanut esitutkinnassa, ettei hänellä ole vaatimuksia asiassa, tai suostuu asian käsittelyyn kirjallisessa menettelyssä; ja (1.6.2018/423) 5) pääkäsittelyn toimittaminen on asian selvitettyyn tilaan nähden myös kokonaisuutena arvioiden tarpeetonta. Kirjallisessa menettelyssä rangaistukseksi ei voida tuomita ankarampaa rangaistusta kuin yhdeksän kuukautta vankeutta.

Chapter 8 Investigating and resolving a criminal case despite the defendant's absence

Section 11[143]

Notwithstanding what is stipulated in Section 3, the matter can be investigated and decided despite the absence of the defendant, if his presence is not necessary to settle the matter and he has been summoned to the court under such a threat. In this case, a misdemeanor fine, a fine or a maximum of three months' imprisonment and a forfeiture penalty of a maximum of 10,000 euros can be imposed.

If the defendant has been sentenced pursuant to subsection 1 to a penalty or a forfeiture penalty, but he has had a legal obstacle that he has not been able to notify in time, the defendant has the right to have the case heard again by notifying the court within 30 days after he has received evidence of the penalty, or from the penalty of forfeiture. If the defendant does not prove a legal obstacle, the case will not be accepted for investigation.

The defendant's absence does not prevent the dismissal of the indictment or other claims

Section 12[144]

Notwithstanding the provisions of Section 3, the case may be investigated and resolved with the consent of the defendant, despite his absence, if he has been summoned to the court under such a threat and his presence is not necessary to settle the case. In that case, no harsher punishment than nine months' imprisonment can be imposed.

ee. Abatement of action (dispense with prosecution)

12 The Public Prosecutor's Office Act (*Laki Syyttäjälaitoksesta*) does normally not apply if the Regulation applies but if a national authority has handled a case that the EPPO could or could have evocated, the national prosection office might have taken an abatement of action e.g., a dispense with prosecution so that this Act becomes relevant to determine the scope of the dispense with prosecution (what kind of charges? What kind of conduct? Is there still room for the EPPO to act e.g. in case of another offence?):

[143] Rikosasian tutkiminen ja ratkaiseminen vastaajan poissaolosta huolimatta 11 § (26.10.2001/894) Laki oikeudenkäynnistä rikosasioissa Sen estämättä, mitä 3 §:ssä säädetään, asia voidaan tutkia ja ratkaista vastaajan poissaolosta huolimatta, jos hänen läsnäolonsa asian selvittämiseksi ei ole tarpeen ja hänet on sellaisella uhalla kutsuttu tuomioistuimeen. Tällöin voidaan tuomita rikesakko, sakkorangaistus tai enintään kolmen kuukauden vankeusrangaistus ja enintään 10 000 euron suuruinen menettämisseuraamus. (1.6.2018/423)
Jos vastaaja on tuomittu 1 momentin nojalla rangaistukseen tai menettämisseuraamukseen, mutta hänellä on ollut laillinen este, jota hän ei ole voinut ajoissa ilmoittaa, vastaajalla on oikeus saattaa asia käsiteltäväksi uudelleen ilmoittamalla siitä tuomioistuimelle 30 päivän kuluessa siitä, kun hän on todisteellisesti saanut tiedon tuomitusta rangaistuksesta tai menettämisseuraamuksesta. Jos vastaaja ei näytä toteen laillista estettä, asiaa ei oteta tutkittavaksi. Vastaajan poissaolo ei estä syytteen eikä muiden vaatimusten hylkäämistä.

[144] 12 § (1.6.2018/423) Laki oikeudenkäynnistä rikosasioissa Sen estämättä, mitä 3 §:ssä säädetään, asia voidaan tutkia ja ratkaista vastaajan suostumuksella hänen poissaolostaan huolimatta, jos hänet on sellaisella uhalla kutsuttu tuomioistuimeen ja hänen läsnäolonsa asian selvittämiseksi ei ole tarpeen. Rangaistukseksi ei tällöin voida tuomita ankarampaa rangaistusta kuin yhdeksän kuukautta vankeutta.

b) Competent national authorities in paras 3 to 7 of Art. 27

Section 8 Finnish Act for the Execution of the European Public Prosecutor's Office Consultation of national authorities
See above → Sources of law and Institutions.

c) Provisions regarding the finalisation of the national investigation, para 7

The Criminal Procedure Act states the following in Chapter 5 (Prosecution): **13**

Section 12 CPA[145] **Transferring the case to the main hearing**
The case must be assigned to the main hearing without delay, once the preparation has been submitted.
The case must be assigned directly to the main hearing, if requesting a written answer or oral preparation is considered unnecessary.

Chapter 7 of the Finish CPC details the roles and responsibilities of the parties involved, the presentation of evidence, and the decision-making process. These provisions apply for finalising national investigations, as they ensure that cases are handled efficiently and justly during the main hearing phase. **14**

Nota bene: If Art. 27 EPPO Regulation is completed or exercised the same rules as presented above under "Actions if decision to open a case", above → Art. 26 EPPO Regulation shall apply.

[145] Asian siirtäminen pääkäsittelyyn
12 § Laki oikeudenkäynnistä rikosasioissa
Asia on viipymättä määrättävä pääkäsittelyyn, kun valmistelu on toimitettu.
Asia on määrättävä suoraan pääkäsittelyyn, jos kirjallisen vastauksen pyytämistä tai suullista valmistelua pidetään tarpeettomana.

3. Article 28 Conducting the investigation

a) The handling EDP conducting the investigative measures, para 1 132
b) Instructions and assignment of investigative measures for "those national authorities" 133
aa. Criminal and judicial police area 133
bb. Tax area 137
cc. Customs area 138
dd. Visualisation of Instructions and Assignment of Investigative Measures for "those national authorities" 142
c) Ensuring compliance with national law 144
aa. via the general investigation provisions 144
bb. Via national administrative decrees under criminal procedural law 148
d) Urgent measures in accordance with national law necessary to ensure effective investigations 148
e) Duration of the court processing 149

1. The European Delegated Prosecutor handling a case may, in accordance with this Regulation **and with national law**, either undertake the investigation measures and other measures on his/her own or instruct the competent authorities in his/her Member State. Those authorities shall, **in accordance with national law**, ensure that all instructions are followed and undertake the measures assigned to them. The handling European Delegated Prosecutor shall report through the case management system to the competent European Prosecutor and to the Permanent Chamber any significant developments in the case, in accordance with the rules laid down in the internal rules of procedure of the EPPO.
2. At any time during the investigations conducted by the EPPO, the competent national authorities shall take urgent measures **in accordance with national law** necessary to ensure effective investigations even where not specifically acting under an instruction given by the handling European Delegated Prosecutor. The national authorities shall without undue delay inform the handling European Delegated Prosecutor of the urgent measures they have taken.
3. The competent Permanent Chamber may, on proposal of the supervising European Prosecutor decide to reallocate a case to another European Delegated Prosecutor in the same Member State when the handling European Delegated Prosecutor:
(a) cannot perform the investigation or prosecution; or
(b) fails to follow the instructions of the competent Permanent Chamber or the European Prosecutor.

4. In exceptional cases, after having obtained the approval of the competent Permanent Chamber, the supervising European Prosecutor may take a reasoned decision to conduct the investigation personally, either by undertaking personally the investigation measures and other measures or by instructing the competent authorities in his/her Member State, where this appears to be indispensable in the interest of the efficiency to the investigation or prosecution by reasons of one or more of the following criteria:
(a) the seriousness of the offence, in particular in view of its possible repercussions at Union level;
(b) when the investigation concerns officials or other servants of the Union or members of the institutions of the Union;
(c) in the event of failure of the reallocation mechanism provided for in paragraph 3.
In such exceptional circumstances Member States shall ensure that the European Prosecutor is entitled to order or request investigative measures and other measures and that he/she has all the powers, responsibilities and obligations of a European Delegated Prosecutor in accordance with this Regulation and national law.
The competent national authorities and the European Delegated Prosecutors concerned by the case shall be informed without undue delay of the decision taken under this paragraph.

As part of the opening introduction to Art. 28 EPPO Regulation in this compendium, which is relevant to all EDPs and also affects the academic and political debate about specialised investigative personnel, the following can be said: The conduct of investigations is dependent on **instruction relationships** between prosecutors and subsequent authorities, whereby in contrast to the dependency in classically national systems, in the area of EU anti-fraud investigations the EPPO (i.e. the college level) has **supervisory powers** as it is a supranational, independent body. **1**

In her speech for the first anniversary of the EPPO, given at the conference "EPPO one year in action – Towards Resolving Complexity and Bringing Added Value"[146] in the *Hémicylce* in Luxembourg on 1st June 2022, Laura Kövesi outlined that in order to enhance the detection rates of EU fraud specialized customs units and specialized financial experts, groups of specialized EU investigators educated in the typologies of EU frauds are needed to enhance the conduct of investigations. She underlined that these special units could be set up tomorrow and that doing so depended only on political will.[147] **2**

[146] Organised by the University of Luxembourg (Prof. Katalin Ligeti), ECLAN and the EPPO.
[147] EPPO 2023, European Public Prosecutor's Office One Year In Action, https://www.youtube.com/watch?v=v2oUUyTEPFU (Accessed 31 December 2024); Laura Kövesi, So kommt die EU im Kampf gegen Verbrecherbanden in die Offensive, Die Welt (Welt am Sonntag), Stand: 05.06.2022, https://bit.ly/4eOJFbL (Accessed 31 December 2024): "Ich fordere deshalb alle zuständigen nationalen Behörden auf, diese bewährte Praxis zu übernehmen und zur Unterstützung unserer Ermittlungen spezialisierte Einheiten einzurichten, die Finanz-,

3 As long as there are no special units in all countries as the first European Chief Prosecutor requested, the detection rates for fraud and other PIF offences depend on the frequency, the actual conduct of investigations and the cooperation with established – e.g. in Italy more than 100 years old structures in the area of tax investigations – national authorities – especially the assignment and instruction of investigative tasks to "those national authorities" are important as the often investiagate and send **progress reports**. The situation in the present country chapter will be analysed below, stating the cooperation level and important actions to be taken.

4 The investigations on national level and at Union-level must be distinguished. Especially at the Union level, the investigation is different than at the national level. In some cases, investigations will be conducted within Union institutions (EU IBOAs). The EPPO has started to set up **working arrangements** for this type of investigation. For example, the one with the European Investment Bank provides for cooperation with the in-house fraud detection service ("a kind of internal investigation commission"). In the following we shall focus on the national investigations level regarding Finland.

5 For the different PIF offences, the specific country system provides different in-vestigative bodies acting by virtue of different national codes such as the General Tax Act, the police laws and the customs laws including the customs administration laws. It depends, for the analysis of Art. 28 EPPO Regulation, on whether a centrally governed country of the EU is affected or whether there is a federal system with differentiated competences of the federal units.

6 In addition, the **lawfulness of the action** is particularly important as a generalisation of all instructions from the staff, which are made available to the EPPO and the EDPs from the national resource area.

a) The handling EDP conducting the investigative measures, para 1

7 Under Article 28 of the EPPO Regulation, the handling EDP conducts investigations through several key steps: initiating investigations based on evidence of a crime affecting the financial interests of the EU; gathering evidence by questioning witnesses, collecting documents, and conducting searches; coordinating with national authorities to ensure compliance with EU and national laws; making decisions about the continuation of the investigation and potential charges; and reporting findings to the European Public Prosecutor.

Steuer- und Zollfahnder vereinen. Ich schlage vor, dass wir eine Elitetruppe hoch qualifizierter Finanzbetrugsermittler innerhalb der EU bilden, die über die EPPO länderübergreifend arbeitet. Dafür muss man kein Gesetz ändern; es ist eine reine Organisationsentscheidung der zuständigen nationalen Behörden. Es kann schon morgen geschehen." This statement was republished by various newspapers and journals across Europe (see eg Figaro article in the French country chapter).

b) Instructions and assignment of investigative measures for "those national authorities"

List 1: Instructed and assigned national authorities **8**

Instructed and assigned National authorities (list):
- Police - Prosecutor - Customs - Border Guard - Military Police

aa. Criminal and judicial police area

The preliminary investigation is mainly carried out by the police (cf. Section 1 Chapter 2 Pre-Trial Investigation Act). The Finnish prosecutor heads investigations only in specific cases involving police officers who have committed a crime relating to their official duties (Subsection 1 Section 4 Chapter 2 Pre-Trial Investigation Act). Other investigative authorities involved can be the Border Guard, Customs and military authorities (Subsection 2 Section 1 Chapter 2 Pre-Trial Investigation Act). **9**

Averagely, the Finnish Police investigate 1,800 cases of economic crime per year.[148] Those are mainly investigated by the regional police departments while they cooperate with other national and international authorities.[149] **10**

The Finnish Public Prosecutor has the task to enforce criminal liability,[150] and therefore is in principle not a criminal investigation authority. Rather, the prosecutor participates in the criminal investigation (Subsection 3 Section 1 Chapter 2 of the Criminal Investigation Act). Especially the ss. 2 and 3 of Chapter 5 in the Pre-Trial Investigations Act rule the cooperation between the criminal investigation authority (usually the police) and the prosecutor. The prosecutor only directs an investigation in case of the above-mentioned exception (Section 4 Chapter 2 Pre-Trial Investigation Act). **11**

The prosecutor is nevertheless involved in the pre-trial investigations of economic crime and makes the decisions on indictment and the existence of probable grounds for crimes such as tax offences, corruption offences, fraud and money laundering.[151] De facto, the role of the prosecutor in (difficult) economic crime investigations is assumed to be stronger, though the main principle stays the same: pre-trial investigations are normally **12**

[148] Official website of the Grey Economy and Economic Crime, "Authorities", see https://www.vero.fi/en/grey-economy-crime/about-this-website/authorities/. Accessed 31 December 2024.
[149] Official website of the Grey Economy and Economic Crime, "Authorities", see https://www.vero.fi/en/grey-economy-crime/about-this-website/authorities/. Accessed 31 December 2024.
[150] Official website of the Grey Economy and Economic Crime, "Authorities", see https://www.vero.fi/en/grey-economy-crime/about-this-website/authorities/. Accessed 31 December 2024.
[151] Official website of the Grey Economy and Economic Crime, "Authorities", see https://www.vero.fi/en/grey-economy-crime/about-this-website/authorities/. Accessed 31 December 2024.

led by senior police officers, neither by prosecutors nor judges (see above → Introduction by the National Expert, mn. 10).

13 *Raimo Lahti* explains the situation in relation to the **jurisdiction of the EPPO**.[152] The change that has been in progress for the role of the prosecutor in the EPPO context can be seen in the Finnish EPPO Act No. 66/2021 (e.g. sections 2, 5) and the amendments[153] made to the Finnish procedural laws. The following note by our national expert should be taken into consideration:

As *Petri Freundlich* et al. explain[154], the Legislative Committee of the Parliament was, however, emphasizing that there would be no real conflict between the prosecutor and investigative powers of the police. Nevertheless, a new subsection was added to Section 1 of Chapter 5 of the Criminal Investigation Act as a supplement to the provisions of Article 24 of the EPPO Regulation reporting a criminal case under the jurisdiction of the EPPO. It should be noted that in the travaux préparatoires of the Finnish EPPO Act (Government Bill 184/2020) the relationship of the EPPO to the Finnish Constitution was discussed. The criminal jurisdiction which was given to a supranational authority, EPPO, was as such regarded as being contrary to the constitutional principles, but when Finland had ratified the Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union (including Article 86 of the last-mentioned Treaty) in a qualified procedure, there was now not a new colliding problem from the point of view of the Finnish Constitution.

[152] See above → Introduction by the National Expert, mn. 19 et seq.
[153] See the original proposals in the Government Bill 184/2020 (Hallituksen esitys eduskunnalle laiksi Suomen osallistumisesta Euroopan syyttäjänviraston (EPPO) toimintaan sekä siihen liittyviksi laeiksi, HE 184/2020), p. 7.
[154] See Freundlich et al. 2020, p. 167.

Police Investigation Authorities 1: National Provisions

	Finnish Act for the Execution of the European Public Prosecutor's Office / Laki Suomen osallistumisesta Euroopan syyttäjänviraston (EPPO) toimintaan

Section 5 Powers of the European Public Prosecutor and the European Public Prosecutor

See above → Sources of law, National laws – lex specialis: Laki Suomen osallistumisesta Euroopan syyt-täjänviraston (EPPO) toimintaan – Finnish Act for the Execution of the European Public Prosecutor's Office.

Section 6 Acting as a national prosecutor by the accredited European Public Prosecutor

See above → Sources of law.

	Pre-Trial Investigation Act

Chapter 2 Those involved in the preliminary investigation

Section 1[155]

Authorities under investigation

The preliminary investigation is carried out by police other than the protection police. In addition to the police, preliminary investigation authorities include the border guard, customs and military authorities. Their preliminary investigation jurisdiction is regulated in the law on crime prevention in the Border Guard (108/2018), in the Customs Crime Prevention Act (623/2015) and in the law on military discipline and crime prevention in the defense forces (255/2014).

In addition to the preliminary investigation authorities, the prosecutor participates in the preliminary investigation.

[155] 2 luku Esitutkintaan osalliset
1 § Laki oikeudenkäynnistä rikosasioissa – Viranomaiset esitutkinnassa
Esitutkinnan toimittaa muu poliisi kuin suojelupoliisi. (26.4.2019/585)
Poliisin lisäksi esitutkintaviranomaisia ovat rajavartio-, tulli- ja sotilasviranomaiset. Niiden esitutkintatoimivallasta säädetään rikostorjunnasta Rajavartiolaitoksessa annetussa laissa (108/2018), rikostorjunnasta Tullissa annetussa laissa (623/2015) ja sotilaskurinpidosta ja rikostorjunnasta puolustusvoimissa annetussa laissa (255/2014). (30.1.2018/113)
Esitutkintaviranomaisten lisäksi esitutkintaan osallistuu syyttäjä.

Section 2[156]
Director of investigations
The preliminary investigation is led by the director of investigations, who is an official authorised to arrest referred to in chapter 2, section 9 of the Coercive Measures Act (806/2011).

However, the prosecutor acts as the head of the investigation only in the cases referred to in subsection 1 of section 4.

In a preliminary investigation conducted by the police, a criminal police constable or chief constable may act as the head of the investigation for reasons related to the quality of the case or for other similar justified reasons, and in a preliminary investigation conducted by another authority, an official whose right to act as the head of the investigation is provided for separately in the law.

The general director of the investigation can be appointed as the supervisor of the chief investigators of crimes belonging to the same criminal entity, who decides on the coordination of the preliminary investigation and, for that purpose, can issue orders regarding the chief investigators working under him.

Section 3[157]
Investigator
Under the direction and supervision of the head of the investigation, the investigator conducts interrogations and other pre-investigation measures regarding the suspected crime, and implements the orders given by the head of the investigation regarding the investigation of the case and performs other measures that belong to the investigator according to the law.

[156] 2 § Laki oikeudenkäynnistä rikosasioissa Tutkinnanjohtaja Esitutkintaa johtaa tutkinnanjohtaja, jona toimii pakkokeinolain (806/2011) 2 luvun 9 §:ssä tarkoitettu pidättämiseen oikeutettu virkamies. Syyttäjä toimii tutkinnanjohtajana kuitenkin vain 4 §:n 1 momentissa tarkoitetuissa tapauksissa. Poliisin toimittamassa esitutkinnassa saa rikosylikonstaapeli tai ylikonstaapeli toimia tutkinnanjohtajana asian laatuun liittyvästä tai muusta vastaavasta perustellusta syystä ja muun viranomaisen toimittamassa esitutkinnassa virkamies, jonka oikeudesta toimia tutkinnanjohtajana säädetään laissa erikseen.
Samaan rikoskokonaisuuteen kuuluvien rikosten tutkinnanjohtajien esimieheksi voidaan määrätä tutkinnan yleisjohtaja, joka päättää esitutkinnan yhteensovittamisesta ja joka voi tuossa tarkoituksessa antaa alaisenaan toimivia tutkinnanjohtajia koskevia määräyksiä.
[157] 3 § Laki oikeudenkäynnistä rikosasioissa
Tutkija Tutkija suorittaa tutkinnanjohtajan johdon ja valvonnan alaisena epäiltyä rikosta koskevat kuulustelut ja muut esitutkinta-toimenpiteet sekä toteuttaa tutkinnanjohtajan antamat asian tutkintaa koskevat määräykset ja suorittaa muut tutkijalle lain mukaan kuuluvat toimenpiteet.

Section 4[158]
Special investigation arrangements
The prosecutor leads the preliminary investigation if a policeman is suspected of having committed a crime in connection with the performance of official duties. Even if the crime suspected to have been committed by a policeman was not committed in connection with the performance of official duties, the prosecutor can, if the seriousness of the crime or the quality of the case otherwise requires it, decide to become the head of the investigation. In the cases referred to above, the prosecutor can lead a preliminary investigation also to the extent that there is another suspect in the case in addition to the policeman, if it is appropriate for the investigation of the case. The prosecutor does not act as the head of the investigation if the matter is dealt with in the procedure stipulated in the Act on the imposition of fines and misdemeanor fines (754/2010).
When acting as the head of the investigation, the prosecutor has the same powers in that role as a police officer acting as the head of the investigation.

A crime suspected to have been committed by a police officer is always investigated in a police unit other than his place of business, if the matter is not dealt with in the procedure stipulated in the law on the imposition of fines and misdemeanor fines. Otherwise, if necessary, the police unit investigating the crime should be ordered so that trust in the impartiality of the preliminary investigation is not jeopardized.

bb. Tax area

Most of the cases of economic crime investigated by the police (see above → Criminal and judicial police area) are reported by the Finnish Tax Administration.[159] The potential offences are discovered during tax audits.[160] **14**

[158] 4 § (18.11.2016/988) Laki oikeudenkäynnistä rikosasioissa Erityiset tutkintajärjestelyt Syyttäjä johtaa esitutkintaa, jos poliisimiehen epäillään tehneen rikoksen virkatehtävän suorittamisen yhteydessä. Vaikka poliisimiehen tekemäksi epäiltyä rikosta ei ole tehty virkatehtävien suorittamisen yhteydessä, syyttäjä voi rikoksen vakavuuden tai asian laadun sitä muuten edellyttäessä päättää ryhtymisestään tutkinnanjohtajaksi. Syyttäjä voi edellä tarkoitetuissa tapauksissa johtaa esitutkintaa myös siltä osin kuin asiassa on poliisimiehen lisäksi muu epäilty, jos se on asian selvittämiseksi tarkoituksenmukaista. Syyttäjä ei toimi tutkinnanjohtajana, jos asia käsitellään sakon ja rikesakon määräämisestä annetussa laissa (754/2010) säädetyssä menettelyssä.
Tutkinnanjohtajana toimiessaan syyttäjällä on tuossa tehtävässään samat toimivaltuudet kuin tutkinnanjohtajana toimivalla päällystöön kuuluvalla poliisimiehellä.
Poliisimiehen tekemäksi epäilty rikos tutkitaan aina muussa kuin hänen toimipaikkansa poliisiyksikössä, jos asiaa ei käsitellä sakon ja rikesakon määräämisestä annetussa laissa säädetyssä menettelyssä. Muutenkin rikoksen tutkiva poliisiyksikkö tulee tarvittaessa määrätä niin, ettei luottamus esitutkinnan puolueettomuuteen vaarannu.

Tax Investigation authorities 1

	Act on Taxation Procedure

Chapter 9 Penalty provisions
Section 86[161] **Tax evasion**
The penalty for illegal tax evasion and attempted tax evasion is stipulated in Chapter 29 Sections 1–3 of the Criminal Code (39/1889).
If the crime mentioned in subsection 1 is minor, taking into account the amount of tax and other circumstances, the tax authority, taking into account any tax increase that may have been imposed, may not report the case to the prosecutor.

cc. Customs area

15 Customs authorities are one of the main actors of the economic crime investigations especially in regard to internationally organised, cross-border economic crime.[162]

Customs Investigation Authorities 1

	Pre-Trial Investigation Act

Chapter 2 Those involved in the preliminary investigation
Section 1[163] **Authorities under investigation**
The preliminary investigation is carried out by a police other than the protection police. (26.4.2019/585)
In addition to the police, preliminary investigation authorities include the border guard, customs, and military authorities. Their preliminary investigation jurisdiction is regulated in the law on crime prevention in the Border Guard (108/2018), in the Customs Crime Prevention Act (623/2015) and in the law on military discipline and crime prevention in the defense forces (255/2014).
In addition to the preliminary investigation authorities, the prosecutor participates in the preliminary investigation.

[161] 9 luku Rangaistussäännökset 86 § Laki verotusmenettelystä "Veropetos" Rangaistus veron lainvastaisesta välttämisestä ja sen yrittämisestä säädetään rikoslain (39/1889) 29 luvun 1–3 §:ssä. (8.11.2013/784) Jos 1 momentissa mainittu rikos on veron määrä ja muut olosuhteet huomioon ottaen vähäinen, voi veroviranomainen, ottaen huomioon myös mahdollisesti määrätyn veronkorotuksen, jättää ilmoittamatta asian syyttäjälle.
[162] Official website of the Grey economy and economic crime, "Authorities", see https://www.vero.fi/en/grey-economy-crime/about-this-website/authorities/. Accessed 31 December 2024.
[163] 1 § Laki oikeudenkäynnistä rikosasioissa Viranomaiset esitutkinnassa Esitutkinnan toimittaa muu poliisi kuin suojelupoliisi. (26.4.2019/585) Poliisin lisäksi esitutkintaviranomaisia ovat rajavartio-, tulli- ja sotilasviranomaiset. Niiden esitutkintatoimivallasta säädetään rikostorjunnasta Rajavartiolaitoksessa annetussa laissa (108/2018), rikostorjunnasta Tullissa annetussa laissa (623/2015) ja sotilaskurinpidosta ja rikostorjunnasta puolustusvoimissa annetussa laissa (255/2014). (30.1.2018/113)
Esitutkintaviranomaisten lisäksi esitutkintaan osallistuu syyttäjä.

Customs Crime Prevention Act

Chapter 1 General Provisions

Section 4 Duties and powers of the Customs Crime Prevention customs officer

In addition to what is stipulated in this law, the duties, powers and obligations of the customs officer for the prevention of customs crime are stipulated in the Customs Act and the Act on Customs Administration (960/2012).

In a preliminary investigation conducted by Customs, a customs officer from Customs Crime Prevention has the same right to take investigative measures in accordance with the Pre-Trial Investigation Act and use coercive measures in accordance with the Coercive Measures Act as a police officer in a preliminary investigation conducted by a police authority, unless otherwise stipulated in this Act or another law.

Chapter 2 Customs' powers in the fight against customs crime

Section 1 Customs crime preliminary investigation

The preliminary investigation of the customs criminal case is carried out by the Customs. The preliminary investigation can also be carried out by the police in the event that it has become aware of a customs crime and the said authorities do not agree otherwise. The right of the Border Guard to conduct a preliminary investigation of a customs criminal case is regulated in Sections 3, 5 and 8 of the Act (108/2018) on crime prevention in the Border Guard.

Section 4 Director of investigations

In the preliminary investigation conducted by the Customs, the head of the investigation is a Customs official entitled to arrest as referred to in Chapter 2, Section 9, Subsection 1, Clause 2 of the Coercive Measures Act. Another customs officer working in customs crime prevention duties may, based on the order he received, lead an investigation for quality-related or other similar justified reasons.

[See above for the original texts → Article 26, Initiation of Investigations by virtue of Art. 26 para 1 EPPO Regulation].

Customs Act

Chapter 15 Different provisions

Section 100[164] **Official assistance provided by Customs**

In addition to what is stipulated elsewhere in the law, Customs may, within the limits of its powers, provide official assistance to another authority on request in order to carry out its supervisory obligation stipulated in the law. The condition for granting official assistance is that it can take place without jeopardizing the performance of other important tasks prescribed for Customs.

The decision to grant official assistance is made by the head of the Customs unit responsible for performing the official assistance task referred to in the Act on Customs Administration (960/2012) or the head of the operational unit responsible for performing the official assistance task. The customs officer authorised to make the arrest decides on the granting of official assistance regarding the preliminary investigation or coercive measures.

Section 101[165] **Official assistance given to customs**

In order to perform the task belonging to Customs, the authority must provide such necessary official assistance that the relevant authority is competent to provide. Assistance to Customs is also regulated in the law on cooperation between the police, Customs and the Border Guard (687/2009).

The decision to request official assistance is made by the head of the Customs unit referred to in the Act on the Administration of Customs in need of official assistance,

[164] 15 luku
Erinäiset säännökset
100 § *Tullilaki*
Tullin antama virka-apu
Sen lisäksi, mitä muualla laissa säädetään, Tulli voi toimivaltuuksiensa rajoissa antaa pyynnöstä virka-apua toiselle viranomaiselle sen laissa säädetyn valvontavelvollisuuden toteuttamiseksi. Virka-avun antamisen edellytyksenä on, että se voi tapahtua vaarantamatta Tullille säädettyjen muiden tärkeiden tehtävien suorittamista.
Päätöksen virka-avun antamisesta tekee Tullissa virka-aputehtävän suorittamisesta vastaavan Tullin hallinnosta annetussa laissa (960/2012) tarkoitetun Tullin yksikön päällikkö tai virka-aputehtävän suorittamisesta vastaavan toimintayksikön päällikkö. Esitutkintaa tai pakkokeinoja koskevan virka-avun antamisesta päättää pidättämiseen oikeutettu tullimies.

[165] 101 § *Tullilaki* Tullille annettava virka-apu Viranomaisen on annettava Tullille kuuluvan tehtävän suorittamiseksi sellaista tarpeellista virka-apua, jonka antamiseen asianomainen viranomainen on toimivaltainen. Tullille annettavasta avusta säädetään myös poliisin, Tullin ja rajavartiolaitoksen yhteistoiminnasta annetussa laissa (687/2009).
Päätöksen virka-avun pyytämisestä tekee virka-apua tarvitsevan Tullin hallinnosta annetussa laissa tarkoitetun Tullin yksikön päällikkö tai virka-apua tarvitsevan toimintayksikön päällikkö. Esitutkintaa tai pakkokeinoja koskevan virka-avun pyytämisestä päättää tutkinnanjohtaja.

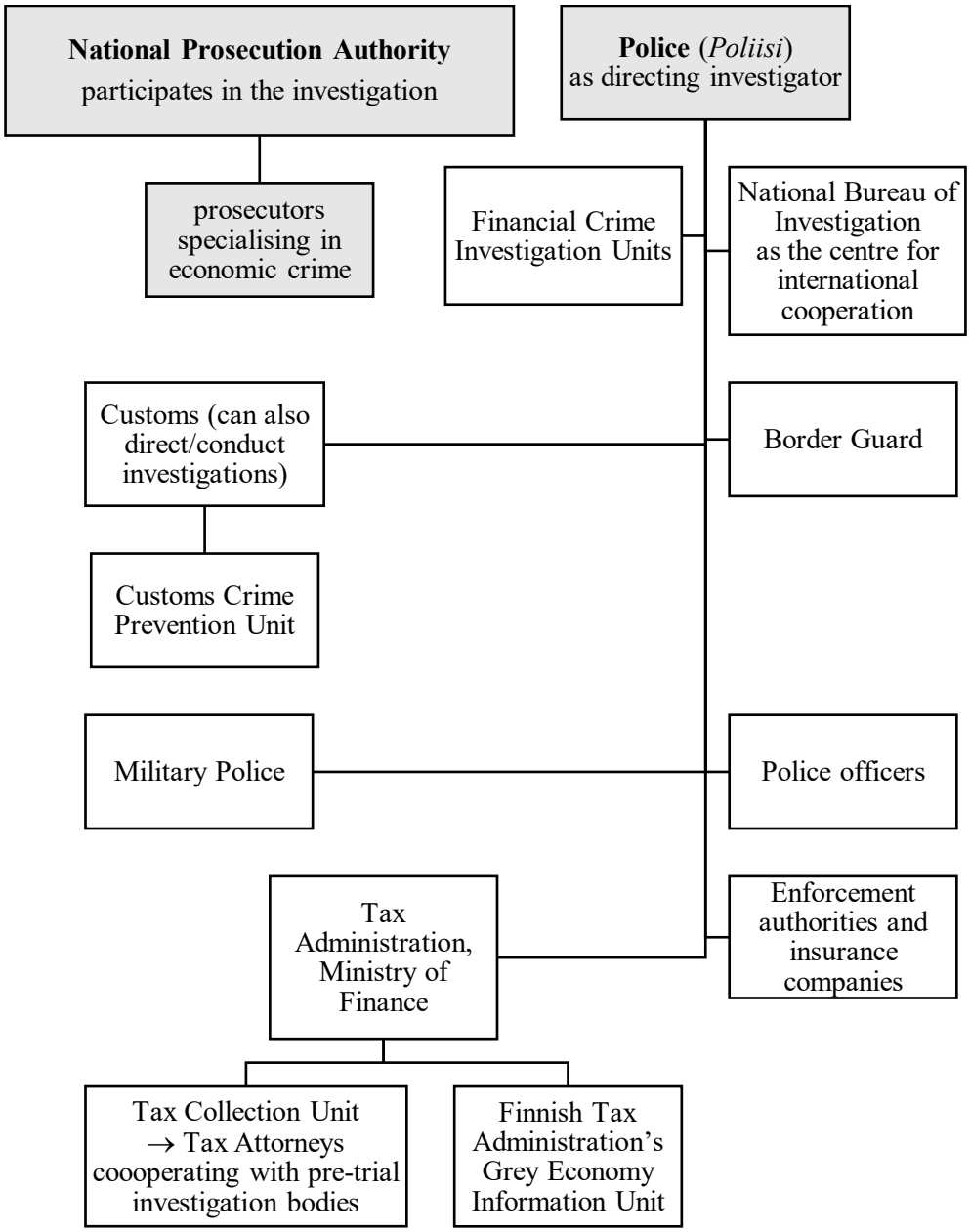
or the head of the operational unit in need of official assistance. The head of the investigation decides on the request for official assistance regarding the preliminary investigation or coercive measures.

As seen above, the EDPs can be assisted by Finnish authorities, especially customs-related authorities, during the preliminary investigation phase; under Chapter 2, Section 1 of the Customs Crime Prevention Act, Finish Customs has the authority to lead investigations related to customs crimes. Customs has investigative powers under the Customs Crime Prevention Act and can lead investigations into customs-related crimes (e.g., smuggling or VAT fraud). According to Section 4 of Chapter 2 of the Customs Crime Prevention Act, the head of an investigation conducted by Customs must be a Customs official authorised to make arrests. **16**

This ensures that investigations are led by experienced personnel who are authorised to act decisively. And if the police become aware of such crimes, they may also conduct investigations unless another agreement is reached between the authorities. Section 100 of the Customs Act allows Customs to provide official assistance to other authorities, including the police or prosecutors, for investigations or other supervisory obligations. This provision emphasises that Customs can actively assist the EPPO in its investigations when requested, if it does not compromise its duties. **17**

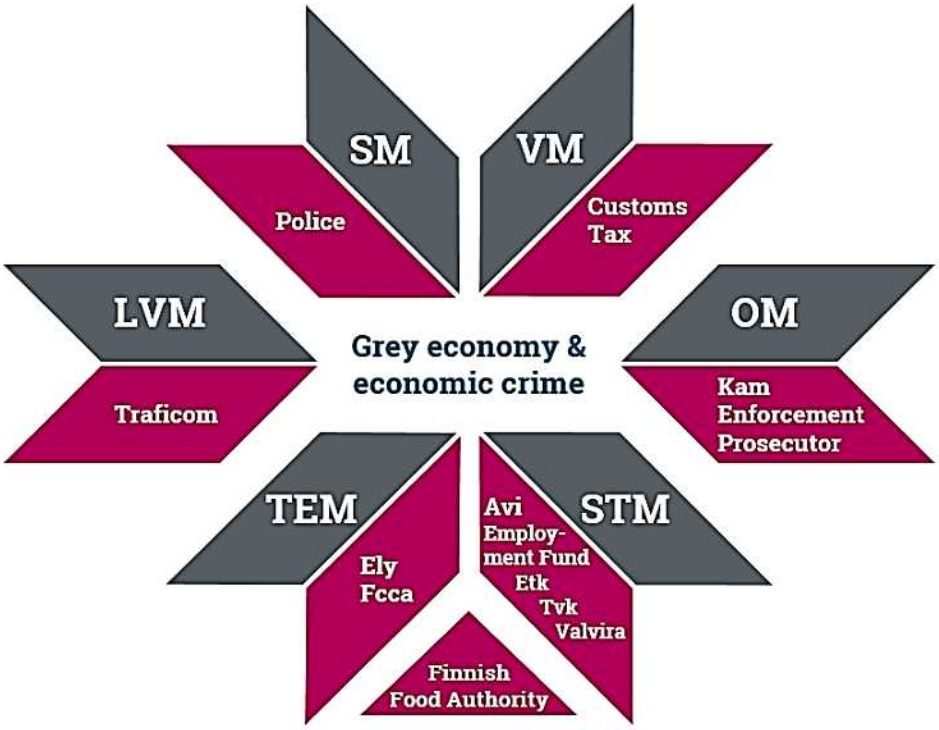
dd. Visualisation of Instructions and Assignment of Investigative Measures for "those national authorities"

18 *Figure 11: Visualisation of "those nationale authorities" in the context of Art. 28 EPPO Reg.*



Source: Official website of the Poliisi, see https://poliisi.fi/en/international-cooperation and https://poliisi.fi/en/financial-crimes, Accessed 31 December 2024; Official website on "Grey economy and economic crime", https://www.vero.fi/en/grey-economy-crime/. Accessed 31 December 2024.

Figure 12: Finnish authorities operating in relation to shadow economy and economic crime **19**



Source: https://www.vero.fi/en/grey-economy-crime/about-this-website/authorities/. Accessed 31 December 2024.

In Finland, **combating the shadow economy** and financial crimes including offenses detrimental to the EU's financial interests (PIF crimes) involves multiple authorities working in coordination: Finnish Customs (*Tulli*) monitors cross-border trade, preventing smuggling, customs fraud and VAT evasion. The police (*Poliisi*) investigate financial crimes including fraud and enforces criminal law. **20**

The LVM (Ministry of Transport and Communications) oversees sectors susceptible to financial irregularities, ensuring compliance in transport and communications. The OM (Ministry of Justice) is responsible for legal frameworks, ensuring the prosecution of financial crimes, whereas the STM (Ministry of Social Affairs and Health) supervises sectors like social security and health-related financial systems, targeting misuse of EU funds. The TEM (Ministry of Economic Affairs and Employment) focuses on labor market compliance and business subsidies, addressing misuse of EU funds. The Traficom ensures compliance in transport and communication infrastructure, monitoring tax and financial irregularities. Finally, the SM (Ministry of the Interior) coordinates internal security, including the prevention of organized crime linked to the shadow economy. **21**

c) Ensuring compliance with national law

aa. via the general investigation provisions

22 According to Subsection 1 Section 2 Chapter 5 of the Pre-Trial Investigation Act the public prosecutor has the power to request a pre-trial investigation or the conduct of an investigative measure. The pre-trial investigation authority must comply with the prosecutor's orders.

23 According to Section 3 of Chapter 5 Pre-Trial Investigation Act there is a duty to cooperate between the investigation authority and the public prosecutor. The criminal investigation authority shall notify the public prosecutor of the conducting of a criminal investigation and of circumstances connected with criminal investigation measures and of the progress in the investigation as well as discuss the case with the prosecutor.

24 As such, the **Government Bill 184/2020** on the introduction of the EPPO Act has ruled out the possibility that the national provisions could conflict with the Regulation:

> "The responsibility for carrying out the measures referred to in Article 30(1) and (4) of the Regulation lies with the pre-trial investigation authorities under national law on coercive measures. According to Chapter 5, Section 2 of the Pre-Trial Investigation Act, the pre-trial investigation authority must, at the request of the prosecutor, conduct a pre-trial investigation or carry out a pre-trial investigation measure. The pre-trial investigation authority must also comply with the prosecutor's orders to ensure that the matters to be investigated in the pre-trial investigation within the meaning of Chapter 1, Section 2 of the ETL are clarified. In addition, once the preliminary investigation authority has concluded the preliminary investigation and the material has been transferred to the prosecution, the prosecution also decides on the coercive measures to be taken in the case."[166]

25 Therefore, the relevant provisions for Art. 28 EPPO Regulation can be seen in the following:

[166] "Vastuu asetuksen 30 artiklan 1 ja 4 kohdassa tarkoitettujen toimenpiteiden suorittamisesta kuuluu kansallisen pakkokeinolainsäädännön mukaan esitutkintaviranomaisille. Esitutkintalain 5 luvun 2 §:n mukaan esitutkintaviranomaisen on syyttäjän pyynnöstä toimitettava esitutkinta tai suoritettava esitutkintatoimenpide. Esitutkintaviranomaisen on muutenkin noudatettava syyttäjän määräyksiä, joilla pyritään turvaamaan ETL 1 luvun 2 §:ssä tarkoitettujen esitutkinnassa selvitettävien asioiden selvittäminen. Lisäksi esitutkintaviranomaisen päätettyä esitutkinnan ja aineiston siirryttyä syyttäjälle päättää syyttäjä myös jutun pakkokeinoista."
Hallituksen esitys eduskunnalle laiksi Suomen osallistumisesta Euroopan syyttäjänviraston (EPPO) toimintaan sekä siihen liittyviksi laeiksi, HE 184/2020, 2.2. chapter 5.

Finnish Act for the Execution of the European Public Prosecutor's Office / *Laki Suomen osallistumisesta Euroopan syyt-täjänviraston (EPPO) toimintaan* **26**

Section 5 Powers of the European Public Prosecutor and the European Public Prosecutor [See above for the original language → Sources of law, National laws – lex specialis: Laki Suomen osallistumisesta Euroopan syyt-täjänviraston (EPPO) toimintaan – Finnish Act for the Execution of the European Public Prosecutor's Office]

Section 6 Acting as a national prosecutor by the accredited European Public Prosecutor [See above for the original language → Sources of law, National laws – lex specialis: Laki Suomen osallistumisesta Euroopan syyt-täjänviraston (EPPO) toimintaan – Finnish Act for the Execution of the European Public Prosecutor's Office]

Pre-Trial Investigation Act **27**

Chapter 3 General provisions for conducting preliminary investigation
Section 3[167] **Conducting a preliminary investigation**
The preliminary investigation authority must submit a preliminary investigation when, on the basis of a report made to it or otherwise, there is reason to suspect that a crime has been committed.
Before starting the preliminary investigation, the preliminary investigation authority must, if necessary, clarify the facts related to the criminal suspicion referred to in subsection 1, in particular in such a way that no one is unjustifiably placed in the position of a suspect of a crime and that, if the case requires it, a decision can be made as referred to in section 9 subsection 1 or section 10 subsection 1 on not submitting a preliminary investigation. The provisions of this law shall apply to the measures prior to the initiation of the preliminary investigation.
The head of the investigation decides, if necessary, whether to conduct a preliminary investigation, and to find out the facts that may be necessary to make a decision. In order to clarify the matter, the necessary preliminary investigation measures can be taken before the decision of the head of the investigation.

[167] 3 luku
Esitutkinnan toimittamisen yleiset säännökset
3 § Laki oikeudenkäynnistä rikosasioissa
Esitutkinnan toimittaminen
Esitutkintaviranomaisen on toimitettava esitutkinta, kun sille tehdyn ilmoituksen perusteella tai muuten on syytä epäillä, että rikos on tehty.
Ennen esitutkinnan aloittamista esitutkintaviranomaisen on tarvittaessa selvitettävä 1 momentissa tarkoitettuun rikosepäilyyn liittyvät seikat erityisesti siten, että ketään ei aiheettomasti aseteta rikoksesta epäillyn asemaan ja että asian sitä edellyttäessä voidaan tehdä 9 §:n 1 momentissa tai 10 §:n 1 momentissa tarkoitettu ratkaisu esitutkinnan toimittamatta jättämisestä. Esitutkinnan aloittamista edeltäviin toimenpiteisiin sovelletaan soveltuvin osin tämän lain säännöksiä.
Tutkinnanjohtaja päättää tarvittaessa siitä, toimitetaanko esitutkinta, ja päätöksen tekemiseen mahdollisesti tarvittavien seikkojen selvittämisestä. Asian selvittämiseksi tarpeellisiin esitutkintatoimenpiteisiin saadaan ryhtyä ennen tutkinnanjohtajan päätöstä.

Section 8[168] **A crime committed abroad**

The preliminary investigation authority can investigate a crime suspected of having been committed abroad, if Finnish law can be applied to the crime based on the provisions of Chapter 1 of the Criminal Code and if conducting the preliminary investigation in Finland is appropriate for investigative reasons and in terms of carrying out criminal liability. If the investigation of such a crime in Finland requires an indictment by the Attorney General as referred to in Chapter 1, Section 12 of the Criminal Code, the prosecutor decides to start a preliminary investigation.

When the interested party informs the preliminary investigation authority of a crime committed in the territory of another European Union member state, the interested party's notification and his claim must be submitted to the competent authority of the member state in whose territory the crime was committed, if the preliminary investigation authority does not investigate the crime in accordance with subsection 1. In addition, the condition for delivery is that the interested party has not been able to make a report and present his claims in the state where the crime was committed, or that, in the case of a serious crime, he has not wanted to do so.

International cooperation to investigate crimes is regulated separately in the law.

Chapter 5 Preliminary investigation cooperation between the preliminary investigation authority and the prosecutor

Section 2[169] **Powers of the prosecutor in the preliminary investigation**

The preliminary investigation authority must deliver a preliminary investigation or perform a preliminary investigation measure at the request of the prosecutor. In any case, the pre-trial investigation authority must comply with the prosecutor's orders, which aim to secure the investigation of the case in the manner referred to in chapter 1, s. 2.

The prosecutor decides on preliminary investigation measures after the case is transferred to him after the conclusion of the preliminary investigation.

---

[168] 8 § Laki oikeudenkäynnistä rikosasioissa Ulkomailla tehty rikos Esitutkintaviranomainen voi tutkia ulkomailla tehdyksi epäillyn rikoksen, jos rikokseen rikoslain 1 luvun säännösten nojalla voidaan soveltaa Suomen lakia ja jos esitutkinnan toimittaminen Suomessa on tutkinnallisista syistä ja rikosvastuun toteuttamisen kannalta tarkoituksenmukaista. Jos tällaisen rikoksen tutkiminen Suomessa edellyttää rikoslain 1 luvun 12 §:ssä tarkoitettua valtakunnansyyttäjän syytemääräystä, syyttäjä päättää esitutkinnan aloittamisesta.

Kun asianomistaja ilmoittaa esitutkintaviranomaiselle toisen Euroopan unionin jäsenvaltion alueella tehdystä rikoksesta, asianomistajan ilmoitus ja hänen vaatimuksensa on toimitettava sen jäsenvaltion toimivaltaiselle viranomaiselle, jonka alueella rikos on tehty, jos esitutkintaviranomainen ei 1 momentin mukaisesti tutki rikosta. Edellytyksenä toimittamiselle on lisäksi, että asianomistaja ei ole voinut tehdä ilmoitusta ja esittää vaatimuksiaan tekopaikan valtiossa tai että vakavan rikoksen ollessa kysymyksessä hän ei ole halunnut menetellä niin.

Kansainvälisestä yhteistyöstä rikosten selvittämiseksi säädetään laissa erikseen.

[169] 2 § Laki oikeudenkäynnistä rikosasioissa Syyttäjän toimivaltuudet esitutkinnassa Esitutkintaviranomaisen on syyttäjän pyynnöstä toimitettava esitutkinta tai suoritettava esitutkintatoimenpide. Esitutkinta-viranomaisen on muutenkin noudatettava syyttäjän määräyksiä, joilla pyritään turvaamaan asian selvittäminen 1 luvun 2 §:ssä tarkoitetulla tavalla.

Syyttäjä päättää esitutkintatoimenpiteistä asian siirryttyä hänelle esitutkinnan päättämisen jälkeen.

Syyttäjän toimimisesta tutkinnanjohtajana säädetään 2 luvun 4 §:ssä.

Provisions are made on the prosecutor's work as the head of the investigation in chapter 2, section 4.

Section 3[170] **Obligation to cooperate**

(1) The criminal investigation authority shall, in the manner required by the nature or scope of the matter, notify the public prosecutor of the conducting of a criminal investigation and of circumstances connected with criminal investigation measures and otherwise of progress in the investigation. If the criminal investigation authority has notified the public prosecutor of the opening of an investigation in an offence, the head investigator shall, before concluding the criminal investigation, hear the public prosecutor on whether the matter has been clarified sufficiently in the manner referred to in **Chapter 1, section 2** [see above → Article 26, The level of sufficiency], if the nature or scope of the matter require that the public prosecutor be heard, or if the intention is to conclude the criminal investigation without submitting the matter to the prosecutor. The Coercive Measures Act contains provisions on the notification obligation concerning the use of coercive measures.

(2) The public prosecutor shall participate to the extent necessary in the criminal investigation in order to ensure that the matter is clarified in the manner referred to in Chapter 1, section 2.

(3) The criminal investigation authority and the public prosecutor shall discuss questions relating to the arrangement of cooperation in the criminal investigation.

Customs Crime Prevention Act **28**

Section 3[171] **Jurisdiction of customs**

Customs is responsible for combating customs crime as stipulated in this law or elsewhere in the law. Customs is the preliminary investigation authority referred to in the Pre-Trial Investigation Act.

Section 4 Duties and powers of the Customs Crime Prevention customs officer

See above → Article 26.

[170] 3 § Laki oikeudenkäynnistä rikosasioissa Yhteistyövelvollisuus Esitutkintaviranomaisen tulee asian laadun tai laajuuden edellyttämällä tavalla ilmoittaa syyttäjälle esitutkinnan toimittamiseen ja esitutkintatoimenpiteisiin liittyvistä seikoista sekä tutkinnan edistymisestä muuten. Jos esitutkintaviranomainen on ilmoittanut tutkittavaksi tulleesta rikoksesta syyttäjälle, tutkinnanjohtajan on ennen esitutkinnan päättämistä kuultava syyttäjää siitä, onko asia selvitetty riittävästi 1 luvun 2 §:ssä tarkoitetulla tavalla, jos asian laatu tai laajuus edellyttää kuulemista tai jos esitutkinta on tarkoitus päättää saattamatta asiaa syyttäjän käsiteltäväksi. Pakkokeinojen käyttöön liittyvästä ilmoittamisvelvollisuudesta säädetään pakkokeinolaissa.
Syyttäjän on tarvittavassa määrin osallistuttava esitutkintaan sen varmistamiseksi, että asia selvitetään 1 luvun 2 §:ssä tarkoitetulla tavalla. Esitutkintaviranomaisen ja syyttäjän tulee neuvotella esitutkintayhteistyön järjestämiseen liittyvistä kysymyksistä.

[171] 3 § *Laki rikostorjunnasta Tullissa* Tullin toimivalta Tulli vastaa tullirikostorjunnasta siten kuin siitä tässä laissa tai muualla laissa säädetään. Tulli on esitutkintalaissa tarkoitettu esitutkintaviranomainen.

bb. Via national administrative decrees under criminal procedural law

29 National administrative decrees and regulations play a pivotal role in the investigation and prosecution of VAT fraud, particularly within the telecommunications sector, under criminal procedural law. These regulations often provide the legal framework for actions, including investigations, tax assessments, and the enforcement of penalties in cases of tax fraud.

30
- Government regulation on the police 19.12.2013/1080.
- Uniform instructions on criminal matters to be reported to the prosecutor, the notification procedure and the prosecutor's actions by the National Prosecutor's Office (VKS:2008:2; valid for the time being) and the Police Government (POL-2018-50758, 19 December 2018; valid from 1 January 2019 until 31 December 2023).[172]

d) Urgent measures in accordance with national law necessary to ensure effective investigations

31 Urgent measures related to the quick gathering of evidence can be found in the Pre-Trial Investigation Act:

32

Chapter 6 Attendance at the preliminary investigation
Section 3 Pre-Trial Investigation Act[173]
Immediate consultation
A person found at the scene of a crime or in its immediate vicinity must, at the request of the pretrial investigation official conducting the preliminary investigation of crimes, remain at that location or immediately reach the nearest office of the pretrial investigation authority represented by the official, suitable for the purpose, or the corresponding office of another pretrial investigation authority. If, without an acceptable reason, he refuses to comply with the request, or if this is likely based on his behaviour, the relevant official can prevent him from leaving the place or arrest him and take him to a hearing.

[172] Ministry of Justice 2020, The government's proposal to parliament for a law on Finland's participation in the activities of the European Public Prosecutor's Office (EPPO) and related laws, HE 184/2020, Chapter 4, online: https://www.finlex.fi/fi/hallituksen-esitykset/2020/184. Accessed 31 December 2024.

[173] 6 luku Läsnäolo esitutkinnassa
3 § Laki oikeudenkäynnistä rikosasioissa Välitön kuuleminen Rikospaikalta tai sen välittömästä läheisyydestä tavatun henkilön on rikosten esitutkintaa suorittavan esitutkintavirkamiehen kehotuksesta jäätävä tälle paikalle tai saavuttava välittömästi virkamiehen edustaman esitutkintaviranomaisen lähimpään tarkoitukseen sopivaan toimipaikkaan tai muun esitutkintaviranomaisen vastaavaan toimipaikkaan. Jos hän ilman hyväksyttävää syytä kieltäytyy noudattamasta kehotusta tai tämä on hänen käyttäytymisensä perusteella todennäköistä, asianomainen virkamies voi estää häntä poistumasta paikalta tai ottaa hänet kiinni ja viedä kuultavaksi. (30.12.2013/1145)
Rikospaikalta poistumassa oleva saadaan ottaa kiinni 1 momentissa tarkoitetun kehotuksen antamiseksi, jos olosuhteet ovat sellaiset, että kehotusta ei voida muuten saattaa hänen tietoonsa ja asian selvittäminen muuten vaarantuisi.

A person leaving the scene of a crime may be apprehended in order to give the warning referred to in subsection 1, if the circumstances are such that the warning cannot otherwise be brought to his attention and the investigation of the matter would otherwise be jeopardized.

Section 4[174] **Initiation of investigative measures without delay**
The preliminary investigation measures, for which the person has arrived at the summons or been picked up for the preliminary investigation or has been ordered to remain at the scene or taken for a hearing pursuant to Section 3, must be started without undue delay.

e) Duration of the court processing

The national Statistics Office displays the following information with regard to the duration of investigations in the area of PIF offences (or similar national cases): **33**

Table 7: The duration of the case processing and the time from the incident to the filing of the criminal report as variables (Year, Authority, Crime group, details of the crime description, Information)

2021 Authorities in total	**Case processing duration in days, average**
1112 Embezzlement, slight embezzlement 28:4,6	290.6
1112a1 Incidents of embezzlement and light embezzlement	290.8
1113 Aggravated embezzlement 28:5	592.4
1113a1 Cases of aggravated embezzlement	587.7
1117 Aggravated fraud 36:2	498.0
1118 Payment instrument fraud, minor payment instrument fraud, preparation of payment instrument fraud 37:8,10,11	390.7
1119 Serious payment instrument fraud 37:9	515.4
1122 Tax fraud, mild tax fraud 29:1,3	168.0
1123 Gross tax fraud 29:2	538.0
1124 Tax offense 29:4	0.0
1125 Accounting crime, aggravated accounting crime, negligent accounting crime 30:9,9a,10	590.6
1126 Other commercial crimes 30:1-8	359.0
1128 Aggravated forgery 33:2	502.6

[174] 4 § Laki oikeudenkäynnistä rikosasioissa Tutkintatoimenpiteiden viivytyksetön aloittaminen
Esitutkintatoimenpiteet, joiden vuoksi henkilö on kutsusta saapunut tai noudettu esitutkintaan taikka on 3 §:n nojalla määrätty jäämään paikalle tai viety kuultavaksi, on aloitettava ilman aiheetonta viivytystä.

Source: https://pxdata.stat.fi/PxWeb/pxweb/fi/StatFin/StatFin__rpk/statfin_rpk_pxt_13g1.px/table/tableViewLayout1/. Accessed 31 December 2024.

34 The Finnish statistics highlight the significant time investment required for investigating serious economic crimes. From our point-of-view there is a slighlty longer duration for PIF-Acquis offences such as aggravated fraud (1117): 498.0 days, gross tax fraud (1123): 538.0 days and aggravated forgery (1128): 502.6 days. These offenses align closely with the EU Commission's concerns regarding VAT fraud, customs evasion, and falsified documentation. Their prolonged durations indicate the complexity of tracing financial flows and international cooperation requirements, areas where EPPO involvement could enhance efficiency.

35 Aggravated Embezzlement (1113) and accounting Crimes (1125), which are often complex and involve substantial financial losses, have some of the longest investigation durations, averaging 587.7–590.6 days. All of these durations reflect the extensive nature of evidence collection, the need for forensic accounting, and cross-agency coordination, all of which are likely relevant for EPPO cases involving fraud against the EU budget.[175]

36 Crimes with longer durations of the case processing, particularly aggravated embezzlement (1113) and gross tax fraud (1123), may involve transnational elements, such as cross-border VAT fraud or misuse of EU subsidies. If this is the case, the EPPO's cross-border mandate and tools (e.g., evocation of cases, access to EU-wide data, working arrangements and connections) could help to shorten the duration of some in-vestigations.

[175] EPPO 2023, pp. 10 et seq. See in the glossary for all EPPO-related terms, pp. 114–116 explaining the different crimes falling into the EPPO mandate including definitions and see on p. 69 explaining that some frauds are "complex" and the *modus operandi*.

4. Article 29 Lifting privileges or immunities

a) National privilege and immunity provisions, para 1 151
aa. Privilege Provisions 152
(1) Legal (professional) privilege 152
(a) Provisions in Finnish law 152
(b) Provisions on Lifting a legal (professional) privilege 160
bb. Immunity provisions 163
cc. Provisions on the lifting of immunities? 164
b) Immunities and Privileges under union law, para 2 164

1. Where the investigations of the EPPO involve persons protected by a privilege or immunity **under national law**, and such privilege or immunity presents an obstacle to a specific investigation being conducted, the European Chief Prosecutor shall make a reasoned written request for its lifting **in accordance with the procedures laid down by that national law.**
2. Where the investigations of the EPPO involve persons protected by privileges or immunities under the Union law, in particular the Protocol on the privileges and immunities of the European Union, and such privilege or immunity presents an obstacle to a specific investigation being conducted, the European Chief Prosecutor shall make a reasoned written request for its lifting in accordance with the procedures laid down by Union law.

a) National privilege and immunity provisions, para 1

Such privileges or immunities are regulated in the Coercive Measures Act, Chapter 4, s. 2, ss. 2, and the provisions on the obligation or right to refuse to testify in the Chapter 17, Sections 10-23, on Evidence (732/2015) of the Judicial Procedure Code (originally Act of 3/1734)[176]. A document may not be seized for using as evidence, if it presumably includes information about which the person concerned is not allowed to give evidence (see → Chapter 17 Judicial Procedure Code) and the document is in the possession of such a person or of another for whose benefit the professional secrecy has been enacted.

Any EDP may read the precedent of the **Supreme Court, KKO 2003:119** (concerning an advocate and his professional secrecy), in which also references were made i.a. to Strasbourg court of human rights and Finnish constitutional principles.

[176] An unofficial translation of the Act (amendments up to 812/2019 included) is available from the website of the Ministry of Justice: https://www.finlex.fi/fi/lainsaadanto/saadoskaannokset/1734/eng/4-000. Accessed 31 December 2024.

aa. Privilege Provisions

(1) Legal (professional) privilege

(a) Provisions in Finnish law

1

Coercive Measures Act

Chapter 4 Limitation of Contact

Section 2[177] (23.3.2023/452) **Content of restriction of contact**

Correspondence, use of the telephone, meetings and other contact or being together with persons with whom contact is restricted are prevented. However, the court may order that contact is permitted in one or more of the contact methods despite the restriction.

If a letter, other postal item or message is not delivered due to the contact restriction referred to in subsection 1, the sender must be informed of the matter without delay, unless it jeopardizes the purpose of the contact restriction. In addition, information about the matter must be given to the recipient without delay, if it is a person who is the subject of a contact restriction and if it does not endanger the purpose of the contact restriction.

A letter, other postal item or message that is not delivered must be returned to the sender or given to the person who has lost their freedom after the contact restriction has ended.

The provisions of Chapters 8 and 9 of the Pretrial Detention Act and Chapters 6 and 7 of the Act on the Treatment of Persons Detained by the Police regarding the monitoring of correspondence, phone calls, electronic communication and meetings are followed in the supervision of the communication between arrested, detained and remand prisoners.

[Section 2, amended by L. 452/2023, enters into force on 1 October 2023.]

[177] 2 § (23.3.2023/452) Yhteydenpidon rajoittamisen sisältö

Kiinni otetun, pidätetyn ja tutkintavangin kirjeenvaihto, puhelimen käyttö, tapaamiset ja muu yhteydenpito tai yhdessäolo estetään sellaisten henkilöiden kanssa, joihin yhteydenpitoa on rajoitettu. Tuomioistuin voi kuitenkin määrätä, että yhteydenpito rajoituksesta huolimatta sallitaan yhdellä tai useammalla yhteydenpitotavoista.

Jos kirjettä, muuta postilähetystä tai viestiä ei toimiteta perille 1 momentissa tarkoitetun yhteydenpitorajoituksen vuoksi, asiasta on annettava viipymättä tieto lähettäjälle, jollei se vaaranna yhteydenpitorajoituksen tarkoitusta. Asiasta on lisäksi annettava viipymättä tieto vastaanottajalle, jos kyseessä on yhteydenpitorajoituksen kohteena oleva henkilö ja jollei se vaaranna yhteydenpitorajoituksen tarkoitusta. Kirje, muu postilähetys tai viesti, jota ei toimiteta perille, on palautettava lähettäjälle tai annettava vapautensa menettäneelle yhteydenpitorajoituksen päätyttyä. Kiinni otetun, pidätetyn ja tutkintavangin yhteydenpidon valvonnassa noudatetaan tutkintavankeuslain 8 ja 9 luvun sekä poliisin säilyttämien henkilöiden kohtelusta annetun lain 6 ja 7 luvun säännöksiä kirjeenvaihdon, puhelujen, sähköisen yhteydenpidon ja tapaamisten valvonnasta. *[L:lla 452/2023 muutettu 2 § tulee voimaan 1.10.2023]*

Judicial Procedure Code

Chapter 17 Evidence

Obligation or right to refuse to testify

Section 10[178]

No one may testify regarding information which is to be kept secret for the purposes of national security or which concerns the relations of Finland with another state or an international organization.

Section 11[179]

No one may testify regarding the contents of the deliberations of a court. A mediator referred to in the Act on Mediation in Civil Matters and Confirmation of Settlements in General Courts (394/2011) may not testify in a civil matter of what he or she has learned about the matter subject to mediation in performing his or her functions **unless**, taking into consideration the nature of the matter, the significance of the evidence for deciding the matter, and the consequences of presenting it and the other circumstances, very important reasons require the testimony, or **unless** the person in whose benefit the obligation of confidentiality has been provided consents to such testimony.

A mediator referred to in the Act on Conciliation in Criminal and Certain Civil Matters (1015/2005) may not testify on what he or she has learned about the matter subject to conciliation in performing his or her functions **unless**, taking into consideration the nature of the matter, the significance of the evidence for deciding the matter, and the consequences of presenting it and the other circumstances, very important reasons require the testimony, or **unless** the person in whose benefit the obligation of confidentiality has been provided consents to such testimony.

[178] Velvollisuus tai oikeus kieltäytyä todistamasta (12.6.2015/732) 10 § (12.6.2015/732) Sellaisista tiedoista ei saa todistaa, jotka ovat salassa pidettäviä valtion turvallisuuden takia tai sen takia, että ne koskevat Suomen suhteita toiseen valtioon tai kansainväliseen järjestöön.

[179] 11 § (12.6.2015/732) Tuomioistuimen päätösneuvottelun sisällöstä ei saa todistaa. Riita-asioiden sovittelusta ja sovinnon vahvistamisesta yleisissä tuomioistuimissa annetussa laissa (394/2011) tarkoitettu sovittelija ei saa riita-asiassa todistaa siitä, mitä hän tehtävässään on saanut tietää soviteltavasta asiasta, elleivät erittäin tärkeät syyt ottaen huomioon asian laatu, todisteen merkitys asian ratkaisemisen kannalta ja seuraukset sen esittämisestä sekä muut olosuhteet vaadi todistamista tai se, jonka hyväksi vaitiolovelvollisuus on säädetty, todistamiseen suostu.
Rikosasioiden ja eräiden riita-asioiden sovittelusta annetussa laissa (1015/2005) tarkoitettu sovittelija ei saa todistaa siitä, mitä hän tehtävässään on saanut tietää soviteltavasta asiasta, elleivät erittäin tärkeät syyt ottaen huomioon asian laatu, todisteen merkitys asian ratkaisemisen kannalta ja seuraukset sen esittämisestä sekä muut olosuhteet vaadi todistamista tai se, jonka hyväksi vaitiolovelvollisuus on säädetty, todistamiseen suostu.

Section 12[180]

A civil servant or an employee of a public entity or a person exercising public power or holding a public position of trust or another person who is under a duty of confidentiality pursuant to Section 23 of the Act on the Publicity of the Public Activities of Public Authorities (621/1999) may not testify to what is contained in Section 11(2) of the said Act or to a document or court document to be kept secret from the party under section 12, subsection 2 of the Act on the Publicity of Trials in General Courts (370/2007), nor about what should be recorded in the document and be kept secret from the party pursuant to either of the aforementioned legal sections, **unless** the person for whom the obligation of confidentiality is established, agree to testify or § 16 of the Child Care and Visitation Rights Act (361/1983) Subject to subsection 5, subsection 1 of section 63 of the Act on the Processing of Social and Health Care Customer Data (703/2023) or another similar section of the law. (14.4.2023/731)

[180] 12 § (12.6.2015/732) Virkamies tai julkisyhteisön työntekijä taikka julkista valtaa käyttävä tai julkista luottamustehtävää hoitava taikka muu, joka on viranomaisten toiminnan julkisuudesta annetun lain (621/1999) 23 §:n nojalla vaitiolovelvollinen, ei saa todistaa siitä, mitä sisältyy mainitun lain 11 §:n 2 momentin tai oikeudenkäynnin julkisuudesta yleisissä tuomioistuimissa annetun lain (370/2007) 12 §:n 2 momentin nojalla asianosaiselta salassa pidettävään asiakirjaan tai oikeudenkäyntiasiakirjaan, eivätkä myöskään siitä, mikä olisi asiakirjaan merkittynä pidettävä jommankumman mainitun lainkohdan nojalla asianosaiselta salassa, ellei se, jonka hyväksi salassapitovelvollisuus on säädetty, suostu todistamiseen tai lapsen huollosta ja tapaamisoikeudesta annetun lain (361/1983) 16 §:n 5 momentista, sosiaali- ja terveydenhuollon asiakastietojen käsittelystä annetun lain (703/2023) 63 §:n 1 momentista tai muusta vastaavasta lainkohdasta muuta johdu. (14.4.2023/731) *[L:lla 731/2023 muutettu 1 momentti tulee voimaan 1.1.2024.]*

Todistaa ei saa tiedosta, jota asianosainen ei olisi oikeutettu saamaan esitutkintalain (805/2011) 4 luvun 15 §:n tai pakkokeinolain (806/2011) 10 luvun 60 tai 62 §:n taikka poliisilain (872/2011) 5 luvun 58 tai 60 §:n nojalla, ellei se, jonka hyväksi salassapitovelvollisuus on säädetty, suostu todistamiseen.

Syyttäjälaitoksesta annetun lain (32/2019) 23 §:n 1 momentissa tarkoitetulla henkilöllä sekä poliisin tai muun rikostorjunnasta huolehtivan viranomaisen henkilöstöön kuuluvalla on velvollisuus kieltäytyä todistamasta poliisilain 7 luvun 1 §:n 1 momentissa tarkoitetusta tiedosta. Syyttäjällä sekä poliisin tai muun rikostorjunnasta huolehtivan viranomaisen henkilöstöön kuuluvalla on oikeus kieltäytyä todistamasta poliisilain 7 luvun 3 §:n 1 momentissa tarkoitetusta tiedosta. Rikosseuraamuslaitoksen virkamiehellä on oikeus kieltäytyä todistamasta vankeuslain (767/2005) 19 luvun 10 §:n 1 momentissa tarkoitetusta tiedosta. Tuomioistuin voi kuitenkin velvoittaa henkilön todistamaan, jos: 1) syyttäjä ajaa syytettä rikoksesta, josta säädetty ankarin rangaistus on vähintään kuusi vuotta vankeutta;

2) tiedon ilmoittamatta jättäminen voisi loukata asianosaisen oikeutta puolustautua asianmukaisesti tai muuten asianmukaisesti valvoa oikeuttaan oikeudenkäynnissä; ja

3) luottamuksellisesti tietoja tai vihjetietoja antaneen henkilön taikka valeostajana tai peitetoiminnassa toimineen henkilöllisyyden ilmaiseminen ei ilmeisesti aiheuta vakavaa vaaraa hänen tai hänen läheistensä turvallisuudelle. (23.3.2023/454)*[L:lla 454/2023 muutettu 3 momentti tulee voimaan 1.10.2023.]*

Todistaa ei saa viranomaisten toiminnan julkisuudesta annetun lain 24 §:n 1 momentin 28 kohdassa tarkoitetuista todistajansuojeluohjelmaa koskevaan rekisteriin tallennetuista tiedoista eikä muista todistajansuojeluohjelmaa koskevista tiedoista. Tiedoista saa kuitenkin todistaa, jos ajetaan syytettä todistajansuojeluohjelmalla suojeltavaan henkilöön kohdistuneesta rikoksesta.

Turvallisuustutkintalaissa (525/2011) tarkoitettu Onnettomuustutkintakeskuksen virkamies, tutkintaryhmän jäsen tai muu turvallisuustutkintaan osallistuva ei saa todistaa siitä, mitä hän on tehtävässään saanut tietää onnettomuudesta. Tuomioistuin voi kuitenkin velvoittaa edellä tarkoitetun henkilön todistamaan, jos erittäin tärkeät syyt ottaen huomioon asian laatu, todisteen merkitys asian ratkaisemisen kannalta ja seuraukset sen esittämisestä sekä muut olosuhteet sitä vaativat.

[Subsection 1, amended by L. 731/2023, enters into force on January 1, 2024.] No one may testify regarding information that a party would not have the right to receive under chapter 4, section 15 of the Criminal Investigation Act (805/2011) or chapter 10, section 60 or 62 of the Coercive Measures Act (806/2011) or chapter 5, section 58 or 60 of the Police Act (872/2011) **unless** the person in whose benefit the obligation of secrecy has been provided, consents to such testimony.

A person referred to in section 23, subsection 1 of the Act on the National Prosecution Service (32/2019) and a person who belongs to the police or another authority engaged in the prevention of crime has the obligation to refuse to testify regarding information referred to in chapter 7, section 1, subsection 1 of the Police Act. The prosecutor and a member of the staff of the police or other crime prevention authority have the right to refuse to testify about the information referred to in Chapter 7, Section 3, Subsection 1 of the Police Act. An official of the Criminal Sanctions Agency has the right to refuse to testify regarding information referred to in chapter 19, section 10, subsection 1 of the Imprisonment Act (767/2005). **Nonetheless, the court may order a person to testify if:**

1) the prosecutor has brought charges for an offence for which the maximum sentence is imprisonment for at least six years;

2) failure to provide the information could infringe the right of a party to an appropriate defence or otherwise to safeguard his or her rights in the proceedings in an appropriate manner, and if

3) revealing the identity of a person who has provided information or intelligence in confidence or who has engaged in pseudo-purchases or undercover activities would apparently not seriously endanger his or her safety or the safety of persons close to him or her. (23.3.2023/454)

[Subsection 3, amended by L. 454/2023, enters into force on 1 October 2023.]

No one may testify regarding information recorded in a register on the witness protection programme referred to in section 24, subsection 1, paragraph 28 of the Act on the Openness of Government Activities or regarding other information concerning the witness protection programme. **Testimony on the information may, however, be given if charges have been brought regarding an offence directed against a person being protected by the witness protection programme**.

An official of the Safety Investigation Agency, a member of an investigation team or other person participating in a safety investigation referred to in the Safety Investigation Act (525/2011) may not testify regarding information he or she has learned in his or her duties regarding an accident. **The court may, however, oblige a person referred to above to testify if very important reasons so require, taking into consideration the nature of the matter, the significance of the evidence for deciding the matter, the consequences of presenting it and the other circumstances**.

Section 13[181]
An attorney or legal counsel or an interpreter may not, without permission, testify regarding what he or she has learned:
1) in carrying out a function related to proceedings;
2) in providing legal advice regarding the legal status of the client in pre-trial investigation or in other procedure preceding the proceedings;
3) in providing legal advice regarding the initiation or avoidance of proceedings.
The court may oblige a person referred to in subsection 1 other than an attorney or legal counsel or interpreter of a defendant in a criminal matter to testify if the prosecutor has brought charges for an offence for which the maximum sentence is imprisonment for at least six years.
An advocate or a licensed legal counsel referred to in the Licenced Legal Counsel Act or a public legal aid attorney may not, without permission, testify regarding a personal or family secret or a business secret that he or she had learned in a function other than that referred to in subsection 1. **The court may, however, oblige him or her to testify if the prosecutor has brought charges for an offence for which the maximum sentence is imprisonment for at least six years, or if very important reasons require such testimony, taking into consideration the nature of the matter, the significance of the evidence for deciding the matter, and the consequences of presenting it and the other circumstances.**

Section 14[182]
A physician or other health care professional referred to in the Act on Health Care Professionals (559/1994) or in a decree issued thereunder may not testify regarding a sensitive matter relating to the health of a person or his or her family or regarding another personal or family secret that he or she has learned on the basis of his or her position or

[181] 13 § (12.6.2015/732) Oikeudenkäyntiasiamies tai -avustaja taikka tulkki ei saa luvattomasti todistaa siitä, mitä hän on saanut tietää: 1) hoitaessaan oikeudenkäyntiin liittyvää tehtävää; 2) antaessaan oikeudellista neuvontaa päämiehen oikeudellisesta asemasta esitutkinnassa tai muussa oikeudenkäyntiä edeltävässä käsittelyvaiheessa;# 3) antaessaan oikeudellista neuvontaa oikeudenkäynnin käynnistämiseksi tai sen välttämiseksi. Tuomioistuin voi velvoittaa muun 1 momentissa tarkoitetun henkilön kuin rikosasian vastaajan oikeudenkäyntiasiamiehen tai -avustajan tai tulkin todistamaan, jos syyttäjä ajaa syytettä rikoksesta, josta säädetty ankarin rangaistus on vähintään kuusi vuotta vankeutta. Asianajaja, luvan saaneista oikeudenkäyntiavustajista annetussa laissa tarkoitettu oikeudenkäyntiavustaja ja julkinen oikeusavustaja ei saa luvattomasti todistaa yksityisen tai perheen salaisuudesta tai liikesalaisuudesta, josta hän on muussa kuin 1 momentissa tarkoitetussa tehtävässään saanut tiedon. Tuomioistuin voi kuitenkin velvoittaa henkilön todistamaan, jos syyttäjä ajaa syytettä rikoksesta, josta säädetty ankarin rangaistus on vähintään kuusi vuotta vankeutta, tai jos erittäin tärkeät syyt ottaen huomioon asian laatu, todisteen merkitys asian ratkaisemisen kannalta ja seuraukset sen esittämisestä sekä muut olosuhteet sitä vaativat. (10.8.2018/599)

[182] 14 § (12.6.2015/732) Lääkäri tai muu terveydenhuollon ammattihenkilöistä annetussa laissa (559/1994) tai sen nojalla annetussa asetuksessa tarkoitettu terveydenhuollon ammattihenkilö ei saa todistaa henkilön tai hänen perheensä terveydentilaa koskevasta arkaluonteisesta tiedosta tai muusta henkilön tai perheen salaisuudesta, josta hän asemansa tai tehtävänsä perusteella on saanut tiedon, ellei se, jonka hyväksi salassapitovelvollisuus on säädetty, suostu todistamiseen. Tuomioistuin voi velvoittaa 1 momentissa tarkoitetun henkilön todistamaan, jos syyttäjä ajaa syytettä rikoksesta, josta säädetty ankarin rangaistus on vähintään kuusi vuotta vankeutta.

function unless the person in whose benefit the secrecy obligation has been provided consents to such testimony.
The court may oblige a person referred to in subsection 1 to testify if the prosecutor has brought charges for an offence for which the maximum sentence is imprisonment for at least six years.

Section 15[183]
Notwithstanding the provisions of section 11, subsections 2 and 3; section 12, subsection 1; or sections 13 or 14, a court may require that a person referred to in the legal provision testify if the person in whose benefit the secrecy obligation has been provided has deceased and if very important reasons require such testimony, taking into consideration the nature of the matter, the significance of the evidence for deciding the matter, and the consequences of presenting it and the other circumstances.
Notwithstanding the provisions of section 13 or 14 above, the person referred to in said sections **may testify to the extent** that presenting the information is necessary in order to provide a defence due to a penalty demand or other claim based on an offence directed at him or her or against a person in a relationship to him or her as referred to in section 22, subsection 2, or in order to exercise the rights of an injured party belonging to him or her or to a person in a relationship to him or her as referred to in section 22, subsection 2.

Section 16[184]
A priest of a registered religious community referred to in the Act on the Freedom of Religion (453/2003) or a person in a corresponding position may not testify regarding information he or she has learned in confession or in private pastoral care **unless** the person in whose benefit the secrecy obligation has been provided consents to such testimony.

[183] 15 § (12.6.2015/732) Sen estämättä, mitä 11 §:n 2 ja 3 momentissa, 12 §:n 1 momentissa taikka 13 tai 14 §:ssä säädetään, tuomioistuin voi velvoittaa lainkohdassa tarkoitetun henkilön todistamaan, jos se, jonka hyväksi salassapitovelvollisuus on säädetty, on kuollut ja jos erittäin tärkeät syyt ottaen huomioon asian laatu, todisteen merkitys asian ratkaisemisen kannalta ja seuraukset sen esittämisestä sekä muut olosuhteet sitä vaativat.
Sen estämättä, mitä edellä 13 tai 14 §:ssä säädetään, mainituissa pykälissä tarkoitettu henkilö saa todistaa siltä osin kuin tiedon ilmaiseminen on välttämätöntä puolustuksen järjestämiseksi häntä tai häneen 22 §:n 2 momentissa tarkoitetussa suhteessa olevaa henkilöä vastaan esitetyn rangaistusvaatimuksen tai muun rikokseen perustuvan vaatimuksen vuoksi taikka hänelle tai häneen 22 §:n 2 momentissa tarkoitetussa suhteessa olevalle henkilölle asianomistajana kuuluvien oikeuksien käyttämiseksi.
[184] 16 § (12.6.2015/732) Uskonnonvapauslaissa (453/2003) tarkoitetun rekisteröidyn uskonnollisen yhdyskunnan pappi tai muu vastaavassa asemassa oleva henkilö ei saa todistaa siitä, mitä hän on ripissä tai yksityisessä sielunhoidossa saanut tietää, ellei se, jonka hyväksi salassapitovelvollisuus on säädetty, suostu todistamiseen.
Vaitiolovelvollisuudesta Suomen evankelis-luterilaisessa kirkossa ja Suomen ortodoksisessa kirkossa säädetään kuitenkin erikseen.

Separate provisions apply to the confidentiality obligation in the Evangelical Lutheran Church of Finland and the Orthodox Church of Finland.

Section 17[185]
The present or former spouse of a party or his or her present cohabiting partner, sibling, direct ascending or descending relative or a person who is in a corresponding close relationship to a party comparable to partnership or kinship may refuse to testify.
If the person referred to in subsection 1 agrees to testify in court, said consent may not be withdrawn unless otherwise provided by another provision in this chapter on the secrecy obligation or the right to remain silent.

Section 18[186]
Any person has the right to refuse to testify to the extent that the testimony would subject him or her or a person in a relationship to him or her as referred to in section 17, subsection 1 to the risk of prosecution or would contribute to the investigation of his or her guilt or the guilt of a person in said relationship to him or her.
Notwithstanding the provisions of section 17 and above in this section on the right to remain silent of a person in a relationship to a party as referred to in section 17, subsection 1, **the court may, in a criminal matter, decide that an injured party being heard as witness who does not have any claims does not have the right to remain silent, if there is reason to suspect that he or she has not personally decided on the right to exercise his or her right to remain silent.**

Section 19[187]
A person may refuse to testify regarding a business secret **unless** taking into consideration the nature of the matter, very important reasons, the significance of the evidence for deciding the matter, and the consequences of presenting it and the other circumstances require such testimony.

[185] 17 § (12.6.2015/732) Asianosaisen nykyinen tai entinen aviopuoliso taikka nykyinen avopuoliso, sisarus, sukulainen suoraan ylenevässä tai alenevassa polvessa taikka se, jolla on vastaavanlainen parisuhteeseen tai sukulaisuuteen rinnastuva läheinen suhde asianosaiseen, saa kieltäytyä todistamasta.
Jos 1 momentissa tarkoitettu henkilö suostuu todistamaan tuomioistuimessa, suostumusta ei voida peruuttaa, ellei muusta tässä luvussa säädetystä salassapitovelvollisuudesta tai vaitiolo-oikeudesta muuta johdu.
[186] 18 § (12.6.2015/732) Jokaisella on oikeus kieltäytyä todistamasta siltä osin kuin todistaminen saattaisi hänet tai häneen 17 §:n 1 momentissa tarkoitetussa suhteessa olevan henkilön syytteen vaaraan tai myötävaikuttaisi hänen tai häneen mainitussa suhteessa olevan henkilön syyllisyyden selvittämiseen.
Sen estämättä, mitä 17 §:ssä ja edellä tässä pykälässä säädetään asianosaiseen 17 §:n 1 momentissa tarkoitetussa suhteessa olevan henkilön vaitiolo-oikeudesta, tuomioistuin voi rikosasiassa päättää, ettei todistajana kuultavalla asianomistajalla, jolla ei ole vaatimuksia, ole vaitiolo-oikeutta, jos on syytä epäillä, ettei hän ole itse päättänyt vaitiolo-oikeuden käyttämisestä.
[187] 19 § (10.8.2018/599) Liikesalaisuudesta saa kieltäytyä todistamasta, jolleivät erittäin tärkeät syyt ottaen huomioon asian laatu, todisteen merkitys asian ratkaisemisen kannalta ja seuraukset sen esittämisestä sekä muut olosuhteet vaadi todistamista.

Section 20[188]
The originator or publisher or broadcaster of a message provided to the public referred to in the Act on the Exercise of Freedom of Expression in Mass Media (460/2003) may refuse to testify about who has been the source of the information in the message or prepared the message provided to the public.
The court may oblige a person referred to in subsection 1 to testify if the prosecutor has brought charges for an offence for which the maximum sentence is imprisonment of at least six years or which concerns a violation of the secrecy obligation in a manner punishable by law.

Section 21[189]
An anonymous witness referred to below in section 33 may refuse to testify to the extent that the testimony could reveal his or her identify or contact information.
Every person other than an anonymous witness has the obligation to refuse to testify to the extent that the testimony could reveal the identity or contact information of an anonymous witness.
Chapter 7, section 5a of the Criminal Procedure Act contains provisions on the disclosure of the identity of an anonymous witness on the basis of a court decision.

Section 22[190]
The obligation or right to refuse to testify referred to above in section 11, subsection 2 or 3; section 12; section 13, subsection 1 or 3; section 14, subsection 1; section 16; or

[188] 20 § (12.6.2015/732) Sananvapauden käyttämisestä joukkoviestinnässä annetussa laissa (460/2003) tarkoitettu yleisön saataville toimitetun viestin laatija taikka julkaisija tai ohjelmatoiminnan harjoittaja saa kieltäytyä todistamasta siitä, kuka on antanut viestin perusteena olevat tiedot tai laatinut yleisön saataville toimitetun viestin.
Tuomioistuin voi velvoittaa 1 momentissa tarkoitetun henkilön todistamaan, jos syyttäjä ajaa syytettä rikoksesta, josta säädetty ankarin rangaistus on vähintään kuusi vuotta vankeutta tai joka koskee salassapitovelvollisuuden rikkomista rangaistavaksi säädetyllä tavalla.
[189] 21 § (12.6.2015/732) Jäljempänä 33 §:ssä tarkoitettu anonyymi todistaja saa kieltäytyä todistamasta siltä osin kuin todistaminen saattaisi paljastaa hänen henkilöllisyytensä tai yhteystietonsa.
Jokaisella muulla kuin anonyymillä todistajalla on velvollisuus kieltäytyä todistamasta siltä osin kuin todistaminen saattaisi paljastaa anonyymin todistajan henkilöllisyyden tai hänen yhteystietonsa.
Anonyymin todistajan henkilöllisyyden paljastamisesta tuomioistuimen päätöksellä säädetään oikeudenkäynnistä rikosasioissa annetun lain 7 luvun 5 a §:ssä.
[190] 22 § (12.6.2015/732) Edellä 11 §:n 2 tai 3 momentissa, 12 §:ssä, 13 §:n 1 tai 3 momentissa, 14 §:n 1 momentissa taikka 16 §:ssä tai 20 §:n 1 momentissa tarkoitettu velvollisuus tai oikeus kieltäytyä todistamasta säilyy, vaikkei asianomainen henkilö enää ole siinä asemassa, jossa hän on saanut tiedon todistettavasta seikasta.
Sillä, joka on saanut 11 §:n 2 tai 3 momentissa, 13 §:n 1 tai 3 momentissa, 14 §:n 1 momentissa taikka 20 §:n 1 momentissa tarkoitetun tiedon toimiessaan lainkohdassa tarkoitetun henkilön palveluksessa tai muuten hänen apunaan, on vastaava velvollisuus tai oikeus kieltäytyä todistamasta kuin vastaavassa lainkohdassa tarkoitetulla henkilöllä. Palveluksessa tai apuna toiminut henkilö voidaan kuitenkin määrätä todistamaan 15 §:n 1 momentissa säädetyillä edellytyksillä. Palveluksessa tai apuna toiminut henkilö saa myös todistaa 15 §:n 2 momentissa säädetyillä edellytyksillä 13 tai 14 §:ssä tarkoitetun henkilön ja muun hänen palveluksessaan tai apunaan toimineen henkilön asiassa. Sovellettaessa 12 §:n 3 momenttia, 13 §:n 2 momenttia, 14 §:n 2 momenttia tai 20 §:n 2 momenttia vähimmäisrangaistuksesta ei oteta huomioon, mitä rikoslain 6 luvun 8 §:ssä säädetään lievennetystä rangaistusasteikosta.

section 20, subsection 1 is maintained even if the person in question is no longer in the position in which he or she has learned of the circumstance at issue in the testimony.
A person who has learned information referred to in section 11, subsection 2 or 3; section 13, subsection 1 or 3; section 14, subsection 1; or section 20, subsection 1 while acting in the service of or otherwise as an assistant to a person referred to in said provision, has the corresponding obligation or right to refuse to testify as the person referred to in the corresponding provision. **Nevertheless, a person who has acted in the service of or assisted such person may be ordered to testify on the conditions provided in section 15, subsection 1. A person who has acted in the service of or assisted such person may also testify on the conditions provided in section 15, subsection 2 in a matter concerning a person referred to in section 13 or 14 or concerning another person who has acted in the service of or assisted such person**.
The provisions of chapter 6, section 8 of the Criminal Code on a mitigated scale of punishment are not taken into consideration when applying section 12, subsection 3; section 13, subsection 2; section 14, subsection 2; or section 20, subsection 2 on the minimum punishment.

Section 23[191]
If a person refuses to testify, he or she shall state the grounds for the refusal and present probable cause supporting the grounds.
If, however, a person refuses to testify on the grounds referred to in sections 18 or 21, the refusal shall be accepted **unless** he or she is manifestly in error regarding the contents of the right or obligation to refuse or the refusal is otherwise manifestly devoid of grounds.

(b) Provisions on Lifting a legal (professional) privilege

2 See above → Provisions in Finnish law, as most of the mentioned sections contain exceptions as well ("**unless**"). See especially:

3

Chapter 17 Evidence Judicial Procedure Code
Section 11 [See above → Provisions in Finnish law] […]
A mediator referred to in the Act on Mediation in Civil Matters and Confirmation of Settlements in General Courts (394/2011) may not testify in a civil matter of what he or she has learned about the matter subject to mediation in performing his or her functions unless, taking into consideration the nature of the matter, the significance of the evidence

[191] 23 § (12.6.2015/732)
Jos henkilö kieltäytyy todistamasta, hänen on ilmoitettava kieltäytymisensä peruste ja saatettava todennäköiseksi sitä tukevat seikat.
Jos henkilö kuitenkin kieltäytyy todistamasta 18 tai 21 §:ssä tarkoitetulla perusteella, kieltäytyminen hyväksytään, jollei hän ole selvästi erehtynyt kieltäytymistä koskevan oikeuden tai velvollisuuden sisällöstä tai kieltäytyminen ole muutoin selvästi perusteeton.

for deciding the matter, and the consequences of presenting it and the other circumstances, very important reasons require the testimony, or unless the person in whose benefit the obligation of confidentiality has been provided consents to such testimony.
A mediator referred to in the Act on Conciliation in Criminal and Certain Civil Matters (1015/2005) may not testify on what he or she has learned about the matter subject to conciliation in performing his or her functions unless, taking into consideration the nature of the matter, the significance of the evidence for deciding the matter, and the consequences of presenting it and the other circumstances, very important reasons require the testimony, or unless the person in whose benefit the obligation of confidentiality has been provided consents to such testimony.

Section 12 [See above → Provisions in Finnish law] […]
Nonetheless, the court may order a person to testify if:
1) the prosecutor has brought charges for an offence for which the maximum sentence is imprisonment for at least six years;
2) failure to provide the information could infringe the right of a party to an appropriate defence or otherwise to safeguard his or her rights in the proceedings in an appropriate manner, and if
3) revealing the identity of a person who has provided information or intelligence in confidence or who has engaged in pseudo-purchases or undercover activities would apparently not seriously endanger his or her safety or the safety of persons close to him or her.
No one may testify regarding information recorded in a register on the witness protection programme referred to in section 24, subsection 1, paragraph 28 of the Act on the Openness of Government Activities or regarding other information concerning the witness protection programme. **Testimony on the information may, however, be given if charges have been brought regarding an offence directed against a person being protected by the witness protection programme**.
An official of the Safety Investigation Agency, a member of an investigation team or other person participating in a safety investigation referred to in the Safety Investigation Act (525/2011) may not testify regarding information he or she has learned in his or her duties regarding an accident. **The court may, however, oblige a person referred to above to testify if very important reasons so require, taking into consideration the nature of the matter, the significance of the evidence for deciding the matter, the consequences of presenting it and the other circumstances**.

Section 13 [See above → Provisions in Finnish law] […]
The court may oblige a person referred to in subsection 1 other than an attorney or legal counsel or interpreter of a defendant in a criminal matter to testify if the prosecutor has brought charges for an offence for which the maximum sentence is imprisonment for at least six years.
An advocate or a licensed legal counsel referred to in the Licenced Legal Counsel Act or a public legal aid attorney may not, without permission, testify regarding a personal or family secret or a business secret that he or she had learned in a function other than that referred to in subsection 1. **The court may, however, oblige him or her to testify if the prosecutor has brought charges for an offence for which the maximum sentence is imprisonment for at least six years, or if very important reasons require such testimony, taking into consideration the nature of the matter, the significance of the evidence for deciding the matter, and the consequences of presenting it and the other circumstances.** (599/2018)

Section 14 [See above → Provisions in Finnish law] […]
The court may oblige a person referred to in subsection 1 to testify if the prosecutor has brought charges for an offence for which the maximum sentence is imprisonment for at least six years.

Section 15 [See above → Provisions in Finnish law]
Notwithstanding the provisions of section 11, subsections 2 and 3; section 12, subsection 1; or sections 13 or 14, a court may require that a person referred to in the legal provision testify if the person in whose benefit the secrecy obligation has been provided has deceased and if very important reasons require such testimony, taking into consideration the nature of the matter, the significance of the evidence for deciding the matter, and the consequences of presenting it and the other circumstances.
Notwithstanding the provisions of section 13 or 14 above, the person referred to in said sections **may testify to the extent** that presenting the information is necessary in order to provide a defence due to a penalty demand or other claim based on an offence directed at him or her or against a person in a relationship to him or her as referred to in section 22, subsection 2, or in order to exercise the rights of an injured party belonging to him or her or to a person in a relationship to him or her as referred to in section 22, subsection 2.

Section 22 (732/2015) [See above → Provisions in Finnish law] […]
A person who has learned information referred to in section 11, subsection 2 or 3; section 13, subsection 1 or 3; section 14, subsection 1; or section 20, subsection 1 while

acting in the service of or otherwise as an assistant to a person referred to in said provision, has the corresponding obligation or right to refuse to testify as the person referred to in the corresponding provision. **Nevertheless, a person who has acted in the service of or assisted such person may be ordered to testify on the conditions provided in section 15, subsection 1. A person who has acted in the service of or assisted such person may also testify on the conditions provided in section 15, subsection 2 in a matter concerning a person referred to in section 13 or 14 or concerning another person who has acted in the service of or assisted such person**. […]

bb. Immunity provisions

The Members of the Finnish Parliament can have to deal with EU subsidies, or other EU grants and procurement projects. In this regard and if they are suepcted of any irregularity, they might bring forward their immunity, which would be an obstacle. The immunity and the independence are regulated by ss. 29, 30 of the Finnish Constitution: **4**

Section 29[192] **Independence of the Member of Parliament** **5**
A member of parliament is obliged to observe justice and truth in his work. He is obliged to comply with the constitution and is not bound by other regulations.

Section 30[193] **The immunity of a member of parliament**
A Member of Parliament may not be prevented from performing his duties.
A Member of Parliament may not be prosecuted or deprived of his liberty due to the opinions he has expressed in the Diet or the procedure he followed in handling the case, unless the Parliament has agreed to it with a decision supported by at least five-sixths of the votes cast.
The speaker of the parliament must be notified immediately of the arrest and imprisonment of a member of parliament. A member of parliament may not be arrested or imprisoned without the consent of the parliament before the start of the trial, unless there are compelling reasons to suspect him of being guilty of a crime for which the mildest punishment provided for is at least six months in prison.

[192] 29 § Suomen perustuslaki Kansanedustajan riippumattomuus Kansanedustaja on velvollinen toimessaan noudattamaan oikeutta ja totuutta. Hän on siinä velvollinen noudattamaan perustuslakia, eivätkä häntä sido muut määräykset.
[193] 30 § Suomen perustuslaki Kansanedustajan koskemattomuus Kansanedustajaa ei saa estää hoitamasta edustajantointaan. Kansanedustajaa ei saa asettaa syytteeseen eikä hänen vapauttaan riistää hänen valtiopäivillä lausumiensa mielipiteiden tai asian käsittelyssä noudattamansa menettelyn johdosta, ellei eduskunta ole siihen suostunut päätöksellä, jota vähintään viisi kuudesosaa annetuista äänistä on kannattanut. Kansanedustajan pidättämisestä ja vangitsemisesta on heti ilmoitettava eduskunnan puhemiehelle. Kansanedustajaa ei saa ilman eduskunnan suostumusta pidättää tai vangita ennen oikeudenkäynnin alkamista, ellei häntä painavista syistä epäillä syylliseksi rikokseen, josta säädetty lievin rangaistus on vähintään kuusi kuukautta vankeutta.

Section 113[194] **Criminal liability of the President of the Republic**
If the chancellor of justice, the ombudsman or the government council deems the president of the republic guilty of treason, treason or a crime against humanity, the parliament must be notified. If the parliament then decides with three-fourths of the votes cast to bring charges, the attorney general must prosecute the case in the national court and the president must refrain from his actions for the time being. In other cases, the president may not be prosecuted.

cc. Provisions on the lifting of immunities?

6 The consent of the Parliament is needed, see → ss. 29, 30 above.

7 In the case of the President the following procedure applies:

Section 115[195] **Initiation of the ministerial responsibility case**
An investigation into the legality of a member of the State Council's official duties in the Parliament's Constitutional Law Committee can be initiated:
1) by notification to the Constitutional Law Committee by the chancellor of justice or the ombudsman;
2) with a reminder signed by at least ten MPs; mixedwith an investigation request submitted to the Constitutional Law Committee by another parliamentary committee.
The Constitutional Law Committee can also, on its own initiative, start investigating the legality of the duties of a member of the Government Council.

b) Immunities and Privileges under union law, para 2

8 Article 29 para 2 focusses on Union staff. The EPPO may need to investigate crimes involving EU officials or other individuals enjoying privileges and immunities under Union law.[196] We do not concentrate on this procedure here, but can only hint you at the following:

[194] 113 § Suomen perustuslaki Tasavallan presidentin rikosoikeudellinen vastuu Jos oikeuskansleri, oikeusasiamies tai valtioneuvosto katsoo tasavallan presidentin syyllistyneen maanpetosrikokseen, valtiopetosrikokseen tai rikokseen ihmisyyttä vastaan, asiasta on ilmoitettava eduskunnalle. Jos eduskunta tällöin kolmella neljäsosalla annetuista äänistä päättää syytteen nostettavaksi, valtakunnansyyttäjän on ajettava syytettä valtakunnanoikeudessa ja presidentin on pidättäydyttävä siksi ajaksi toimestaan. Muissa tapauksissa presidentin virkatoimesta ei saa nostaa syytettä.
[195] 115 § Suomen perustuslaki Ministerivastuuasian vireillepano Valtioneuvoston jäsenen virkatoimen lainmukaisuuden tutkinta eduskunnan perustuslakivaliokunnassa voidaan panna vireille:
1) oikeuskanslerin tai oikeusasiamiehen perustuslakivaliokunnalle tekemällä ilmoituksella;
2) vähintään kymmenen kansanedustajan allekirjoittamalla muistutuksella; sekä
3) eduskunnan muun valiokunnan perustuslakivaliokunnalle esittämällä tutkintapyynnöllä.
Perustuslakivaliokunta voi myös omasta aloitteestaan ryhtyä tutkimaan valtioneuvoston jäsenen virkatoimen lainmukaisuutta.
[196] See e.g. an act for annulement and the Art. 263 TFEU case GC, Case T-46/23, 16 January 2024, *Kaili v European Parliament* represented by N. Lorenz and A.-M. Dumbrăvan, acting as Agents, and European Public Prosecutor's Office represented by L. De Matteis, C. Charalambous, and E. Farhat, acting as Agents.

A standard template agreement between the EU Commission and EPPO regulates the procedure for lifting privileges and immunities. This template can be requested by the EPPO when necessary. **9**

For acting in as case with Union officials, which enjoy specific protections under Protocol No. 7 of the Treaty on the Functioning of the European Union (TFEU) as an EDP you apply the Union law. **10**

On 24 June 2024, the European Investment Bank (EIB) agreed to the request of the EPPO to lift the immunity of two former employees and revoke the inviolability of its premises and archives in Luxembourg. This request is part of an ongoing investigation into suspected corruption, abuse of influence, and misappropriation of EU funds, reported by OLAF. **11**

The EIB's decision follows Protocol 7 on EU privileges and immunities, allowing the EPPO to effectively pursue the investigation in line with the rule of law and EU Charter of Fundamental Rights. All parties involved are presumed innocent until proven guilty. This case highlights how Article 29 enables the EPPO to tackle serious crimes even when privileges initially restrict direct investigative actions.[197] **12**

For justice staff, this serves as a reminder of the importance of following the formal steps outlined in the EPPO Regulation. **13**

[197] EPPO 2024, Luxembourg: EPPO obtains the lifting of immunity of two former EIB employees, News 24 June 2024, online: https://www.eppo.europa.eu/en/media/news/luxembourg-eppo-obtains-lifting-immunity-two-former-eib-employees. Accessed 31 December 2024.

III. National Law applicable in EPPO Investigation with Special Focus on Investigation Measures

SECTION 2
Rules on investigation measures and other measures

1. Article 30 Investigation measures and other measures

a) Member States shall ensure that the European Delegated Prosecutors are entitled to order or request 170
aa. Adaption Law of the Member State 170
bb. Provision in the CPC and Coercive Measures Act 170
b) Investigation measures 173
aa. Para 1(a) 173
(1) Search measures .. 174
(a) Search any premises or land 174
(b) Search any means of transport 176
(c) Search any private home 176
(d) Search any clothes and any other personal property 176
(e) Search any computer system 178
(2) Conservatory measures: Necessary to preserve their integrity, Necessary to avoid the loss, Necessary to avoid the contamination of evidence 181
bb. Para 1(b) 182
cc. Para 1(c) 183
(1) Obtainment of the production of stored computer data, encrypted or decrypted 183
(a) General Provisions in the CPC 183
(b) Special Provisions in the CPC Tax Code, Digital Evidence Act 184
(2) Obtainment of banking account data and traffic data 185
(3) Exception of data specifically retained in accordance with national law (pursuant to the second sentence of Article 15(1) of Directive 2002/58/EC of the European Parliament and of the Council) 188
(a) Transposition of this Directive 188
(b) National Provision in relation to Art. 15(1) s. 2 of this Directive 190
dd. Para 1(d) Freezing instrumentalities or proceeds of crime, including assets 195

ee. Para 1(e) Interception of electronic communications to and from the suspect or accused person 200
ff. Para 1(f) Tracking & Tracing an Object..... 204
c) Para 2: Specific restrictions in national law that apply with regard to certain categories of persons or professionals with an LLP obligation, Art. 29..... 206
aa. Chapter 8 Coercice Measures Act – Search Measures..... 206
bb. Chapter 10 Coercive measures Act Secret Investigations..... 207
d) Para 3: Conditions/ Thresholds for investigation measures..... 208
aa. Conditions and Limitations for investigation measures of Para 1(c), (e) and (f) and Serious offences Limitation for offences of Para 1(e) and (f) 209
bb. Notifications according to the last sentence of para. 3..... 210
e) Para 4: Any other measure(s) in the EDP's Member State..... 210
f) Para 5: National Procedures and national modalities for taking investigative measures 213
aa. Coercive Measures Act, Chapter 8 Search Measures..... 213
bb. Coercice Measures Act, Chapter 10 Secret Investigation Measures.. 215

1. At least in cases where the offence subject to the investigation is punishable by a maximum penalty of at least 4 years of imprisonment, Member States shall ensure that the European Delegated Prosecutors are entitled to order or request the following investigation measures:
(a) search any premises, land, means of transport, private home, clothes and any other personal property or computer system, and take any conservatory measures necessary to preserve their integrity or to avoid the loss or contamination of evidence;
(b) obtain the production of any relevant object or document either in its original form or in some other specified form;
(c) obtain the production of stored computer data, encrypted or decrypted, either in their original form or in some other specified form, including banking account data and traffic data with the exception of data specifically retained in accordance with national law pursuant to the second sentence of Article 15(1) of Directive 2002/58/EC of the European Parliament and of the Council;
(d) freeze instrumentalities or proceeds of crime, including assets, that are expected to be subject to confiscation by the trial court, where there is reason to believe that the

owner, possessor or controller of those instrumentalities or proceeds will seek to frustrate the judgement ordering confiscation.
(e) intercept electronic communications to and from the suspect or accused person, over any electronic communication means that the suspect or accused person is using;
(f) track and trace an object by technical means, including controlled deliveries of goods.
2. Without prejudice to Article 29, the investigation measures set out in paragraph 1 of this Article may be subject to conditions in accordance with the applicable national law if the national law contains specific restrictions that apply with regard to certain categories of persons or professionals who are legally bound by an obligation of confidentiality.
3. The investigation measures set out in points(c), (e) and (f) of paragraph 1 of this Article may be subject to further conditions, including limitations, provided for in the applicable national law. In particular, Member States may limit the application of points (e) and (f) of paragraph 1 of this Article to specific serious offences. A Member State intending to make use of such limitation shall notify the EPPO of the relevant list of specific serious offences in accordance with Article 117.
4. The European Delegated Prosecutors shall be entitled to request or to order any other measures in their Member State that are available to prosecutors under national law in similar national cases, in addition to the measures referred to in paragraph 1.
5. The European Delegated Prosecutors may only order the measures referred to in paragraphs 1 and 4 where there are reasonable grounds to believe that the specific measure in question might provide information or evidence useful to the investigation, and where there is no less intrusive measure available which could achieve the same objective. The procedures and the modalities for taking the measures shall be governed by the applicable national law.

1 Art. 30 EPPO Regulation contains **many possibilities to discover EU frauds** and includes intrusive and effective means of investigative tools. Conducting the investigations, it is important to closely obey the law and follow the details. The following provisions from the **different Acts of Finland** in the Area of Criminal Justice give an overview of the actions that the EPPO carries out on behalf of the EU. The main provisions stem from the Coercive Measures Act.[198] The **National Statistics Office** keeps an eye on the use of these coercive measures. It presents extensive tables that show how many searches, seizures etc. were conducted on Finnish territory in the years before the EPPO started acting.[199]

[198] See https://finlex.fi/eli?uri=http://data.finlex.fi/eli/sd/2011/806/ajantasa/2024-12-19/fin. Accessed 31 December 2024.
[199] See https://pxdata.stat.fi/PxWeb/pxweb/fi/StatFin/StatFin__rpk/statfin_rpk_pxt_13ga.px/. Accessed 31 December 2024.

Table 8: Coercive measures of the police, customs and border guards as variables Year, Coercive measure, Authority, Major crime or other matter and Information **2**

	Number of coercive measures
2021 IN TOTAL Authorities in total Crimes, violations and duties of the authorities in total	177,712

Source: Statistics Office.

Table 9: Coercive measures of the police, customs and border guards as variables Year, Coercive measure, Authority, Major crime or other matter and Information **3**

	Number of coercive measures
2021 IN TOTAL Authorities in total	
1112 Embezzlement, slight embezzlement 28:4,6	118
1113 Aggravated embezzlement 28:5	146
1116 Fraud, slight fraud 36:1,3	1 467
1117 Aggravated fraud 36:2	1,654
1118 Payment instrument fraud, minor payment instrument fraud, preparation of payment instrument fraud 37:8,10,11	163
1122 Tax fraud, mild tax fraud 29:1,3	381
1123 Gross tax fraud 29:2	767
1124 Tax offense 29:4	0
1125 Accounting crime, aggravated accounting crime, negligent accounting crime 30:9,9a,10	128
1127 Forgery, minor forgery, possession of counterfeit material 33:1,3,4	423
1128 Aggravated forgery 33:2	49
1132 Smuggling, minor smuggling 46:4-5	540

Source: FinStat, https://bit.ly/3B3wpBt. Accessed 31 December 2024.

a) Member States shall ensure that the European Delegated Prosecutors are entitled to order or request

aa. Adaption Law of the Member State

Nota bene: The authorisation of an EDP (the "handling" EDP in one of the MS) to order or request could/should or must be enshrined in the new adaption laws which the Member States enacted to be fully operational for the EPPO and its tasks. As most of the Member States either amended their Criminal Procedure Act or their Code of the Organization of the Judiciary and/or the Public Prosecutor's Office Act, the relevant provision(s) is (are) presented in the following.

bb. Provision in the CPC and Coercive Measures Act

4 Most of the investigation measures that the EDPs might use to verify EU Fraud Offences (see above → Art. 26 1. B) bb. (1)) and gather evidence to prove these offences are enshrined in the Coercive Measures Act:

5

Table of contents

22.7.2011/806

Chapter 1 - General provisions

Section 1 - Scope of the Act
Section 2 - Proportionality principle
Section 3 - The principle of least harm
Section 4 - Principle of sensitivity
Section 5 - Self-help

Chapter 6 - Seizure of collateral

Section 1 - Prerequisites for collateral seizure
Section 2 - Deciding on collateral seizure
Section 3 - Temporary confiscation of collateral
Section 4 - Revocation of the measure
Section 5 - Reprocessing of the security deposit
Section 6 - Separation of the compensation case into a separate case
Section 7 - Deciding on collateral seizure when deciding the main case
Section 8 - Deciding on collateral seizure due to a foreign state's request for legal aid
Section 9 - Appeal
Section 10 - Implementation of the measure
Section 11 - Liability for damages and reimbursement of expenses

Chapter 7 - Confiscation and copying of the document

Section 1 - Conditions for confiscation
Section 2 - Reproduction of the document
Section 3 - Confiscation and reproduction prohibitions
Section 4 - Confiscation and copying prohibitions related to wiretapping, telemonitoring and base station data

Section 5 - Confiscation and reproduction of the shipment
Section 6 - Stopping the shipment for seizure or copying
Section 7 - Authority deciding on confiscation and copying of a document
Section 8 - Seizure for confiscation and copying of the document
Section 9 - Notice of takeover
Section 10 - Register notification
Section 11 - Opening and examining certain documents
Section 12 - Minutes
Section 13 - Preservation of the object of seizure
Section 14 - Revocation of confiscation
Section 15 - Bringing seizure or reproduction to court
Section 16 - Destruction of a copy of the document
Section 17 - The authority deciding on canceling the seizure and not keeping a copy of the document
Section 18 - Postponing the return of an object, property or document
Section 19 - Re-confiscation or reproduction
Section 20 - Deciding on the validity of the confiscation when deciding the matter concerning the prosecution or confiscation penalty
Section 21 - Deciding on confiscation due to a foreign state's request for legal aid
Section 22 - Appeal
Section 23 - Return of confiscated object, property or document
Section 24 - Action to be taken instead of confiscation
Section 25 - Referral provision

Chapter 8 - Search
Search by location

Section 1 - Definitions
Section 2 - Prerequisites for a home search
Section 3 - General home search to find a person
Section 4 - Prerequisites for location search
Section 5 - Presence during a home search
Section 6 - Procedure in home search
Section 7 - Search authority
Section 8 - Eligibility requirements for a search officer
Section 9 - Obligations of the search officer
Section 10 - Fee and compensation of the search officer
Section 11 - Taking into account the opinion of the search officer
Section 12 - Court processing of sealed material
Section 13 - Opening and examining a private document
Section 14 - Provisions applicable to location searches
Section 15 - Deciding on a search of a place
Section 16 - Home search decision
Section 17 - Court proceedings regarding a special house search
Section 18 - Submitting a home search to the court

Section 19 - Minutes

Device discovery

Section 20 - Definition of device search
Section 21 - Requirements for device search
Section 22 - Taking possession of the device
Section 23 - Information system holder's obligation to provide information
Section 24 - Data retention order
Section 25 - Duration of data retention order
Section 26 - Confidentiality of the data retention order
Section 27 - Delivery of a device search as a remote search
Section 28 - Application of the provisions concerning the search directed at the place
Section 29 - Deciding on device search

A search targeting a person

Section 30 - Types of searches targeting a person
Section 31 - Requirements for personal inspection
Section 32 - Prerequisites for personal inspection
Section 33 - Conducting a search on a person
Application of other legislation
Section 34 - Referral provision

Chapter 9 - Coercive means related to special means of investigation

Section 1 - Isolation of the research site or site
Section 2 - Test to determine the amount of alcohol or other narcotic substances consumed
Section 3 - Taking personal identification marks
Section 4 - Determination and storage of DNA identifiers

Chapter 10 - Secret means of coercion

General provisions

Section 1 - Scope
Section 2 - Prerequisites for the use of covert means of coercion
Telecoercive means
Section 3 - Telehearing and its conditions
Section 4 - Obtaining information instead of wiretapping
Section 5 - Deciding on wiretapping and other similar information acquisition
Section 6 - Telemonitoring and its conditions
Section 7 - Telemonitoring with the consent of the holder of the telephone address or telecommunications terminal
Section 8 - Obtaining location information to reach suspects and convicts
Section 9 - Deciding on telemonitoring and acquisition of location data (30.12.2013/1146)
Section 10 - Acquisition of base station data and its conditions
Section 11 - Deciding on the acquisition of base station data
Planned surveillance, covert intelligence and technical surveillance
Section 12 - Planned surveillance and its conditions
Section 13 - Deciding on planned monitoring
Section 14 - Covert acquisition of information and its conditions

Section 15 - Deciding on covert information acquisition
Section 16 - Technical listening and its conditions
Section 17 - Residential listening and its conditions
Section 18 - Deciding on technical listening
Section 19 - Technical inspection and its conditions
Section 20 - Deciding on technical inspection
Section 21 - Technical monitoring and its conditions
Section 22 - Deciding on technical monitoring
Section 23 - Technical inspection of equipment and its conditions
Section 24 - Deciding on technical equipment inspection
Section 25 - Obtaining identification data of a telephone address or telephone terminal
Section 26 - Installation and removal of a device, method or software

b) Investigation measures

Some of the investigation measures are explored in more details on the following pages and offer the original wording and the English Law Text as well as examples and some case-law. Search measures were – if compared with the so-called PIF Offence and the EU Frauds and as seen from the statistical analysis – ordered quite frequently: **6**

Table 10: Search Measures ordered in relation to White Collar Crime Offences in Finland

2021	**Number of coercive measures**
KEY Home search and seizure Authorities in total	
1112 Embezzlement, slight embezzlement 28:4,6	19
1113 Aggravated embezzlement 28:5	16
1116 Fraud, slight fraud 36:1,3	132
1117 Aggravated fraud 36:2	173
1118 Payment instrument fraud, minor payment instrument fraud, preparation of payment instrument fraud 37:8,10,11	20
1122 Tax fraud, mild tax fraud 29:1,3	18
1123 Gross tax fraud 29:2	114
1124 Tax offense 29:4	0
1125 Accounting crime, aggravated accounting crime, negligent accounting crime 30:9,9a,10	11
1127 Forgery, minor forgery, possession of counterfeit material 33:1,3,4	7
1128 Aggravated forgery 33:2	10
1132 Smuggling, minor smuggling 46:4-5	16

Source: Statistics Office.

aa. Para 1(a)

(1) Search measures

7

Search Chapter 8 s. 17 Coecive Measures Act
"Section 17[200] Special home search court proceedings
To carry out a special home search is decided by the court, which is competent to prosecute. Before prosecuting, the search may also be decided by the district court in whose jurisdiction the place to be searched is located. The district court hearing the case also has a quorum when it has a sole president […].

Chapter 8 s. 29 Coecive Measures Act
Section 29[201] Deciding on a device search
The search for equipment shall be decided by an official entitled to detention and, in an emergency situation referred to in s. 15 (3), by a police officer in accordance with the provisions of s. 16, as applicable. In the case of the information referred to in s. 1 (3), s.s 15 (1) and (2) and s. 17 concerning special home searches shall apply mutatis mutandis."

(a) Search any premises or land

8

Coercive Measures Act
Chapter 8 – Search Search by location
Section 1[202] Definitions
Searches targeting a place in accordance with this chapter include a home search, which can be a general or special home search, and a location search.
A general home search refers to a search carried out in a place protected by domestic peace as referred to in Chapter 24, Section 11 of the Criminal Code.

---

[200] 17 § Pakkokeinolaki – Erityistä kotietsintää koskeva tuomioistuinkäsittely
Erityisestä kotietsinnästä päättää syyteasiassa toimivaltainen tuomioistuin. Ennen syytteen nostamista etsinnästä saa päättää myös se käräjäoikeus, jonka tuomiopiirissä etsinnän kohteena oleva paikka sijaitsee. Asiaa käsittelevä käräjäoikeus on päätösvaltainen myös, kun siinä on yksin puheenjohtaja. […]
[201] 29 § Pakkokeinolaki – Laite-etsinnästä päättäminen
Laite-etsinnästä päättää pidättämiseen oikeutettu virkamies ja 15 §:n 3 momentissa tarkoitetussa kiireellisessä tilanteessa poliisimies noudattaen soveltuvin osin 16 §:ssä säädettyä. Jos kysymys on 1 §:n 3 momentissa tarkoitetuista tiedoista, noudatetaan soveltuvin osin erityistä kotietsintää koskevia 15 §:n 1 ja 2 momenttia ja 17 §:ää.
[202] 8 luku Etsintä Paikkaan kohdistuva etsintä, 1 § Pakkokeinolaki Määritelmät
Tämän luvun mukaisia paikkaan kohdistuvia etsintöjä ovat kotietsintä, joka voi olla yleinen tai erityinen kotietsintä, sekä paikanetsintä. Yleisellä kotietsinnällä tarkoitetaan rikoslain 24 luvun 11 §:ssä tarkoitetussa kotirauhan suojaamassa paikassa toimitettavaa etsintää.
Erityisellä kotietsinnällä tarkoitetaan etsintää sellaisessa tilassa, jossa etsinnän kohteeksi on syytä olettaa joutuvan tietoa, josta oikeudenkäymiskaaren 17 luvun 10–14, 16, 20 tai 21 §:n mukaan on velvollisuus tai oikeus kieltäytyä todistamasta ja johon ei tämän lain 7 luvun 3 §:n nojalla saa kohdistaa takavarikkoa tai asiakirjan jäljentämistä. (12.6.2015/737) Paikanetsinnällä tarkoitetaan etsintää, joka toimitetaan muussa kuin 2 tai 3 momentissa tarkoitetussa paikassa, vaikka siihen ei ole yleistä pääsyä tai yleinen pääsy siihen on rajoitettu tai estetty etsinnän toimittamisajankohtana, taikka jonka kohteena on kulkuneuvo.

A special home search means a search in such a space, where there is reason to assume that the object of the search will be information about which, according to Chapter 17 Sections 10–14, 16, 20 or 21 of the Judicial Code, there is an obligation or right to refuse to testify and which is not covered by Chapter 7 Section 3 of this law confiscation or copying of the document may be imposed. (12.6.2015/737)
A search of a place means a search that is carried out in a place other than that referred to in subsections 2 or 3, even if there is no public access to it or public access to it is limited or blocked at the time the search is carried out, or the target is a vehicle.

Section 4[203] **Prerequisites for location search**
A location search may be submitted in order to find an object, property, document, information or matter under the conditions stipulated in section 2 subsection 1 section 2 and to find the person referred to in section 3 subsection 1.

Police Act/*Poliisilaki* **9**

Chapter 2 General powers
Section 6[204] **Entry and search in danger and damage situations**
A police officer has the right to enter a space or other place protected by domestic peace or public peace, or a space or other place to which there is no general access, or to a vehicle and, if necessary, conduct a search there, if there is reasonable reason to assume that:
1) an act or event endangering life, health or personal freedom or causing considerable damage to property or the environment is imminent or ongoing;
2) someone is in need of immediate help due to an already committed crime or accident or other similar rea-son; or
3) a dead person is found during the search.
In the case referred to in point 1 of subsection 1 above, it is also a condition that the measure is necessary to prevent danger or damage or to search for and take possession of explosives, weapons or other dangerous sub-stances and objects.

[203] 4 § Pakkokeinolaki Paikanetsinnän edellytykset Paikanetsintä saadaan toimittaa esineen, omaisuuden, asiakirjan, tiedon tai seikan löytämiseksi 2 §:n 1 momentin 2 kohdassa säädetyin edellytyksin ja 3 §:n 1 momentissa tarkoitetun henkilön löytämiseksi.
[204] 6 § Poliisilaki Sisäänpääsy ja etsintä vaara- ja vahinkotilanteissa Poliisimiehellä on oikeus päästä kotirauhan tai julkisrauhan suojaamaan tilaan tai muuhun paikkaan tai tilaan tai muuhun paikkaan, johon ei ole yleistä pääsyä, taikka kulkuneuvoon ja suorittaa siellä tarvittaessa etsintä, jos on perusteltua syytä olettaa, että:
1) henkeä, terveyttä tai henkilökohtaista vapautta vaarantava tai huomattavaa omaisuus- tai ympäristövahinkoa aiheuttava teko tai tapahtuma on välittömästi uhkaamassa tai käynnissä;
2) joku on jo tapahtuneen rikoksen tai onnettomuuden taikka muun vastaavan syyn vuoksi välittömän avun tarpeessa; tai
3) etsinnässä löytyy kuollut henkilö.
Edellä 1 momentin 1 kohdassa tarkoitetussa tapauksessa edellytyksenä on lisäksi, että toimenpide on välttämätön vaaran tai vahingon estämiseksi taikka räjähdysaineiden, aseiden tai muiden vaarallisten aineiden ja esineiden etsimiseksi ja haltuun ottamiseksi.
Muissa kuin kiireellisissä tilanteissa vakituiseen asumiseen käytettävään tilaan pääseminen edellyttää päällystöön kuuluvan poliisimiehen määräystä.

In non-urgent situations, access to a space used for permanent living requires an order from a police officer.

Section 6a[205] Entry and search to secure the enforcement of a decision on the temporary seizure of firearm
A police officer has the right to enter the premises referred to in Chapter 24, Section 11 of the Criminal Code and carry out a search there to the extent necessary in accordance with the Firearms Act (1/1998) Section 92 regarding the temporary seizure of firearms, weapon parts, cartridges and particularly dangerous ammunition in order to secure the execution of the decision, if there is reason to suspect that the person in possession of the items will not deliver a weapon, part of a weapon, cartridges or particularly dangerous ammunition to the police in accordance with the decision, and the measure is necessary to protect life and health.
The measure referred to in subsection 1 above requires an order from a police officer who is part of the staff.

(b) Search any means of transport

10 See → Search any premises or land (Chapter 8 Section 4 **Coercive Measures Act**; Chapter 2 Sections 6 and 6a **Police Act)**.

(c) Search any private home

11 See → Search any premises or land (Chapter 8 Section 4 **Coercive Measures Act**; Chapter 2 Sections 6 and 6a **Police Act)**.

(d) Search any clothes and any other personal property

12 Chapter 8, ss. 30 et seq. Coercive Measures Act provides for the search of a person and the clothing if there is e.g., a slight suspicion for fraud:

[205] 6 a § (8.9.2017/625) Poliisilaki
Sisäänpääsy ja etsintä ampuma-aseiden väliaikaista haltuunottoa koskevan päätöksen täytäntöönpanon turvaamiseksi
Poliisimiehellä on oikeus päästä rikoslain 24 luvun 11 §:ssä tarkoitettuihin kotirauhan piiriin kuuluviin tiloihin ja suorittaa siellä välttämättömässä laajuudessa etsintä ampuma-aselain (1/1998) 92 §:ssä tarkoitetun ampuma-aseen, aseen osien, patruunoiden ja erityisen vaarallisten ammusten väliaikaista haltuunottoa koskevan päätöksen täytäntöönpanon turvaamiseksi, jos on syytä epäillä, ettei henkilö, jonka hallussa esineet ovat, päätöksen mukaisesti toimita asetta, aseen osaa, patruunoita tai erityisen vaarallisia ammuksia poliisin haltuun, ja toimenpide on välttämätön hengen ja terveyden suojaamiseksi.
Edellä 1 momentissa tarkoitettu toimenpide edellyttää päällystöön kuuluvan poliisimiehen määräystä.

A search targeting a person

Section 30[206] **Types of searches targeting a person**

A search targeting a person can be:

1) personal inspection to examine what the person being inspected has on their clothes or otherwise wearing or in the goods they are carrying; or

2) personal examination, which includes checking the subject's body, taking a blood sample or other sample, or other examination of the body.

Section 31[207] **Requirements for personal inspection**

A personal search to find an object, property, document, information or matter may be carried out under the conditions set out in section 2, subsection 1, point 2, of a suspect:

1) for a crime for which the severest punishment prescribed is at least six months in prison;

2) for mild abuse;

3) for pickpocketing, mild embezzlement, mild unauthorised use, mild motor vehicle theft, possession of a burglary tool, mild alcohol crime;

4) slight damage; or

5) for slight fraud.

A person other than a suspect in a crime may be inspected only if it can be assumed with very valid grounds that the inspection will find an object, property, document, information or circumstance referred to in section 2, subsection 1, point 2.

[206] 30 § Pakkokeinolaki Henkilöön kohdistuvan etsinnän lajit Henkilöön kohdistuva etsintä voi olla:
1) henkilöntarkastus sen tutkimiseksi, mitä tarkastettavalla on vaatteissaan tai muuten yllään taikka mukanaan olevissa tavaroissa; tai
2) henkilönkatsastus, joka käsittää katsastettavan kehon tarkastamisen, verinäytteen tai muun näytteen ottamisen taikka muun kehoon kohdistuvan tutkimuksen.

[207] 31 § Pakkokeinolaki Henkilöntarkastuksen edellytykset
Henkilöntarkastus esineen, omaisuuden, asiakirjan, tiedon tai seikan löytämiseksi saadaan tehdä 2 §:n 1 momentin 2 kohdassa säädetyin edellytyksin sille, jota on syytä epäillä:
1) rikoksesta, josta säädetty ankarin rangaistus on vähintään kuusi kuukautta vankeutta;
2) lievästä pahoinpitelystä;
3) näpistyksestä, lievästä kavalluksesta, lievästä luvattomasta käytöstä, lievästä moottorikulkuneuvon käyttövarkaudesta, murtovälineen hallussapidosta, lievästä alkoholirikoksesta;
4) lievästä vahingonteosta; tai
5) lievästä petoksesta.
Muu kuin rikoksesta epäilty saadaan tarkastaa vain, jos erittäin pätevin perustein voidaan olettaa, että tarkastuksessa löytyy 2 §:n 1 momentin 2 kohdassa tarkoitettu esine, omaisuus, asiakirja, tieto tai seikka.

Section 32[208] **Requirements for personal inspection**
A person suspected of a crime may be searched in order to find an object, property, document, information or matter under the conditions set out in Section 2 subsection 1, point 2, if there are probable reasons to suspect him of a crime for which the severest punishment is at least one year in prison, or for a drunken driving or drug use offense. If there are no probable reasons for suspicion, the suspect may only be searched if, on very valid grounds, it can be assumed that the object, property, document, information or circumstance referred to in the mentioned paragraph will be found.
If a crime has been committed, for which the severest punishment is at least four years in prison, the necessary background check to determine the DNA identifier or to take a gunpowder smoke sample or to perform other similar research can be carried out even without his consent on a person who is not suspected of the crime in question. The condition for such a background check is that the investigation has a very important meaning for the investigation of the crime because the investigation of the crime would be impossible or substantially more difficult using means that do not interfere with the rights of the subject of the investigation. DNA identifiers and corresponding investigation results must be destroyed and stored samples must be destroyed when the matter has been legally resolved or left to its own devices.

(e) Search any computer system

13 Chapter 8, ss. 20 Coercive Measures Act regulate the requisites of a device discovery. First, a device search is defined. The requirements, scope and limitations are explained then in more detail.

14 The following statistical data shows how many times the search of a device was ordered in the past in relation to the offences that can also constitute PIF offences:

[208] 32 § Pakkokeinolaki Henkilönkatsastuksen edellytykset Rikoksesta epäillylle saadaan tehdä henkilönkatsastus esineen, omaisuuden, asiakirjan, tiedon tai seikan löytämiseksi 2 §:n 1 momentin 2 kohdassa säädetyin edellytyksin, jos on todennäköisiä syitä epäillä häntä rikoksesta, josta säädetty ankarin rangaistus on vähintään vuosi vankeutta, taikka rattijuopumuksesta tai huumausaineen käyttörikoksesta. Jollei epäilyyn ole todennäköisiä syitä, epäilty saadaan katsastaa vain, jos erittäin pätevin perustein voidaan olettaa löytyvän mainitussa kohdassa tarkoitettu esine, omaisuus, asiakirja, tieto tai seikka. Jos on tehty rikos, josta säädetty ankarin rangaistus on vähintään neljä vuotta vankeutta, saadaan DNA-tunnisteen määrittämiseksi tai ruutisavunäytteen ottamiseksi taikka muun vastaavan tutkimuksen suorittamiseksi tarpeellinen henkilönkatsastus tehdä ilman hänen suostumustaankin henkilölle, jota ei epäillä kyseisestä rikoksesta. Edellytyksenä tällaiselle henkilönkatsastukselle on, että tutkimuksella on erittäin tärkeä merkitys rikoksen selvittämiselle sen vuoksi, että rikoksen selvittäminen olisi mahdotonta tai olennaisesti vaikeampaa käyttämällä tutkinnan kohteen oikeuksiin vähemmän puuttuvia keinoja. DNA-tunnisteet ja vastaavat tutkintatulokset on hävitettävä ja säilytetyt näytteet tuhottava, kun asia on lainvoimaisesti ratkaistu tai jätetty sillensä.

Table 11: Coercive measures of the police, customs and border guards as variables Year, Coercive measure, Authority, Major crime or other matter and Information

	Number of coercive measures
2021	
LAI **Device search**	
Authorities in total	
1112 Embezzlement, slight embezzlement 28:4,6	2
1113 Aggravated embezzlement 28:5	11
1116 Fraud, slight fraud 36:1,3	110
1117 Aggravated fraud 36:2	257
1118 Payment instrument fraud, minor payment instrument fraud, preparation of payment instrument fraud 37:8,10,11	11
1122 Tax fraud, mild tax fraud 29:1,3	25
1123 Gross tax fraud 29:2	99
1124 Tax offense 29:4	0
1125 Accounting crime, aggravated accounting crime, negligent accounting crime 30:9,9a,10	21
1127 Forgery, minor forgery, possession of counterfeit material 33:1,3,4	43
1128 Aggravated forgery 33:2	11
1132 Smuggling, minor smuggling 46:4-5	10

Source: Statistics Finland's free statistical databases, https://pxdata.stat.fi/PxWeb/pxweb/fi/StatFin/search/?searchquery=petos. Accessed 31 December 2024.

The provisions state the following: **15**

[Chapter 8] Section 20 - Definition of device search
Section 21 - Requirements for device search
Section 22 - Taking possession of the device
Section 23 - Information system holder's obligation to provide information
Section 24 - Data retention order
Section 25 - Duration of data retention order
Section 26 - Confidentiality of the data retention order
Section 27 - Delivery of a device search as a remote search
Section 28 - Application of the provisions concerning the search directed at the place
Section 29 - Deciding on device search

16 **Section 20**[209] **Device discovery definition**
Device search refers to a search directed to the information content in a computer, telecommunications terminal or other similar technical device or information system at the time the search is submitted.
The device search may not be aimed at a confidential message, which is regulated in chapter 10 on wiretapping, telemonitoring and technical monitoring. (30.12.2013/1146).

Section 21
[See → Art. 30 Para 5: National Procedures and national modalities for taking investigative measures]

Section 22[210] **Taking possession of the device**
A police officer may take possession of a technical device for the purpose of conducting a device search. After the search, the device must be returned without undue delay to the person from whose possession it was taken or who otherwise has the right to it.
If the device search cannot be delivered without delay, the device must be confiscated.

Section 23
[See → Art. 30 Para 2: Specific restrictions in national law that apply with regard to certain categories of persons or professionals with an LLP obligation, Art. 29]

Section 27[211] **Providing device discovery as a remote discovery**
If required by the expediency of the criminal investigation or the urgency of the matter, the device search may be delivered as a remote search, where the device search is delivered without using the device that is with or in the possession of the person who is the subject of the search.

[209] 20 § Laite-etsinnän määritelmä Laite-etsinnällä tarkoitetaan tietokoneessa, telepäätelaitteessa tai muussa vastaavassa teknisessä laitteessa tai tietojärjestelmässä etsinnän toimittamishetkellä olevaan tietosisältöön kohdistettavaa etsintää. Laite-etsintää ei saa kohdistaa sellaiseen luottamukselliseen viestiin, jota koskevasta telekuuntelusta, televalvonnasta ja teknisestä tarkkailusta säädetään 10 luvussa. (30.12.2013/1146)
[210] 22 § Laitteen haltuun ottaminen Poliisimies saa ottaa teknisen laitteen haltuunsa laite-etsinnän toimittamista varten. Etsinnän jälkeen laite on ilman aiheetonta viivytystä palautettava sille, jonka hallusta se on otettu tai jolla muuten on siihen oikeus. Jos laite-etsintää ei voida viivytyksettä toimittaa, laite on takavarikoitava.
[211] 27 Laite-etsinnän toimittaminen etäetsintänä
Rikostutkinnallisten tarkoituksenmukaisuussyiden tai asian kiireellisyyden sitä edellyttäessä laite-etsintä saadaan toimittaa etäetsintänä, jossa laite-etsintä toimitetaan käyttämättä etsinnän kohteena olevan henkilön luona tai hallussa olevaa laitetta.

Section 28[212] **Application of the provisions on search directed at the place**
When a device search is delivered in connection with a location-based search, the regulations regarding the delivery of the latter apply. In other cases, the provisions of §Section 5–13 and 19 shall be followed as applicable with regard to attendance, procedure, search officer, opening and examination of the document, and the protocol.

Section 29[213] **Deciding on a device search**
The device search is decided **by an official authorised** to arrest and, in an urgent situation referred to in section 15, subsection 3, **by a police officer**, following the applicable provisions of section 16. If the question is about the information referred to in section 1, subsection 3, section 15 subsections 1 and 2 and section 17 concerning special home searches shall be followed as applicable.

(2) Conservatory measures: Necessary to preserve their integrity, Necessary to avoid the loss, Necessary to avoid the contamination of evidence

This requisite of the EPPO Regulation may e.g. encompass a Data Retention Order stipulated by Chapter 8, s. 24 et seq. Coercice Measures Act: **17**

Section 24[214] **Data retention order [Computer Search]** **18**
If, before the device search is carried out, there is reason to assume that data, which may be relevant to the investigation of the crime under investigation, will be lost or changed, the official entitled to arrest may issue a data retention order. It orders the person in possession or control of the data, but not the suspect of a crime, to keep it unchanged. The order may also apply to data that can be assumed to enter the device or information

[212] 28 Paikkaan kohdistuvaa etsintää koskevien säännösten soveltaminen
Kun laite-etsintä toimitetaan paikkaan kohdistuvan etsinnän yhteydessä, sovelletaan viimeksi mainitun toimittamista koskevia säännöksiä. Muissa tapauksissa läsnäolon, menettelyn, etsintävaltuutetun, asiakirjan avaamisen ja tutkimisen sekä pöytäkirjan osalta noudatetaan soveltuvin osin 5–13 ja 19 §:n säännöksiä.
[213] 29 § Laite-etsinnästä päättäminen Laite-etsinnästä päättää pidättämiseen oikeutettu virkamies ja 15 §:n 3 momentissa tarkoitetussa kiireellisessä tilanteessa poliisimies noudattaen soveltuvin osin 16 §:ssä säädettyä. Jos kysymys on 1 §:n 3 momentissa tarkoitetuista tiedoista, noudatetaan soveltuvin osin erityistä kotietsintää koskevia 15 §:n 1 ja 2 momenttia ja 17 §:ää.
[214] 24 § Datan säilyttämismääräys Jos ennen laite-etsinnän toimittamista on syytä olettaa, että data, jolla voi olla merkitystä tutkittavana olevan rikoksen selvittämiselle, häviää tai sitä muutetaan, pidättämiseen oikeutettu virkamies voi antaa datan säilyttämismääräyksen. Sillä määrätään dataa hallussaan tai määräysvallassaan pitävä, ei kuitenkaan rikoksesta epäiltyä, säilyttämään se muuttumattomana. Määräys voi koskea myös dataa, jonka voidaan olettaa tulevan laitteeseen tai tietojärjestelmään määräyksen antamista seuraavan kuukauden aikana. Määräyksestä on pyynnöstä annettava kirjallinen todistus, jossa yksilöidään määräyksen kohteena oleva data.
Mitä 1 momentissa säädetään, koskee myös tietojärjestelmän välityksellä siirrettyyn viestiin liittyvää tietoa viestin alkuperästä, määränpäästä, reitistä ja koosta sekä viestinnän ajankohdasta, kestosta, laadusta ja muista vastaavista seikoista (*liikennetieto*). (30.12.2013/1146)
Esitutkintaviranomaisella ei ole 1 momentissa tarkoitetun säilyttämismääräyksen nojalla oikeutta saada tietoonsa viestin, liikennetiedon tai muun tallennetun tiedon sisältöä. Jos 2 momentissa tarkoitetun viestin välittämiseen on osallistunut useampi palveluntarjoaja, esitutkintaviranomaisella on oikeus saada tietoonsa palveluntarjoajien tunnistamiseksi tarvittavat liikennetiedot. (30.12.2013/1146)

system during the month following the issuance of the order. A written certificate of the order must be provided upon request, specifying the data that is the subject of the order. What is stipulated in subsection 1 also applies to information about the origin, destination, route and size of the message transmitted via the information system, as well as the time, duration, quality and other similar aspects of the communication (traffic information). (30.12.2013/1146)
Pursuant to the retention order referred to in subsection 1, the preliminary investigation authority does not have the right to obtain the content of a message, traffic information or other stored information. If more than one service provider has participated in the transmission of the message referred to in subsection 2, the preliminary investigation authority has the right to obtain the traffic data necessary to identify the service providers. (30.12.2013/1146).

Section 25[215] **Duration of the data retention order**
The data retention order is issued for three months at a time. The order can be renewed if the investigation of the crime requires it. The order must be revoked as soon as it is no longer necessary.

Section 26[216] **Confidentiality of data retention order**
The recipient of the data retention order is obliged to keep the order confidential.
The punishment for breaching the confidentiality obligation regarding the preservation order is sentenced according to Chapter 38 Section 1 or Section 2 of the Criminal Code, unless a more severe punishment is provided for the act elsewhere in the law.

bb. Para 1(b)

19 **FI**= Chapter 2, s. 15 (dangerous objects) Police Act[217]; Chapter 6 Seizure with the aim to secure property or payments, Chapter 7 Seizure and reproduction of the document, ss. 1, 5 (Seizure and reproduction of parcels, etc.), 6, Coercive Measures Act [Legislation monitored until SDK 178/2022 (published on March 17, 2022)]
Authorizations by competent body:
Chapter 2, s. 15 Police Act
Chapter 7 s. 1 Coercive Measures Act

[215] 25 § Datan säilyttämismääräyksen kesto
Datan säilyttämismääräys annetaan kolmeksi kuukaudeksi kerrallaan. Määräys voidaan uudistaa rikoksen tutkinnan sitä edellyttäessä. Määräys on kumottava niin pian kuin se ei enää ole tarpeen.
[216] 26 § Datan säilyttämismääräyksen salassapito
Datan säilyttämismääräyksen saanut on velvollinen pitämään määräyksen salassa.
Rangaistus säilyttämismääräystä koskevan salassapitovelvollisuuden rikkomisesta tuomitaan rikoslain 38 luvun 1 tai 2 §:n mukaan, jollei teosta muualla laissa säädetä ankarampaa rangaistusta.
[217] See *Poliisilaki 22.7.2011/872*, cf. https://www.finlex.fi/fi/laki/ajantasa/2011/20110872#L2P3. Accessed 31 December 2024.

Chapter 7 s. 7 Coercive Measures Act Chapter 7 s. 8 Coercive Measures Act

cc. Para 1(c)

(1) Obtainment of the production of stored computer data, encrypted or decrypted

(a) General Provisions in the CPC

Pre-Trial Investigation Act **Chapter 11 Different provisions** **Section 8**[218] **Obtaining information from the authority and from a private entity or person** Provisions are made on obtaining the information necessary to investigate a crime from an authority and a private entity or person in Sections 2 and 3 of Chapter 4 of the Police Act, Section 14 of Chapter 2 of the Customs Crime Prevention Act and Sections 19–21 of the Act (639/2019) on the Processing of Personal Data at the Border Guard.	**20**

[218] 8 § (10.5.2019/645) Tietojen saaminen viranomaiselta sekä yksityiseltä yhteisöltä tai henkilöltä
Rikoksen selvittämiseksi tarvittavien tietojen saamisesta viranomaiselta sekä yksityiseltä yhteisöltä tai henkilöltä säädetään poliisilain 4 luvun 2 ja 3 §:ssä, rikostorjunnasta Tullissa annetun lain 2 luvun 14 §:ssä ja henkilötietojen käsittelystä Rajavartiolaitoksessa annetun lain (639/2019) 19–21 §:ssä.

(b) Special Provisions in the CPC Tax Code, Digital Evidence Act

21

Customs Crime Prevention Act/*Laki rikostorjunnasta Tullissa*

Chapter 2 Customs' powers in the fight against customs crime

Section 14[219] **Access to information from private and public entities or individuals**

Customs has the right to receive from a private or public entity or person the necessary information to prevent, reveal or investigate a customs crime, without being hindered by the corporate, banking or insurance secrecy that binds a member of the entity, **an auditor**, the CEO, a member of the board of directors or a supervisory board, or an employee. Customs has the corresponding right to receive the necessary information to clarify the conditions for imposing a business ban. (17.11.2017/750)

Customs has the right, upon a separate request, to receive contact information from the telecommunications company and the corporate subscriber for a telephone address that is not mentioned in the public list, or information identifying the telephone address or telecommunication terminal, if the information is necessary to prevent, reveal or investigate a customs crime. Customs has the corresponding right to receive delivery address information from the entity engaged in postal operations.

The request for the information referred to in subsections 1 and 2 of the decision is made by the customs officer authorised to detain.

Customs has the right to receive the information referred to in subsections 1 and 2 free of charge, unless the law provides otherwise. The information referred to in subsections 1 and 2 above can be provided using an electronic data transmission method, if the protection of the data as referred to in section 32 subsection 1 of the Personal Data Act (523/1999) has been ensured.

[219] 14 § Laki rikostorjunnasta Tullissa Tietojen saanti yksityiseltä ja julkiselta yhteisöltä tai henkilöltä Tullilla on oikeus saada yksityiseltä tai julkiselta yhteisöltä tai henkilöltä yhteisön jäsentä, tilintarkastajaa, toimitusjohtajaa, hallituksen tai hallintoneuvoston jäsentä tai työntekijää velvoittavan yritys-, pankki- tai vakuutussalaisuuden estämättä tarvittavat tiedot tullirikoksen estämiseksi, paljastamiseksi tai selvittämiseksi. Tullilla on vastaava oikeus saada välttämättömät tiedot liiketoimintakiellon määräämisen edellytysten selvittämiseksi. (17.11.2017/750) Tullilla on oikeus erikseen tekemästään pyynnöstä saada teleyritykseltä ja yhteisötilaajalta yhteystiedot sellaisesta teleosoitteesta, jota ei mainita julkisessa luettelossa, taikka teleosoitteen tai telepäätelaitteen yksilöivät tiedot, jos tiedot ovat tarpeen tullirikoksen estämiseksi, paljastamiseksi tai selvittämiseksi. Tullilla on vastaava oikeus saada postitoimintaa harjoittavalta yhteisöltä jakeluosoitetietoja. Päätöksen 1 ja 2 momentissa tarkoitettujen tietojen pyynnöstä tekee pidättämiseen oikeutettu tullimies.

Tullilla on oikeus saada 1 ja 2 momentissa tarkoitetut tiedot maksutta, jollei laissa toisin säädetä. Edellä 1 ja 2 momentissa tarkoitetut tiedot voidaan antaa sähköistä tiedonsiirtomenetelmää käyttäen, jos tietojen suojaaminen henkilötietolain (523/1999) 32 §:n 1 momentissa tarkoitetulla tavalla on varmistettu.

Tulli voi velvoittaa antamaan tiedot kohtuullisessa määräajassa. Tulli voi asettaa velvoitteen noudattamisen tehosteeksi uhkasakon. Uhkasakon asettamispäätöstä on noudatettava sitä koskevasta muutoksenhausta huolimatta. Uhkasakkoa ei kuitenkaan saa asettaa, jos asianosaista on aihetta epäillä rikoksesta ja pyydetty aineisto liittyy rikosepäilyn kohteena olevaan asiaan. Uhkasakon asettamisesta ja sen määrästä voidaan antaa tarkempia säännöksiä valtiovarainministeriön asetuksella. Muilta osin uhkasakosta säädetään uhkasakkolaissa (1113/1990). HenkilötietoL 523/1999 on kumottu TietosuojaL:lla 1050/2018. Ks. L henkilötietojen käsittelystä Tullissa 650/2019. See Byrne 2019 for the role of auditors in the Member States.

Customs can oblige you to provide the information within a reasonable period of time. Customs can impose a penalty fine as an effect of complying with the obligation. The decision to impose a fine must be followed regardless of the appeal. However, a threatened fine may not be imposed if there is reason to suspect the party involved of a crime and the requested material is related to a matter subject to criminal suspicion. More detailed regulations on the imposition of a threatened fine and its amount can be issued by a decree of the Ministry of Finance. In other respects, the penalty fine is regulated in the penalty fine act (1113/1990).
(The Personal Data Act 523/1999 has been repealed by the Data Protection Act 1050/2018. See Law on the processing of personal data in Customs 650/2019.)

Coercive Measures Act/*Pakkokeinolaki* **22**

Chapter 7 Confiscation and copying of the document
Section 1[220] Conditions for confiscation
An object, property or document can be confiscated if there is reason to assume that:
1) it can be used as evidence in a criminal case;
2) it has been taken from someone by crime; or
3) it is judged forfeited.
What is stipulated in subsection 1 also applies to information that is in a technical device or other similar information system or on its storage platform (data). What is stipulated in this chapter about the document also applies to the document in the form of data.
What is stipulated in this chapter about the object also applies to the substance. A part of the object can be removed for confiscation for use as evidence, if the investigative procedure cannot otherwise be carried out without great difficulty.

(2) Obtainment of banking account data and traffic data

The following Acts apply in this area: **23**

- Act on the Bank and Payment Accounts Control System (see below)
- Coersive Measures Act (see below)
- Act on the processing of personal data in Customs
- Act on the processing of personal data in police work

[220] 7 luku Takavarikoiminen ja asiakirjan jäljentäminen
1 § *Pakkokeinolaki*
Takavarikoimisen edellytykset
Esine, omaisuus tai asiakirja voidaan takavarikoida, jos on syytä olettaa, että:
1) sitä voidaan käyttää todisteena rikosasiassa;
2) se on rikoksella joltakulta viety; tai
3) se tuomitaan menetetyksi.
Mitä 1 momentissa säädetään, koskee myös tietoa, joka on teknisessä laitteessa tai muussa vastaavassa tietojärjestelmässä taikka sen tallennusalustalla (data). Tässä luvussa asiakirjasta säädettyä sovelletaan myös datan muodossa olevaan asiakirjaan. (20.5.2016/357)
Tässä luvussa esineestä säädettyä sovelletaan myös aineeseen. Esineestä voidaan irrottaa osa takavarikoitavaksi todisteena käyttämistä varten, jos tutkintatoimenpidettä ei voida muuten suorittaa ilman suuria vaikeuksia.

24	**Act on the Bank and Payment Accounts Control System/** *Laki pankki- ja maksutilien valvontajärjestelmästä* **Section 3[221] Authorities using the bank and payment account control system** The following competent authorities have the right to use the bank and payment account monitoring system if it is necessary to prevent, detect and investigate money laundering and terrorist financing: 1) with the supervisory authorities referred to in the Act on the Prevention of Money Laundering and the Financing of Terrorism (444/2017) and the bar association to perform the supervisory task referred to in the said Act; 2) at the Money Laundering Investigation Center to carry out the tasks referred to in Section 2, Subsection 1, Sections 1–4 and 7 of the Law on the Money Laundering Investigation Center (445/2017); 3) with the authorities according to Chapter 9 Section 5 of the Act on the Prevention of Money Laundering and the Financing of Terrorism in order to fulfill the duty of care.
25	**Coercive Measures Act/***Pakkokeinolaki* **Chapter 8 – Search** **Section 23[222] Information system owner's obligation to provide information** The holder, administrator and other person of the information system are obliged to provide the pre-trial investigation authority with the passwords and other similar information necessary to provide the device search at its request. Upon request, a written certificate must be given to the person to whom the request was made. If a person refuses to provide the information referred to in subsection 1, he can be questioned in court in the manner prescribed in Chapter 7, Section 9 of the Pre-trial Investigations Act.

[221] 3 § Laki pankki- ja maksutilien valvontajärjestelmästä
Pankki- ja maksutilien valvontajärjestelmää käyttävät viranomaiset
Seuraavilla toimivaltaisilla viranomaisilla on oikeus käyttää pankki- ja maksutilien valvontajärjestelmää, jos se on välttämätöntä rahanpesun ja terrorismin rahoittamisen estämiseksi, paljastamiseksi ja selvittämiseksi:
1) rahanpesun ja terrorismin rahoittamisen estämisestä annetussa laissa (444/2017) tarkoitetuilla valvontaviranomaisilla ja asianajajayhdistyksellä mainitussa laissa tarkoitetun valvontatehtävän suorittamiseen;
2) rahanpesun selvittelykeskuksella rahanpesun selvittelykeskuksesta annetun lain (445/2017) 2 §:n 1 momentin 1–4 ja 7 kohdassa tarkoitettujen tehtävien hoitamiseen;
3) rahanpesun ja terrorismin rahoittamisen estämisestä annetun lain 9 luvun 5 §:n mukaisilla viranomaisilla huolehtimisvelvoitteen toteuttamiseksi.

[222] 23 § Pakkokeinolaki Tietojärjestelmän haltijan tietojenantovelvollisuus Tietojärjestelmän haltija, ylläpitäjä ja muu henkilö ovat velvollisia antamaan esitutkintaviranomaiselle tämän pyynnöstä laite-etsinnän toimittamiseksi tarpeelliset salasanat ja muut vastaavat tiedot. Pyynnöstä on pyydettäessä annettava kirjallinen todistus sille, jolle pyyntö on esitetty.
Jos henkilö kieltäytyy antamasta 1 momentissa tarkoitettuja tietoja, häntä voidaan kuulustella tuomioistuimessa esitutkintalain 7 luvun 9 §:ssä säädetyllä tavalla.
Edellä 1 momentissa säädetty ei koske rikoksesta epäiltyä eikä 7 luvun 3 §:n 1 tai 2 momentissa tarkoitettua, joka on oikeutettu tai velvollinen kieltäytymään todistamasta.

The provisions in subsection 1 above do not apply to a suspect of a crime or to the person referred to in subsection 1 or 2 of section 3 of chapter 7, who is entitled or obliged to refuse to testify.

Section 24[223] Data retention order

If, before the device search is carried out, there is reason to assume that data, which may be relevant to the investigation of the crime under investigation, will be lost or changed, the official entitled to arrest may issue a data retention order. It orders the person in possession or control of the data, but not the suspect of a crime, to keep it unchanged. The order may also apply to data that can be assumed to enter the device or information system during the month following the issuance of the order. A written certificate of the order must be provided upon request, specifying the data that is the subject of the order.

What is stipulated in subsection 1 also applies to information about the origin, destination, route and size of the message transmitted via the information system, as well as the time, duration, quality and other similar aspects of the communication (traffic information). (30.12.2013/1146)

Pursuant to the retention order referred to in subsection 1, the preliminary investigation authority does not have the right to obtain the content of a message, traffic information or other stored information. If more than one service provider has participated in the transmission of the message referred to in subsection 2, the preliminary investigation authority has the right to obtain the traffic data necessary to identify the service providers. (30.12.2013/1146)

[223] 24 § Pakkokeinolaki Datan säilyttämismääräys Jos ennen laite-etsinnän toimittamista on syytä olettaa, että data, jolla voi olla merkitystä tutkittavana olevan rikoksen selvittämiselle, häviää tai sitä muutetaan, pidättämiseen oikeutettu virkamies voi antaa datan säilyttämismääräyksen. Sillä määrätään dataa hallussaan tai määräysvallassaan pitävä, ei kuitenkaan rikoksesta epäiltyä, säilyttämään se muuttumattomana. Määräys voi koskea myös dataa, jonka voidaan olettaa tulevan laitteeseen tai tietojärjestelmään määräyksen antamista seuraavan kuukauden aikana. Määräyksestä on pyynnöstä annettava kirjallinen todistus, jossa yksilöidään määräyksen kohteena oleva data.

Mitä 1 momentissa säädetään, koskee myös tietojärjestelmän välityksellä siirrettyyn viestiin liittyvää tietoa viestin alkuperästä, määränpäästä, reitistä ja koosta sekä viestinnän ajankohdasta, kestosta, laadusta ja muista vastaavista seikoista (liikennetieto). (30.12.2013/1146)

Esitutkintaviranomaisella ei ole 1 momentissa tarkoitetun säilyttämismääräyksen nojalla oikeutta saada tietoonsa viestin, liikennetiedon tai muun tallennetun tiedon sisältöä. Jos 2 momentissa tarkoitetun viestin välittämiseen on osallistunut useampi palveluntarjoaja, esitutkintaviranomaisella on oikeus saada tietoonsa palveluntarjoajien tunnistamiseksi tarvittavat liikennetiedot. (30.12.2013/1146)

(3) Exception of data specifically retained in accordance with national law (pursuant to the second sentence of Article 15(1) of Directive 2002/58/EC of the European Parliament and of the Council)

26 Article 30 para (c) grants EDPs the power to obtain stored computer data, including banking and traffic data, in various forms. However, data specifically retained under national laws per Directive 2002/58/EC (Article 15 para 1, second sentence) is excluded.

(a) Transposition of this Directive

27
- The Electronic Communications Data Protection Act/.Official publication: Suomen Saadoskoekmael (SK); Number: 516; Publication date: 2004-06-23
- Act on data protection in electronic communications/Lag om dataskydd vid elektronisk kommunikation/Official publication: Finlands Forfattningssamling (FFS); Number: 516; Publication date: 2004-06-23.
- Act amending Chapter 38 Section 4 of the Criminal Code/Official publication: Suomen Saadoskoekmael (SK); Number: 517; Publication date: 2004-06-23; Page: 01467-01467.
- Act on amendment of ch. 38 Section 4 of the Criminal Code/ Lag om ändring av 38 kap. 4 Section i strafflagen/Official publication: Finlands Forfattningssamling (FFS); Number: 517; Publication date: 2004-06-23; Page: 01468-01468.
- Act on amending the Internal Market Act/Official publication: Suomen Saadoskoekmael (SK); Number: 518; Publication date: 2004-06-23; Page: 01468-01468.
- Act amending the Communications Market Act/Lag om ändning av kommunikationsmarknadslagen/Official publication: Finlands Forfattningssamling (FFS); Number: 518; Publication date: 2004-06-23; Page: 01469-01469.
- Act amending Section 8 of the Emergency Services Act/Official publication: Suomen Saadoskoekmael (SK); Number: 519; Publication date: 2004-06-23; Page: 01469-01469.
- Act amending Section 8 of the Act on Emergency Centres/ Lag om ändring av 8 Section i lagen om nödcentraler/Official publication: Finlands Forfattningssamling (FFS); Number: 519; Publication date: 2004-06-23; Page: 01470-01470.
- Act amending Section 2 of the Act on Communications Administration/Official publication: Suomen Saadoskoekmael (SK); Number: 520; Publication date: 2004-06-23; Page: 01470-01470.
- Law on amendment of Section 2 i law on kommunikationsförvaltningen/Official publication: Finlands Forfattningssamling (FFS); Number: 520; Publication date: 2004-06-23; Page: 01471-01471.
- Act amending Section 16 of the Maritime Rescue Act/Official publication: Suomen Saadoskoekmael (SK); Number: 521; Publication date: 2004-06-23; Page: 01471-01471.
- Act amending Section 16 of the Maritime Rescue Day /Lag om ändning av Section 16 i sjöräddningslagen./Official publication: Finlands Forfattningssamling (FFS); Number: 521; Publication date: 2004-06-23; Page: 01472-01472.
- Act amending Section 36 of the Police Act./Official publication: Suomen Saadoskoekmael (SK); Number: 522; Publication date: 2004-06-23; Page: 01472-01472.
- Act amending section 36 of the Police Act /Lag om ändring av 36 Section i polislagen.

- Official publication: Finlands Forfattningssamling (FFS); Number: 522; Publication date: 2004-06-23; Page: 01473-01473.
- Act amending section 13 of the Act on the processing of personal data in police operations /Lag om ändring av 13 Section i lagen om behandling av personuppgifter i polisens verksamhet (Finlands Forfattningssamling (FFS); Number: 523; Publication date: 2004-06-23; Page: 01474-01474).

Thus, under Article 15 para 1, second sentence of Directive 2002/58/EC, Member States may mandate data retention for crime prevention, including fraud affecting the EU's financial interests (see above → PIF offences). **28**

For an EDP, national prosecutor or Finish investigator, sentence 2 of Article 15 para 1 of Directive 2002/58/EC means that it should be checked whether Finland can require, according to the laws cited above, telecom providers to retain certain data for a limited time to help with investigations. Retained data (e.g., call logs, IP addresses) can provide crucial evidence in criminal cases, including fraud affecting EU financial interests (PIF offences). EPPO cannot access such retained data under Article 30 para 1 (c) of the EPPO Regulation, limiting investigative tools for cross-border financial crimes. **29**

Additionally, the Coercive Measures Act (806/2011) cited above allows Finish (e.g. customs or police) authorities to compel individuals, excluding suspects, to provide necessary information, such as passwords, to access data during investigations. These legal frameworks facilitate the collection of evidence in criminal cases, thereby supporting the prosecution process. Whilst these laws may help the EDPs, the situation is different in other countries of the EPPO zone. A better harmonization of the respective Directive with a special emphasis on the retention of data to reveal PIF offences or tax crimes, customs offences to the detriment of the EU budget could be included in future revisions *de lege ferenda europea*. **30**

(b) National Provision in relation to Art. 15(1) s. 2 of this Directive

31 E.g.: **Act on electronic communication services**/*Laki sähköisen viestinnän palveluista*

Section 145a[224] **The telecom company's right to process personal data related to crimes**

When a telecommunications company processes personal data in accordance with Article 6(1)(f) of Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons in the processing of personal data and on the free movement of such data and the repeal of Directive 95/46/EC (General Data Protection Regulation), the telecommunications company has the right to process information necessary to prevent damage to the telecommunications company, its customers or other telecommunications companies about crimes against the business of telecommunications companies and identity theft against the customers of telecommunications companies.

A telecommunications company may store and hand over to another telecommu-nications company, for the purposes of subsection 1, information about criminal convictions for the following crimes:

1) for fraud and gross fraud;
2) payment instrument fraud;
3) identity theft;
4) dishonesty of the debtor and gross dishonesty of the debtor;
5) fraud by the debtor and gross fraud by the debtor.

The necessary information referred to in subsection 1 above are:

[224] 145 a § (19.12.2018/1266) Laki sähköisen viestinnän palveluista Teleyrityksen oikeus käsitellä rikoksiin liittyviä henkilötietoja Kun teleyritys käsittelee henkilötietoja luonnollisten henkilöiden suojelusta henkilötietojen käsittelyssä sekä näiden tietojen vapaasta liikkuvuudesta ja direktiivin 95/46/EY kumoamisesta (yleinen tietosuoja-asetus) annetun Euroopan parlamentin ja neuvoston asetuksen (EU) 2016/679 6 artiklan 1 kohdan f alakohdan mukaisesti oikeutettujen etujensa toteuttamiseksi, teleyrityksellä on oikeus käsitellä teleyritykseen, sen asiakkaisiin tai muihin teleyrityksiin kohdistuvien vahinkojen ehkäisemiseksi välttämättömiä tietoja teleyritysten liiketoimintaan kohdistuneista rikoksista ja teleyritysten asiakkaisiin kohdistuneista identiteettivarkauksista.
Teleyritys saa tallentaa ja luovuttaa toiselle teleyritykselle 1 momentin mukaisiin tarkoituksiin tietoja rikostuomiosta seuraavista rikoksista:
1) petoksesta ja törkeästä petoksesta;
2) maksuvälinepetoksesta;
3) identiteettivarkaudesta;
4) velallisen epärehellisyydestä ja törkeästä velallisen epärehellisyydestä;
5) velallisen petoksesta ja törkeästä velallisen petoksesta.
Edellä 1 momentissa tarkoitettuja välttämättömiä tietoja ovat:
1) rikoksesta tuomitun henkilön nimi ja henkilötunnus taikka, jos sitä ei ole käytettävissä, syntymäaika tai osoite;
2) tuomioistuimen nimi, ratkaisun tekopäivä ja ratkaisun numero;
3) syyksi luettu rikos ja rikoksen tekoaika.
Tallennetut tiedot on poistettava viipymättä, jos rikostuomio kumotaan tai puretaan, tai oikaistava, jos rikostuomiota muutetaan. Tiedot on poistettava kuitenkin viimeistään viiden vuoden kuluttua tietojen ensimmäisestä tallentamisesta. Lisäksi tietojen käsittelyssä on sovellettava tietosuojalain (1050/2018) 6 §:n 2 momentissa säädettyjä toimenpiteitä rekisteröidyn oikeuksien suojaamiseksi.

1) the name and social security number of the person convicted of the crime or, if it is not available, the date of birth or address;
2) the name of the court, the date of the decision and the number of the decision;
3) the crime considered as the cause and the time when the crime was committed.
The stored data must be deleted without delay if the criminal conviction is revoked or annulled, or corrected if the criminal conviction is changed. However, the data must be deleted no later than five years after the first storage of the data. In addition, the measures stipulated in section 6, subsection 2 of the Data Protection Act (1050/2018) must be applied to protect the data subject's rights.

Chapter 19 Information related to official activities
Section 157[225] **Obligation to keep information for official needs** Regardless of what is stipulated in this part regarding the processing of proxy data, the telecommunications

[225] 19 luku
Viranomaistoimintaan liittyvät tiedot
157 § (23.11.2018/1003) Laki sähköisen viestinnän palveluista
Velvollisuus säilyttää tiedot viranomaistarpeita varten
Sen estämättä, mitä tässä osassa säädetään välitystietojen käsittelystä, sisäministeriön päätöksellään erikseen nimeämän teleyrityksen (säilytysvelvollinen yritys) on huolehdittava jäljempänä säädetyin edellytyksin, että säilytysvelvollisuuden piiriin 2 ja 3 momentin mukaisesti kuuluvat tiedot säilytetään 4 momentissa säädettyjen säilytysaikojen mukaisesti. Säilytysvelvollisuus ei koske merkitykseltään vähäistä teletoimintaa. Säilytettäviä tietoja saa käyttää ainoastaan pakkokeinolain (806/2011) 10 luvun 6 §:n 2 momentissa tarkoitettujen rikosten selvittämiseksi ja syyteharkintaan saattamiseksi. (30.12.2020/1207)
Säilytysvelvollisuus koskee tietoja, jotka liittyvät:
1) säilytysvelvollisen yrityksen tarjoamaan matkaviestinverkon puhelinpalveluun tai tekstiviestipalveluun mukaan lukien puhelut, joissa yhteys on saatu muodostettua, mutta puheluun ei vastattu tai puhelu on estynyt verkonhallintatoimenpiteestä johtuen;
2) säilytysvelvollisen yrityksen tarjoamaan internetpuhelinpalveluun, jolla tarkoitetaan palveluyrityksen tarjoamaa loppuasiakkaille asti internetyhteyskäytäntöön perustuvaa puhelun mahdollistavaa palvelua;
3) säilytysvelvollisen yrityksen tarjoamaan internetyhteyspalveluun.
Edellä 2 momentin 1 ja 2 kohdassa tarkoitetuissa palveluissa säilytysvelvollisuus koskee tilaajan ja rekisteröidyn käyttäjän nimeä ja osoitetta, liittymän tunnistetta sekä tietoa, jonka avulla voidaan yksilöidä viestintäpalvelun käyttäjä ja yksilöidä viestintätyypin, "viestinnän" vastaanottajan sekä "viestinnän" ajankohdan ja keston mukaan viestintätapahtumat mukaan lukien soitonsiirrot. Lisäksi 2 momentin 1 kohdassa tarkoitetussa palvelussa säilytysvelvollisuus koskee tietoa, jonka avulla voidaan yksilöidä viestintään käytetty laite sekä laitteen ja siinä käytetyn liittymän sijainti viestintätapahtuman alkaessa. Edellä 2 momentin 3 kohdassa tarkoitetussa palvelussa säilytysvelvollisuus koskee tilaajan ja rekisteröidyn käyttäjän nimeä ja osoitetta, liittymän tunnistetta ja asennusosoitetta sekä tietoa, jonka avulla voidaan yksilöidä viestintäpalvelun käyttäjä, viestintään käytetty laite sekä palvelun käytön ajankohta ja kesto. Säilytettävät tiedot tulee rajata vain siihen, mikä on palvelun tekninen toteutus huomioon ottaen välttämätöntä edellä tässä momentissa tarkoitettujen seikkojen yksilöimiseksi.
Edellä 2 momentin 1 kohdassa tarkoitettujen palvelujen tietoja on säilytettävä 12 kuukautta, 2 momentin 3 kohdassa tarkoitetun palvelun tietoja 9 kuukautta ja 2 momentin 2 kohdassa tarkoitettujen palvelujen tietoja 6 kuukautta. Tietojen säilyttämisaika alkaa viestintätapahtuman ajankohdasta.
Säilytysvelvollisuus ei koske viestin sisältöä eikä verkkosivustojen selaamisesta kertyviä välitystietoja.
Säilytysvelvollisuuden edellytyksenä on, että tiedot ovat saatavilla ja säilytysvelvollisen yrityksen yleisesti saatavilla olevien viestintäpalvelujen tarjoamisen yhteydessä tämän lain tai luonnollisten henkilöiden suojelusta henkilötietojen käsittelyssä sekä näiden tietojen vapaasta liikkuvuudesta ja direktiivin 95/46/EY kumoamisesta annetun Euroopan parlamentin ja neuvoston asetuksen (EU) 2016/679 (yleinen tietosuoja-asetus) perusteella tuottamia tai käsittelemiä.
Tarkempia säännöksiä säilytettävistä tiedoista voidaan antaa valtioneuvoston asetuksella.
Säilytysvelvollisuuden perusteella säilytettävien tietojen teknisistä yksityiskohdista määrätään Liikenne- ja viestintäviraston määräyksessä.

company designated separately by the Ministry of the Interior by its decision (the company with a retention obligation) must ensure, under the conditions stipulated below, that the data covered by the retention obligation in accordance with subsections 2 and 3 are retained in accordance with the retention periods stipulated in subsection 4. The storage obligation does not apply to telecommunication activities of minor importance. Stored information may only be used to investigate and prosecute the crimes referred to in Chapter 10, Section 6, Subsection 2 of the Coercive Measures Act (806/2011).
The storage obligation applies to data related to:
1) including calls to the phone service or text message service of the mobile communication network provided by the company subject to storage, where a connection has been established, but the call was not answered or the call has been blocked due to a network management measure;
2) to the internet telephone service offered by the company obliged to store data, which means the service provided by the service company to end customers, which enables calls based on internet connection protocol;
3) to the internet connection service provided by the company liable for storage.
In the services referred to in paragraphs 1 and 2 of subsection 2 above, the storage obligation applies to the name and address of the subscriber and registered user, the subscription identifier and information that can be used to identify the user of the communication service and to identify the type of communication, "communication" recipient as well "communication" depending on the time and duration of communication events, including call forwarding. In addition, in the service referred to in subsection 2, point 1, the storage obligation applies to information that can be used to identify the device used for communication and the location of the device and the connection used in it at the start of the communication event. In the service referred to in subsection 2, point 3 above, the storage obligation applies to the name and address of the subscriber and registered user, the subscription identifier and installation address, as well as information that can be used to identify the user of the communication service, the device used for communication, and the time and duration of the use of the service. The information to be stored should be limited to only what is necessary, taking into account the technical implementation of the service, to identify the points referred to in this paragraph above. The data for the services referred to in subsection 2, point 1 above must be kept for 12 months, the data for the services referred to in subsection 2, point 3 for 9 months, and the data for the services referred to in subsection 2, point 2 for 6 months. The data retention period starts from the time of the communication event.
The retention obligation does not apply to the content of the message or the proxy data accumulated from browsing websites.
The condition of the retention obligation is that the data is available and in connection with the provision of generally available communication services by the company obliged to retain this law or Regulation (EU) 2016/679 of the European Parliament and

of the Council on the protection of natural persons in the processing of personal data and on the free movement of this data and the repeal of Directive 95/46/EC (General Data Protection Regulation) produced or processed.
More detailed regulations on the information to be stored can be issued by a government decree.
The technical details of the data to be stored based on the retention obligation are stipulated in the regulation of the Finnish Transport and Communications Agency.

Section 158[226] Obligations and procedures to be followed in the processing of data stored for official purposes

Before implementing the retention obligation, the company with the retention obligation must consult with the Ministry of the Interior about the authorities' needs for data retention. The company obliged to store the data decides on the technical implementation of data storage. The data must be stored cost-effectively. In addition, the business needs of the company obliged to store and the technical characteristics of the systems, as well as the needs of the authority obliged to pay, must be taken into account. Efforts must be made to plan the storage of data in such a way that the same data is not stored by more than one company.
The Ministry of the Interior has the right to acquire a system from an external service provider to which the data covered by the retention obligation can be transferred. A company with a retention obligation has the right to store in the system also the data whose processing for its own needs has not yet ended.
Section 247 applies to the obligation of the company obliged to store information to take care of data security. The company obliged to store must name the persons who have the right to process the stored data or the tasks in which they may be processed. The

[226] 158 § (23.11.2018/1003) Viranomaistarpeita varten säilytettävien tietojen käsittelyssä noudatettavat velvoitteet ja menettelytavat Säilytysvelvollisen yrityksen tulee ennen säilytysvelvollisuuden toteuttamista neuvotella sisäministeriön kanssa tietojen säilyttämistä koskevista viranomaisten tarpeista. Säilytysvelvollinen yritys päättää tietojen säilyttämisen teknisestä toteuttamisesta. Tiedot on säilytettävä kustannustehokkaasti. Lisäksi on otettava huomioon säilytysvelvollisen yrityksen liiketoiminnan tarpeet ja järjestelmien tekniset ominaispiirteet sekä maksuvelvollisen viranomaisen tarpeet. Tietojen säilyttäminen on pyrittävä suunnittelemaan siten, että samoja tietoja ei säilytä useampi yritys.
Sisäministeriöllä on oikeus hankkia ulkopuoliselta palveluntarjoajalta järjestelmä, johon säilytysvelvollisuuden piiriin kuuluvat tiedot voidaan siirtää. Säilytysvelvollisella yrityksellä on oikeus tallentaa järjestelmään myös ne tiedot, joiden käsittely omaa tarvetta varten ei ole vielä päättynyt.
Säilytysvelvollisen yrityksen velvollisuuteen huolehtia tietoturvasta sovelletaan 247 §:ää. Säilytysvelvollisen yrityksen on nimettävä henkilöt, joilla on oikeus käsitellä säilytettäviä tietoja tai tehtävät, joissa niitä saa käsitellä. Säilytysvelvollisen yrityksen on huolehdittava, että tilaajan saatavilla on tietoa tietojen säilyttämisestä ja sen tarkoituksesta.
Säilytettävät tiedot tulee voida toimittaa viranomaiselle ilman tarpeetonta viivästystä. Säilytysvelvollisen yrityksen on oltava tarvittaessa yhteistyössä verkkoyrityksen kanssa siten, että myös ne 157 §:ssä tarkoitetut saatavilla olevat tiedot säilytetään, joita verkkoyritys käsittelee säilytysvelvollisen yrityksen palvelun toteuttamiseksi.
Tietojen säilyttämisvelvollisuuden toteuttamisesta voidaan antaa tarkempia säännöksiä valtioneuvoston asetuksella.
Liikenne- ja viestintävirasto voi antaa tarkempia määräyksiä tietojen säilyttämisen teknisestä toteutuksesta ja tietoturvasta.

company obliged to store the data must ensure that the subscriber has access to information about data storage and its purpose.
The information to be stored must be able to be delivered to the authority without unnecessary delay. If necessary, the company obliged to store must cooperate with the online company in such a way that the available information referred to in Section 157 is also stored, which the online company processes in order to implement the service of the company obliged to store.
More detailed regulations on the implementation of the data retention obligation can be issued by a government decree.
The Finnish Transport and Communications Agency can issue more detailed regulations on the technical implementation of data storage and data security.

Chapter 22 Provision of information society services
Section 173[227] **Scope limitation**
The provisions of this chapter do not apply:
1) for taxation;
2) Directive 95/46/EC of the European Parliament and of the Council on the protection of individuals in the processing of personal data and the free movement of such data, as well as the processing of personal data and the protection of privacy "electronic" in the field of communication ("electronic" "communication" data protection directive) to issues within the scope of Directive 2002/58/EC of the European Parliament and of the Council;
3) for actions by public notaries and similar professionals that include the exercise of public authority;
4) for the actions of the legal representative or legal assistant in the legal proceedings;
5) for raffle activities for a fee.
Sections 174 and 175 below do not apply:

[227] 22 luku Tietoyhteiskunnan palvelujen tarjoaminen 173 § Soveltamisalan rajoitukset Tämän luvun säännöksiä ei sovelleta:
1) verotukseen;
2) yksilöiden suojelusta henkilötietojen käsittelyssä ja näiden tietojen vapaasta liikkuvuudesta annetun Euroopan parlamentin ja neuvoston direktiivin 95/46/EY sekä henkilötietojen käsittelystä ja yksityisyyden suojasta "sähköisen" viestinnän alalla ("sähköisen" "viestinnän" tietosuojadirektiivi) annetun Euroopan parlamentin ja neuvoston direktiivin 2002/58/EY soveltamisalaan kuuluviin kysymyksiin;
3) julkisten notaarien ja vastaavien ammatinharjoittajien sellaisiin toimiin, joihin sisältyy julkisen vallan käyttämistä;
4) oikeudenkäyntiasiamiehen tai oikeudenkäyntiavustajan toimiin oikeudenkäynnissä;
5) vastikkeelliseen arpajaistoimintaan.
Jäljempänä 174 ja 175 §:ää ei sovelleta:

1)[228] to copyright, related rights, industrial rights and rights as referred to in the Council Directive 87/54/EEC on the legal protection of circuit designs for semiconductor products and the European Parliament and Council Directive 96/9/EC on the legal protection of databases;
2) "electronic" for issuing money, if the member state has applied something to the issuer "electronic" on the exceptions provided for in Article 9(1) of Directive 2009/110/EC of the European Parliament and of the Council on the initiation, conduct and supervision of the stability of operations of money-issuing institutions, amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC;
3) for the advertising of shares in a collective investment undertaking referred to in Article 44, paragraph 2 of the Council Directive 85/611/EEC on the harmonization of laws, regulations and administrative provisions concerning companies engaged in co-llective investment activities targeting securities (collective investment companies);
4) questions related to freedom of establishment, free supply of insurance and the law applicable to the insurance contract;
5) the freedom of the parties to choose the law applicable to the contract;
6) contractual obligations in consumer contracts;
7) to the mandatory provisions of the law of the state in which the real estate is located on the form of the contract, if the contract creates or transfers a right to the real estate;
8) the permissibility of unsolicited commercial e-mail communications.

dd. Para 1(d) Freezing instrumentalities or proceeds of crime, including assets

The **Financial Intelligence Unit** may assist the EPPO in these cases. The FIU Finland is regulated by the Act on the Financial Intelligence Unit/*Laki rahanpesun selvittelykeskuksesta.* **32**

[228] 1) tekijänoikeuteen, lähioikeuksiin, teollisoikeuksiin eikä oikeuksiin, joita tarkoitetaan puolijohdetuotteiden piirimallien oikeudellisesta suojasta annetussa neuvoston direktiivissä 87/54/ETY ja tietokantojen oikeudellisesta suojasta annetussa Euroopan parlamentin ja neuvoston direktiivissä 96/9/EY;
2) "sähköisen" rahan liikkeeseenlaskuun, jos jäsenvaltio on soveltanut liikkeeseenlaskijaan jotakin "sähköisen" rahan liikkeeseenlaskijalaitosten liiketoiminnan aloittamisesta, harjoittamisesta ja toiminnan vakauden valvonnasta, direktiivien 2005/60/EY ja 2006/48/EY muuttamisesta sekä direktiivin 2000/46/EY kumoamisesta annetun Euroopan parlamentin ja neuvoston direktiivin 2009/110/EY 9 artiklan 1 kohdassa säädetyistä poikkeuksista;
3) arvopapereihin kohdistuvaa yhteistä sijoitustoimintaa harjoittavia yrityksiä (yhteissijoitusyritykset) koskevien lakien, asetusten ja hallinnollisten määräysten yhteensovittamisesta annetun neuvoston direktiivin 85/611/ETY 44 artiklan 2 kohdassa tarkoitettuun yhteissijoitusyrityksen osuuksien mainontaan;
4) sijoittautumisvapauteen, vakuutusten vapaaseen tarjontaan ja vakuutussopimukseen sovellettavaan lakiin liittyviin kysymyksiin;
5) osapuolten vapauteen valita sopimukseen sovellettava laki;
6) sopimusvelvoitteisiin kuluttajasopimuksissa;
7) kiinteistön sijaintivaltion lain pakottaviin säännöksiin sopimuksen muodosta, jos sopimuksella luodaan tai siirretään oikeus kiinteistöön;
8) ei-toivotun kaupallisen sähköpostiviestinnän sallittavuuteen.
NDir 85/611/ETY on kumottu direktiivillä EPNDir 2009/65/EY. EPNDir 95/46/EY on kumottu asetuksella EPNAs (EU) 2016/679 (yleinen tietosuoja-asetus).

33 The Anti-Money Laundering Act (Act on Detecting and Preventing Money Laundering and Terrorist Financing) contains provisions relating to freezing. In this area the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime does apply as well. Additionally, the Freezing of Assets to Combat Terrorism Act (325/2013) might apply.

34 Confiscation is enshrined in Chapter 10 of the Criminal Code.

35 This Chapter contains the following provisions:

36

Section 3[229] **Extended confiscation of proceeds**
If the offence committed is) an offence for which the most severe punishment provided by law is imprisonment for at least four years,
2) a receiving offence or money laundering,
3) smuggling,
4) a narcotics offence or contributing to a narcotics offence,
5) giving of a bribe, acceptance of a bribe, or giving of a bribe in business or acceptance of a bribe in business,
6) participation in the activities of an organised criminal group,

[229] 3 § (20.5.2016/356) Rikoslaki Laajennettu hyödyn menettäminen Jos on tehty
1) rikos, josta säädetty ankarin rangaistus on vähintään neljä vuotta vankeutta;
2) kätkemisrikos tai rahanpesu;
3) salakuljetus;
4) huumausainerikos tai huumausainerikoksen edistäminen;
5) lahjuksen antaminen tai lahjuksen ottaminen taikka lahjominen elinkeinotoiminnassa tai lahjuksen ottaminen elinkeinotoiminnassa;
6) järjestäytyneen rikollisryhmän toimintaan osallistuminen;
7) sukupuolisiveellisyyttä loukkaavan kuvan levittäminen, 20 luvun 8 b §:n 2 momentissa tarkoitettu lapsen houkutteleminen seksuaalisiin tarkoituksiin taikka paritus;
8) vaaran aiheuttaminen tietojenkäsittelylle; tai
9) 1–8 kohdassa tarkoitetun rikoksen rangaistava yritys
ja jos rikos on luonteeltaan sellainen, että se voi tuottaa taloudellista hyötyä, valtiolle menetetyksi voidaan tuomita omaisuus, joka on peräisin rikollisesta toiminnasta; menetetyksi tuomitsemista harkittaessa on muiden seikkojen ohella otettava erityisesti huomioon, onko omaisuus ilmeisesti peräisin muusta kuin vähäisenä pidettävästä rikollisesta toiminnasta ja onko menettämisseuraamuksen tuomitseminen tarpeen uusien rikosten ehkäisemiseksi sekä saadaanko rikollisella toiminnalla toistuvasti merkittävä osa asianomaisen tuloista.
Menettämisseuraamukseen voidaan tuomita 1 momentissa tarkoitettuun rikokseen syyllistynyt tai siihen osallinen taikka se, jonka puolesta tai hyväksi rikos on tehty.
Edellä 1 momentissa mainittu omaisuus voidaan tuomita kokonaan tai osaksi valtiolle menetetyksi myös
1) siltä, joka on tämän pykälän 2 momentissa tarkoitettuun henkilöön sellaisessa suhteessa, jota tarkoitetaan takaisinsaannista konkurssipesään annetun lain (758/1991) 3 §:n 1 momentissa (läheinen), sekä
2) yksityiseltä elinkeinonharjoittajalta, yhtiöltä, muulta yhteisöltä tai säätiöltä, joka on tämän pykälän 2 momentissa tarkoitettuun henkilöön tai hänen läheiseensä sellaisessa suhteessa, jota tarkoitetaan takaisinsaannista konkurssipesään annetun lain 3 §:n 2 momentin 1 tai 2 kohdassa,
jos on syytä olettaa, että omaisuus on menettämisseuraamuksen tai korvausvelvollisuuden välttämiseksi siirtynyt edellä mainituille.
Edellä 3 momentissa tarkoitettua menettämisseuraamusta ei tuomita, jos omaisuus on siirtynyt yli viisi vuotta aikaisemmin kuin 1 momentissa tarkoitettu rikos on tehty.
Jos kaksi tai useampi tuomitaan samaan menettämisseuraamukseen, nämä vastaavat siitä yhteisvastuullisesti.

7) distribution of a sexually obscene picture, solicitation of a child for sexual purposes referred to in chapter 20, section 8b, subsection 2, or pandering,
8) endangerment of data processing, or
9) a punishable attempt at an offence referred to in paragraphs 1–8, and the nature of the offence is such that the offence may give rise to economic benefit, confiscation of the property derived from criminal activity may be ordered; when considering whether confiscation shall be ordered, the court shall, in addition to other circumstances,
especially take into consideration whether the property is clearly derived from criminal activity that is not deemed to be of minor significance, whether the confiscation is necessary to prevent new
offences, and whether a significant part of the income of the person concerned is repeatedly derived from criminal activity.
A confiscation order may be imposed on a person who is found guilty of an offence referred to in subsection 1, on an accomplice to such an offence, or on a person on whose behalf or to whose benefit the offence was committed.
Confiscation, either in whole or in part, of property specified in subsection 1 may also be ordered in respect of 1) a person whose relationship to a person referred to in subsection 2 of this section is one referred to in section 3, subsection 1 of the Act on the Recovery of Assets to Bankruptcy Estates (758/1991) (close person), and
2) a private trader, a company, another corporate entity or a foundation whose re-lationship to a person referred to in subsection 2 of this section or to a person close to him or her is one referred to in section 3, subsection 2, paragraph 1 or 2 of the Act on the Recovery of Assets to Bankruptcy Estates, if there is reason to believe that the property has been transferred to them in order to avoid confiscation or liability for compensation.
Confiscation referred to in subsection 3 above shall not be ordered if the property has been transferred more than five years before the commission of the offence referred to in subsection 1.
If the same confiscation order is imposed on two or more persons, their liability is joint and several.

Section 4[230] **Confiscation of instrumentalities**

The following shall be confiscated if they have been used in the commission of an offence: 1) a firearm, an edged weapon or another comparable lethal instrument, and 2) any other object or property, the possession of which is punishable. Confiscation of the following may also be ordered: 1) an object or property that has been used in the commission of an intentional offence, and 2) an object or property that is closely connected to an intentional offence that is subject to judicial proceedings, where the object or property has been acquired or manufactured solely or mainly for the purposes of an intentional offence or where its characteristics make it particularly suitable for committing an intentional offence.

In assessing the need for confiscation, special attention shall be paid to the prevention of any new offences.

Section 5[231] **Confiscation of other property**

An object or property that has been produced, manufactured or brought about by way of an offence or that has been the target of an offence shall be confiscated, if its possession is punishable. An object or property that has been produced, manufactured or brought about by way of an offence or that has been the target of an offence may be confiscated, either in whole or in part, if the confiscation is necessary:

1) because the object or property has characteristics that are hazardous to health or to the environment,

2) to prevent new offences, and the object is particularly suitable for becoming a target of an offence or for criminal use,

---

[230] 4 § (26.10.2001/875) Rikoksentekovälineen menettäminen Valtiolle menetetyksi on tuomittava rikoksen tekemisessä käytetty:

1) ampuma- tai teräase sekä muu niihin rinnastettava hengenvaarallinen väline; ja

2) muu esine tai omaisuus, jonka hallussapito on rangaistavaa.

Menetetyksi voidaan tuomita myös:

1) esine tai omaisuus, jota on käytetty tahallisen rikoksen tekemisessä; ja

2) oikeudenkäynnin kohteena olevaan tahalliseen rikokseen läheisesti liittyvä esine tai omaisuus, joka on yksinomaan tai pääasiallisesti tahallista rikosta varten hankittu tai valmistettu taikka ominaisuuksiltaan erityisen sovelias tahallisen rikoksen tekemiseen.

Menetetyksi tuomitsemisen tarpeellisuutta harkittaessa on erityisesti kiinnitettävä huomiota uusien rikosten ehkäisemiseen.

[231] 5 § (26.10.2001/875)

Muun omaisuuden menettäminen

Rikoksella tuotettu, valmistettu tai aikaansaatu taikka rikoksen kohteena ollut esine tai omaisuus on tuomittava valtiolle menetetyksi, jos sen hallussapito on rangaistavaa.

Rikoksella tuotettu, valmistettu tai aikaansaatu taikka rikoksen kohteena ollut esine tai omaisuus voidaan tuomita kokonaan tai osaksi menetetyksi, jos menettämisseuraamus on tarpeen:

1) esineen tai omaisuuden terveydelle tai ympäristölle haitallisten ominaisuuksien vuoksi;

2) uusien rikosten ehkäisemiseksi, ja esine on erityisen sovelias rikoksen kohteeksi tai rikolliseen käyttöön;

3) säännöstelyä taikka maahantuontia tai maastavientiä koskevien säännösten tai määräysten tarkoituksen toteuttamiseksi; tai

4) luonnon tai ympäristön suojelemiseksi annettujen säännösten tai määräysten tarkoituksen toteuttamiseksi.

3) to achieve the objective of the provisions or regulations on import, export or regulation, or
4) to achieve the objective of the provisions or regulations on the protection of nature or the environment.

Chapter 31, s. 12 of the Criminal Code holds a provision in relation to Money Laundering: **37**

Section 12[232] **Confiscation**
Property that has been the target of an offence referred to in section 6, 7 or 9 shall be confiscated. The provisions of chapter 10, section 11, subsection 3 apply to the confiscation. The provisions of chapter 10 apply to the confiscation of other property. Regardless of what is provided in subsection 1, property that has been the target of money laundering may be ordered to be given as compensation or restitution to the person injured by the predicate offence in compliance with the provisions of chapter 10, section 2, subsection 3 as appropriate, instead of confiscation, if the nature of the property is suitable for this and compensation or restitution has not been paid to the person. However, confiscation of the property shall be ordered if the nature of the property is not suitable or it cannot be ordered to be given as compensation or restitution to the injured person due to the impediment referred to in chapter 10, section 2, subsection 3. In such a case, the provisions of chapter 10, section 11, subsection 2 apply, as appropriate, to the right of the person injured by the predicate offence to receive an amount equivalent to compensation or restitution from state funds.

[232] 12 § (27.4.2012/187) Menettämisseuraamus Omaisuus, joka on ollut 6, 7 tai 9 §:ssä tarkoitetun rikoksen kohteena, on tuomittava valtiolle menetetyksi. Menettämisseuraamukseen sovelletaan, mitä 10 luvun 11 §:n 3 momentissa säädetään.
Muun omaisuuden menettämisen osalta noudatetaan, mitä 10 luvussa säädetään.
Sen estämättä, mitä 1 momentissa säädetään, rahanpesun kohteena ollut omaisuus voidaan valtiolle menetetyksi tuomitsemisen asemesta tuomita esirikoksella loukatulle vahingonkorvauksena tai edunpalautuksena, jos omaisuus on laadultaan tähän sopivaa eikä vahingonkorvausta tai edunpalautusta hänelle ole suoritettu, noudattaen soveltuvin osin, mitä 10 luvun 2 §:n 3 momentissa säädetään. Omaisuus on kuitenkin tuomittava menetetyksi, jollei se ole laadultaan sopivaa tai sitä ei voida tuomita loukatulle vahingonkorvauksena tai edunpalautuksena 10 luvun 2 §:n 3 momentissa tarkoitetun esteen vuoksi. Tällöin esirikoksella loukatun oikeudesta saada valtion varoista vahingonkorvausta tai edunpalautusta vastaava määrä noudatetaan soveltuvin osin, mitä 10 luvun 11 §:n 2 momentissa säädetään.

ee. Para 1(e) Interception of electronic communications to and from the suspect or accused person

38 The following provisions apply in the area of the interception of electronic communications to and from the suspect or accused person:

Overview Box

FI= Chapter 5, s. 1 et seq., Chapter 6, s.s. 6 et seq. Police Act 7/22/2011 / 872[233]; Chapter 3, s. 3, Subs.1 of the Pre-Trial Investigation Act, Act on the Prevention of Crime in Customs (623/2015), Chapter 10 ss. 1–4 of the Coercive Measures Act

Authorizations by competent body:
Chapter 10 s. 5 Coercive Measures Act
"Deciding on interception of telecommunications and other similar information
The court shall decide on the interception of telecommunications and the acquisition of information referred to in s. 4 at the request of the official authorised to detain.
Permission to intercept telecommunications and to obtain information referred to in s. 4 (2) may be granted for a maximum of one month at a time. (30.12.2013 / 1146) […]."
Chapter 10, s. 9 Coercive Measures Act
Chapter 10 s. 11 Coercive Measures Act
"Deciding to obtain base station information
The court shall decide on the acquisition of base station information at the request of the arresting officer. […]."
Chapter 10 s. 13 Coercive Measures Act
Chapter 10 s. 18 Coercive Measures Act
Chapter 10 s. 22 Coercive Measures Act
Chapter 5 s. 3 Police Act 7/22/2011 / 872 restricts the interception to a list of crimes (mostly terrorist offences),
Chapter 5 s. 4 Police Act 7/22/2011 / 872: "Continuation of secret intelligence to investigate the crime
Chapter 5 s. 6 Police Act 7/22/2011 / 872 obtaining information from the provider.
Chapter 5 s. 7 Police Act 7/22/2011 / 872 is highly important
Chapter 5 s. 8 Police Act 7/22/2011 / 872 offers the possibility of telemonitoring: "(26.4.2019 / 581) s. 8 Telecommunication surveillance and its conditions"
s. 10 Police Act 7/22/2011 / 872
Nota bene:
Chapter 5 s. 11 Police Act 7/22/2011 / 872
Chapter 5 s. 17 Police Act 7/22/2011 / 872

[233] See *Poliisilaki 22.7.2011/872*, cf. https://www.finlex.fi/fi/laki/ajantasa/2011/20110872#L2P3. Accessed 31 December 2024.

The Coercive Measures Act does not apply with regard to every possible EU Fraud Offence in Finland (see above → Art. 26). Instead, Chapter 10, s. 10 Coercive Measures Act already clearly distinguishes what kind of special law applies in certain circumstances: 7 **39**

40

Chapter 10 Secret means of coercion
General provisions
Section 1[234] Scope of application
Wiretapping, obtaining information instead of wiretapping, telesurveillance, obtaining base station data, planned surveillance, covert data acquisition, technical surveillance (technical listening, technical viewing, technical monitoring and technical device monitoring), obtaining identification data of a telephone address or telecommunications terminal, covert activity, fake purchase, data source activity and controlled pass-through can be used in the preliminary investigation in secret from their targets. The use of these means to prevent and detect crime is regulated in the Police Act, the Customs Crime Prevention Act (623/2015) and the Law on Crime Prevention at the Border Guard (108/2018).
What is stipulated in this chapter regarding the right of a preliminary investigation authority or a preliminary investigation officer to use coercive means, except for covert operations, false purchase and controlled use of an information source, applies to border guard, customs and military authorities in addition to the police, according to what is separately stipulated in the law. Customs' right to use covert operations, fake purchases and controlled use of information sources in the preliminary investigation of a customs crime is regulated in the Customs Crime Prevention Act. Undercover operations and fake purchases in the preliminary investigation of a customs crime are carried out by the police at the request of the Customs. However, by decision of the head of the Central Criminal Police, covert operations and fake purchases carried out exclusively on the information network can also be carried out by a customs officer specially trained in secret information acquisition.

[234] 1 § (22.5.2015/628) Soveltamisala Telekuuntelua, tietojen hankkimista telekuuntelun sijasta, televalvontaa, tukiasematietojen hankkimista, suunnitelmallista tarkkailua, peiteltyä tiedonhankintaa, teknistä tarkkailua (tekninen kuuntelu, tekninen katselu, tekninen seuranta ja tekninen laitetarkkailu), teleosoitteen tai telepäätelaitteen yksilöintitietojen hankkimista, peitetoimintaa, valeostoa, tietolähdetoimintaa ja valvottua läpilaskua voidaan käyttää esitutkinnassa salassa niiden kohteilta. Näiden keinojen käytöstä rikoksen estämiseksi ja paljastamiseksi säädetään poliisilaissa, rikostorjunnasta Tullissa annetussa laissa (623/2015) ja rikostorjunnasta Rajavartiolaitoksessa annetussa laissa (108/2018). (30.1.2018/112)
Mitä tässä luvussa säädetään esitutkintaviranomaisen tai esitutkintavirkamiehen oikeudesta käyttää pakkokeinoja, koskee peitetoimintaa, valeostoa ja tietolähteen ohjattua käyttöä lukuun ottamatta poliisin lisäksi rajavartio-, tulli- ja sotilasviranomaisia sen mukaan kuin siitä laissa erikseen säädetään. Tullin oikeudesta käyttää peitetoimintaa, valeostoa ja tietolähteen ohjattua käyttöä tullirikoksen esitutkinnassa säädetään rikostorjunnasta Tullissa annetussa laissa. Tullirikoksen esitutkinnassa suoritettavan peitetoiminnan ja valeoston toteuttaa poliisi Tullin pyynnöstä. Keskusrikospoliisin päällikön päätöksellä yksinomaan tietoverkossa tehtävän peitetoiminnan ja valeoston voi kuitenkin toteuttaa myös salaiseen tiedonhankintaan erityisesti koulutettu tullirikostorjunnan tullimies.

41 *Figure 13: Coercive Measures – Overview for Finland Art. 30 para 1 (e) Appplicability of different Codes (Customs, Tax and Coercive Measures Act)*

Normal police	Chapter 10 Secret means of coercion, ss. 1 et seq. Section 1 - Scope Section 2 - Prerequisites for the use of covert means of coercion Telecoercive means Section 3 - Telehearing and its conditions Section 4 - Obtaining information instead of wiretapping Section 6 - Telemonitoring and its conditions Section 7 - Telemonitoring with the consent of the holder of the telephone address or telecommunications terminal Section 8 - Obtaining location information to reach suspects and convicts Section 10 - Acquisition of base station data and its conditions Planned surveillance, covert intelligence and technical surveillance Section 12 - Planned surveillance and its conditions Section 14 - Covert acquisition of information and its conditions Section 16 - Technical listening and its conditions Section 17 - Residential listening and its conditions Section 19 - Technical inspection and its conditions
Customs Authorities/Departement	**Section 5 Police Customs Act 29.4.2016/304** The policeman's right to carry out customs measures is regulated in Chapter 2 Section 21 of the Police Act (872/2011). Next the **Customs Crime Prevention Act (22.5.2015/623)** applies with regard to customs crimes, which may include customs fraud. Chapter 3 - Secret acquisition of information General provisions Section 1 - Application of secret means of obtaining information Section 2 - Prerequisites for the use of secret means of obtaining information Section 3 - Continuation of secret information acquisition to investigate the crime Data acquisition from telecommunication networks Section 4 - Telemonitoring and its conditions Section 5 - Telemonitoring with the consent of the holder of the telephone address or telecommunications terminal Section 6 - Deciding on telemonitoring Section 7 - Acquisition of base station data and its conditions

	Section 8 - Deciding on the acquisition of base station data Planned surveillance, covert intelligence and technical surveillance Section 9 - Planned surveillance and its conditions Section 10 - Deciding on planned monitoring Section 11 - Covert acquisition of information and its conditions Section 12 - Deciding Section 13 - Technical listening and its conditions Section 14 - Deciding on technical listening Section 15 - Technical inspection and its conditions Section 16 - Deciding on a technical inspection Section 17 - Technical monitoring and its conditions Section 18 - Deciding on technical monitoring Section 19 - Technical equipment inspection and its conditions Section 20 - Deciding on technical equipment inspection Section 21 - Obtaining telephone address or telephone terminal device identification information Section 22 - Installation and removal of a device, method or software Undercover operation and fake purchase Section 23 - Undercover activity and its conditions Section 24 - Implementation of covert activities Section 25 - Prohibition of committing a crime Section 26 - Participating in the activities of an organized criminal group and in controlled penetration Section 27 - Presentation and plan regarding covert activities carried out exclusively in the information network Section 28 - Deciding on covert operations
Tax Authorities ("Tax Police")	**Act on Taxation Procedure /** Laki verotusmenettelystä 18.12.1995/1558 The tax fraud area[235] does not foresee the use of interception means. But if the tax fraud happens in connection with antother offence for which the interception is allowed the use of the measure might as well lead to suspicion in the area of tac fraud.

[235] § 86 Tax Procedures Act Tax Evasion The penalty for illegal tax evasion and attempted tax evasion is stipulated in Chapter 29 §§ 1–3 of the Criminal Code (39/1889). (8/11/2013/784)
If the crime mentioned in sub§ 1 is minor, taking into account the amount of tax and other circumstances, the tax authority, taking into account any tax increase that may have been imposed, may not report the case to the prosecutor.

	Section 93 Police official assistance Act on taxation procedure Within the scope of their authority, the police are obliged to provide the tax and appeals authorities with the necessary official assistance.

ff. Para 1(f) Tracking & Tracing an Object

42

Coercive Measures Act

Chapter 10 Secret Means of Coercion

Section 21[236] Technical monitoring and its conditions

Technical monitoring refers to the monitoring of the movement of an object, substance or property with a radio transmitter to be placed separately or already in it, or other such technical device or method or software.

The preliminary investigation authority may apply technical surveillance to the subject of the crime or to the object, substance or property presumably possessed or used by the suspect, when there is reason to suspect the suspect of a crime for which the severest punishment provided for is at least one year in prison.

If the purpose of the technical monitoring is to monitor the movements of the person suspected of a crime by placing a tracking device on the clothes he is wearing or on an object he is carrying (technical monitoring of a person), the measure may only be carried out if there is reason to suspect him of the crime referred to in section 16, subsection 3.

[236] 21 § Pakkokeinolaki Tekninen seuranta ja sen edellytykset Teknisellä seurannalla tarkoitetaan esineen, aineen tai omaisuuden liikkumisen seurantaa siihen erikseen sijoitettavalla tai siinä jo olevalla radiolähettimellä tai muulla sellaisella teknisellä laitteella taikka menetelmällä tai ohjelmistolla.
Esitutkintaviranomainen saa kohdistaa rikoksen kohteena olevaan tai rikoksesta epäillyn oletettavasti hallussa olevaan tai käyttämään esineeseen, aineeseen tai omaisuuteen teknistä seurantaa, kun epäiltyä on syytä epäillä rikoksesta, josta säädetty ankarin rangaistus on vähintään vuosi vankeutta.
Jos teknisen seurannan tarkoituksena on seurata rikoksesta epäillyn liikkumista sijoittamalla seurantalaite hänen yllään oleviin vaatteisiin tai mukanaan olevaan esineeseen (henkilön tekninen seuranta), saadaan toimenpide suorittaa vain, jos häntä on syytä epäillä 16 §:n 3 momentissa tarkoitetusta rikoksesta.

Section 22[237] **Deciding on technical monitoring**

The court decides on technical monitoring of a person at the request of an official entitled to arrest. If the matter cannot tolerate delay, the official authorised to arrest may decide on the technical monitoring of the person until the court has resolved the request for the granting of the permit. The matter must be brought to the court for resolution as soon as it is possible, but no later than 24 hours after the coercive measure has been used.

The official authorised to arrest decides on other than the technical monitoring of the person.

The permit can be granted and the decision made for a maximum of six months at a time.

The requirement and decision regarding technical monitoring must state:

1) the suspected crime and the time it was committed;
2) suspected of a crime;
3) the facts on which the criminal suspicion against the suspect and the prerequisites for technical monitoring are based;
4) the validity period of the permit with the accuracy of the time;
5) toimenpiteen kohteena oleva esine, aine tai omaisuus;
6) an official authorised to arrest who leads and supervises the performance of technical monitoring;
7) possible limitations and conditions of technical monitoring.

[237] 22 § Pakkokeinolaki Teknisestä seurannasta päättäminen Tuomioistuin päättää henkilön teknisestä seurannasta pidättämiseen oikeutetun virkamiehen vaatimuksesta. Jos asia ei siedä viivytystä, pidättämiseen oikeutettu virkamies saa päättää henkilön teknisestä seurannasta siihen asti, kunnes tuomioistuin on ratkaissut luvan myöntämistä koskevan vaatimuksen. Asia on saatettava tuomioistuimen ratkaistavaksi heti, kun se on mahdollista, kuitenkin viimeistään 24 tunnin kuluttua pakkokeinon käytön aloittamisesta. Pidättämiseen oikeutettu virkamies päättää muusta kuin henkilön teknisestä seurannasta.

Lupa voidaan antaa ja päätös tehdä enintään kuudeksi kuukaudeksi kerrallaan.

Teknistä seurantaa koskevassa vaatimuksessa ja päätöksessä on mainittava:

1) epäilty rikos ja sen tekoaika;
2) rikoksesta epäilty;
3) tosiseikat, joihin epäiltyyn kohdistuva rikosepäily ja teknisen seurannan edellytykset perustuvat;
4) luvan voimassaoloaika kellonajan tarkkuudella;
5) toimenpiteen kohteena oleva esine, aine tai omaisuus;
6) teknisen seurannan suorittamista johtava ja valvova pidättämiseen oikeutettu virkamies;
7) mahdolliset teknisen seurannan rajoitukset ja ehdot.

c) Para 2: Specific restrictions in national law that apply with regard to certain categories of persons or professionals with an LLP obligation, Art. 29

Without prejudice to Article 29, the investigation measures set out in paragraph 1 of this Article may be subject to ***conditions in accordance with the applicable national law if the national law contains specific restrictions that apply with regard to certain categories of persons or professionals who are legally bound by an obligation of confidentiality.***

aa. Chapter 8 Coercice Measures Act – Search Measures

43

Section 23[238] (23.3.2023/452)

Information and assistance obligation of the holder of the information system

The owner, administrator and other person of the information system are obliged to provide the preliminary investigation authority at its request with the passwords and other similar information necessary for the device search and to assist in using them. Upon request, a written certificate must be given to the person to whom the request was made. If a person refuses to provide the information referred to in subsection 1 or to assist in using it in the manner referred to in said subsection, he or she may be interrogated in court in the manner provided for in Chapter 7, Section 9 of the Pre-trial Investigations Act.

The provisions in subsection 1 above do not apply to a suspect of a crime or **to the person referred to in subsection 1 or 2 of section 3 of chapter 7**[239], **who is entitled or obliged to refuse to testify**.

[238] 23 § (23.3.2023/452) Pakkokeinolaki Tietojärjestelmän haltijan tietojenanto- ja avustusvelvollisuus
Tietojärjestelmän haltija, ylläpitäjä ja muu henkilö ovat velvollisia antamaan esitutkintaviranomaiselle tämän pyynnöstä laite-etsinnän toimittamiseksi tarpeelliset salasanat ja muut vastaavat tiedot sekä avustamaan näiden käyttämisessä. Pyynnöstä on pyydettäessä annettava kirjallinen todistus sille, jolle pyyntö on esitetty.
Jos henkilö kieltäytyy antamasta 1 momentissa tarkoitettuja tietoja tai avustamasta näiden käyttämisessä mainitussa momentissa tarkoitetulla tavalla, häntä voidaan kuulustella tuomioistuimessa esitutkintalain 7 luvun 9 §:ssä säädetyllä tavalla.
Edellä 1 momentissa säädetty ei koske rikoksesta epäiltyä eikä 7 luvun 3 §:n 1 tai 2 momentissa tarkoitettua, joka on oikeutettu tai velvollinen kieltäytymään todistamasta.

[239] § 3 (12.6.2015/737) Pakkokeinolaki
Confiscation and reproduction bans
A document or other object referred to in § 1 may not be seized or copied if it contains information about which there is an obligation or right to refuse to testify pursuant to §§ 10–14, 16, 20 or 21 of Chapter 17 of the Civil Procedure Code.
If the obligation or right to secrecy is based on § 11, sub§ 2 or 3, or § 13, 14, 16, or 20 of the Code of Judicial Conduct, chapter 17 [Chapter 17 (12.6.2015/732) About proof] , in addition to what is stipulated in sub§ 1, the condition for the prohibition is that the object is the person referred to in the mentioned legal § or § 22 of the chapter referred to him in the possession of a person in a relationship referred to in sub§ 2 of
However, there is no ban on confiscation or reproduction if:

bb. Chapter 10 Coercive measures Act Secret Investigations

Chapter 10 Secret means of coercion **44**

Section 52[240] (23.3.2023/452) **Listening and viewing bans**

Wiretapping, obtaining information instead of wiretapping, technical listening, technical viewing and technical device monitoring may not target:

1) to the message between the suspect of a crime and his legal assistant referred to in subsection 1 or 3 of section 13 of chapter 17 of the Code of Justice or an interpreter referred to in subsection 1 of said section or a person in a relationship with said assistant referred to in subsection 22 of section 22 of said chapter;

2) to a message between a suspect of a crime and a priest referred to in Chapter 17, Section 16 of the Judicial Code or another person in a similar position; and not

3) to a message between a suspect who has lost his liberty due to a crime and a doctor, nurse, psychologist or social worker.

Unless the investigation is a crime for which the severest penalty is at least six years in prison, wiretapping, obtaining information instead of wiretapping, technical listening, technical viewing and technical device monitoring may not be used either:

---

1) a person referred to in § 11, sub§ 2 or 3, § 12, sub§ 1 or 2, § 13, sub§ 1 or 3, § 14, sub§ 1, or § 16, sub§ 1 of the Code of Judicial Conduct, for whose benefit the obligation of confidentiality is stipulated, consents to seizure or reproduction;

2) the person referred to in Chapter 17, § 20, Sub§ 1 of the Code of Judicial Conduct agrees to confiscation or copying; [...].

[240] 10 luku Salaiset pakkokeinot 52 § Kuuntelu- ja katselukiellot Telekuuntelua, tietojen hankkimista telekuuntelun sijasta, teknistä kuuntelua ja teknistä katselua ei saa kohdistaa:

1) rikoksesta epäillyn ja hänen oikeudenkäymiskaaren 17 luvun 13 §:n 1 tai 3 momentissa tarkoitetun oikeudellisen avustajansa tai 1 momentissa tarkoitetun tulkin taikka mainittuun avustajaan 22 §:n 2 momentissa tarkoitetussa suhteessa olevan henkilön väliseen viestiin;

2) rikoksesta epäillyn ja oikeudenkäymiskaaren 17 luvun 16 §:ssä tarkoitetun papin tai muun vastaavassa asemassa olevan henkilön väliseen viestiin; eikä

3) rikoksen johdosta vapautensa menettäneen epäillyn ja lääkärin, sairaanhoitajan, psykologin tai sosiaalityöntekijän väliseen viestiin.

Ellei tutkittavana ole rikos, josta säädetty ankarin rangaistus on vähintään kuusi vuotta vankeutta, telekuuntelua, tietojen hankkimista telekuuntelun sijasta, teknistä kuuntelua ja teknistä katselua ei saa kohdistaa myöskään:

1) rikoksesta epäillyn ja hänen oikeudenkäymiskaaren 17 luvun 17 §:n 1 momentissa tarkoitetun läheisensä väliseen viestiin;

2) rikoksesta epäillyn ja oikeudenkäymiskaaren 17 luvun 14 §:n 1 momentissa tarkoitetun lääkärin, tai muun terveydenhuollon ammattihenkilön taikka tähän 22 §:n 2 momentissa tarkoitetussa suhteessa olevan henkilön väliseen viestiin; eikä

3) rikoksesta epäillyn ja oikeudenkäymiskaaren 17 luvun 20 §:n 1 momentissa tarkoitetun yleisön saataville toimitetun viestin laatijan tai julkaisijan tai ohjelmatoimittajan harjoittajan taikka tähän 22 §:n 2 momentissa tarkoitetussa suhteessa olevan henkilön väliseen viestiin.

Jos telekuuntelun, telekuuntelun sijasta tapahtuvan tietojen hankkimisen, teknisen kuuntelun tai teknisen katselun aikana tai muulloin ilmenee, että kyseessä on viesti, jonka kuuntelu ja katselu on kielletty, toimenpide on keskeytettävä ja sillä saadut tallenteet ja sillä saatuja tietoja koskevat muistiinpanot on heti hävitettävä.

Tässä pykälässä tarkoitetut kuuntelu- ja katselukiellot eivät kuitenkaan koske tapauksia, joissa 1 tai 2 momentissa tarkoitettua henkilöä epäillään samasta tai siihen välittömästi liittyvästä rikoksesta kuin rikoksesta epäiltyä ja myös hänen osaltaan on tehty päätös telekuuntelusta, tietojen hankkimisesta telekuuntelun sijasta, teknisestä kuuntelusta tai teknisestä katselusta.

1) to the message between the suspect of a crime and his relative referred to in section 17, subsection 1, chapter 17 of the Judicial Procedure Code;
2) to a message between a suspect of a crime and a doctor or other healthcare professional referred to in section 14, subsection 1, chapter 17 of the Judicial Procedure Code, or a person in a relationship referred to in section 22, subsection 2 of the said chapter; and not
3) to a message between a person suspected of a crime and the creator or publisher of a message made available to the public as referred to in section 20, subsection 1 of chapter 17 of the Judicial Procedure Code, or a person in a relationship as referred to in section 22, subsection 2 of said chapter.
If during wiretapping, acquisition of information instead of wiretapping, technical listening, technical viewing or technical device monitoring, or at any other time, it appears that it is a message whose listening and viewing is prohibited, the operation must be stopped and the recordings and notes about the information obtained must be destroyed immediately.
However, the listening and viewing prohibitions referred to in this section do not apply to cases where the person referred to in subsections 1 or 2 is suspected of the same or immediately related crime as the person suspected of the crime, and a decision has also been made regarding him or her on wiretapping, obtaining information instead of wiretapping, technical listening, technical viewing or technical device monitoring.
Section 52, amended by Law 452/2023, enters into force on October 1, 2023.

d) Para 3: Conditions/ Thresholds for investigation measures

The investigation measures set out in points(c), (e) and (f) of paragraph 1 of this Article may be subject to ***further conditions, including limitations, provided for in the applicable national law. In particular, Member States may limit the application of points (e) and (f) of paragraph 1 of this Article to specific serious offences. A Member State intending to make use of such limitation shall notify the EPPO of the relevant list of specific serious offences in accordance with Article 117.***

aa. Conditions and Limitations for investigation measures of Para 1(c), (e) and (f) and Serious offences Limitation for offences of Para 1(e) and (f)

45

Telecoercive means

Section 3[241] **Telelistening and its conditions**

Wiretapping means the listening, recording and other processing of a message to be transmitted in the general communication network referred to in paragraph 43 of Section 3 of the Act on Electronic Communication Services received at or sent from a telephone address or telecommunication terminal device, or in a communication network connected to it, in order to find out the content of the message and the related transmission data referred to in Section 6 of this chapter. Wiretapping may only be aimed at a message originating from or intended for a criminal suspect. (23.3.2023/452)

The pre-trial investigation authority can be given permission to wiretap the telephone address or telephone terminal device in the possession of or presumably used by the suspect of a crime, if there is reason to suspect the suspect:

[…] **13) aggravated fraud or aggravated extortion;**

14) aggravated counterfeiting of currency;

[241] Telepakkokeinot 3 § Pakkokeinolaki Telekuuntelu ja sen edellytykset Telekuuntelulla tarkoitetaan teleosoitteeseen tai telepäätelaitteeseen vastaanotettavan taikka siitä lähetetyn sähköisen viestinnän palveluista annetun lain 3 §:n 43 kohdassa tarkoitetussa yleisessä viestintäverkossa tai siihen liitetyssä viestintäverkossa välitettävänä olevan viestin kuuntelua, tallentamista ja muuta käsittelyä viestin sisällön ja siihen liittyvien tämän luvun 6 §:ssä tarkoitettujen välitystietojen selvittämiseksi. Telekuuntelua saadaan kohdistaa vain rikoksesta epäillyltä lähtöisin olevaan tai hänelle tarkoitettuun viestiin. (23.3.2023/452)
Esitutkintaviranomaiselle voidaan antaa lupa kohdistaa telekuuntelua rikoksesta epäillyn hallussa olevaan tai hänen oletettavasti muuten käyttämäänsä teleosoitteeseen tai telepäätelaitteeseen, jos epäiltyä on syytä epäillä:
[…]
13) törkeästä petoksesta tai törkeästä kiskonnasta;
14) törkeästä rahanväärennyksestä;
15) törkeästä tietoliikenteen häirinnästä tai törkeästä tietojärjestelmän häirinnästä;
16) törkeästä ampuma-aserikoksesta;
17) törkeästä ympäristön turmelemisesta; taikka
18) törkeästä huumausainerikoksesta.
(22.12.2021/1268)
Lupa telekuunteluun voidaan antaa myös, kun jotakuta on syytä epäillä liike- tai ammattitoimintaan liittyvästä:
1) törkeästä lahjuksen antamisesta;
2) törkeästä kavalluksesta;
3) törkeästä veropetoksesta, törkeästä avustuspetoksesta;
4) törkeästä väärennyksestä;
5) törkeästä velallisen epärehellisyydestä, törkeästä velallisen petoksesta;
6) törkeästä lahjuksen ottamisesta, törkeästä virka-aseman väärinkäyttämisestä;
7) törkeästä säännöstelyrikoksesta;
8) törkeästä sisäpiirintiedon väärinkäytöstä, törkeästä markkinoiden vääristämisestä; tai (19.12.2014/1180)
9) törkeästä tulliselvitysrikoksesta.
Edellä 3 momentissa tarkoitetun luvan antamisen edellytyksenä on lisäksi, että rikoksella on tavoiteltu erityisen suurta hyötyä ja rikos on tehty erityisen suunnitelmallisesti.
Lupa telekuunteluun voidaan antaa myös, kun on syytä epäillä jotakuta törkeästä parituksesta, jossa on tavoiteltu erityisen suurta hyötyä ja rikos on tehty erityisen suunnitelmallisesti tai jota tarkoitetaan rikoslain 20 luvun 11 §:n 1 momentin 3 kohdassa. (8.7.2022/732)

15) aggravated telecommunications interference or aggravated interference with an information system;
16) aggravated firearms offence;
17) aggravated environmental damage; or
18) an aggravated drug offence.
Permission for wiretapping can also be given when there is reason to suspect someone related to business or professional activities:
1) for aggravated bribery;
2) for aggravated embezzlement;
3) gross tax fraud, gross aid fraud;
4) for gross forgery;
5) gross dishonesty of the debtor, gross fraud of the debtor;
6) gross bribery, gross abuse of official position;
7) for a gross regulatory crime;
8) gross misuse of insider information, gross market distortion; or (19.12.2014/1180)
9) for gross customs clearance crime.
In addition, the condition for granting the permission referred to in subsection 3 above is that the crime was aimed at a particularly large gain and the crime was committed in a particularly planned manner.
Permission for wiretapping can also be given when there is reason to suspect someone of gross adultery, where a particularly large gain has been sought and the crime has been committed in a particularly planned manner or which is referred to in Chapter 20, Section 11, Subsection 1, Subsection 3 of the Criminal Code. (8/7/2022/732).

bb. Notifications according to the last sentence of para. 3

46 Finland has notified the EPPO of restrictions in this area.

e) Para 4: Any other measure(s) in the EDP's Member State

*The European Delegated Prosecutors shall be entitled to request or to **order any other measures in their Member State that are available to prosecutors under national law in similar national cases,** in addition to the measures referred to in paragraph 1.*

47 **FI** = Chapter 5, s. 1 et seq., Chapter 6, ss. 6 et seq., ss. 30, 31, 32 et seq. Police Act[242]; ss. 23, 24, 24, 36 39, 40, 42 (controlled delivery) Customs Crime Prevention Act 5/22/2015 / 623[243]; Chapter 10, S. 3 et seq., ss. 27 et seq. Coercive Measures Act.
Especially ss. 13 "Systematic monitoring and its conditions", s. 15 "Covert access to information and its conditions" Police Act 7/22/2011 / 872

[242] See *Poliisilaki 22.7.2011/872*, cf. https://www.finlex.fi/fi/laki/ajantasa/2011/20110872#L2P3. Accessed 31 December 2024.
[243] Laki rikostorjunnasta Tullissa 22.5.2015/623.

Authorisations by competent body: s. 14 “Deciding on planned monitoring”: A police officer entitled to arrest or a police officer belonging to the security police shall decide on a planned surveillance. (26.4.2019 / 581)
A decision on planned monitoring may be taken for a maximum of six months at a time. […]
s. 16 Police Act 7/22/2011 / 872 “Deciding on covert access”
The head of the central criminal police, the security police or the police department, or a police officer assigned to the task, specially trained to arrest secret information, or a police officer belonging to the officers of the security police, shall decide on the covert access to information. (26.4.2019 / 581)
The decision on covert access must be made in writing. […]
s. 19 Police Act 7/22/2011 / 872 “The court shall decide on a technical inspection at the request of a police officer entitled to arrest or a police officer belonging to the security police when the inspection is directed to a state or other place protected by civil peace referred to in Chapter 24, S. 11 of the Penal Code or deprived of liberty. (26.4.2019 / 581)
A police officer entitled to arrest or a police officer belonging to a security police officer shall decide on a technical inspection referred to in s. 19 (5) and other than that referred to in subs. 1. (26.4.2019 / 581)”
s. 32 Police Act 7/22/2011 / 872: “s. 32 ‘Deciding on covert operations
The head of the central criminal police or security police decides on covert operations. […]”
s. 35 Police Act 7/22/2011 / 872 “Deciding on a fake purchase
The head of the Central Criminal Police or Security Police decides on a fake purchase. […]”
s. 44 Police Act 7/22/2011 / 872 “The head of the Central Criminal Police, the Security Police or the Police Department, or a police officer assigned to the task, specially trained to arrest secret information, or a police officer belonging to the officers of the Security Police, shall decide on the controlled passage by the police.”

Authorisation process in Finnish customs operations:
s. 28 Customs Crime Prevention Act 5/22/2015 / 623 “s. 28
Deciding on covert operations
The head of the Customs Crime Prevention decides on the covert action to be taken to prevent or investigate a customs offense and to submit a request to the police to carry it out. S. 29 provides for the termination of covert activities made exclusively in the information network.
The police decide on the practical implementation of covert operations. […]”
s. 29 Customs Crime Prevention Act 5/22/2015 / 623 “s. 29
Deciding on covert activities exclusively in the data network

The Chief of the Central Criminal Police shall make the secretary of the Customs Crime Prevention Officer or the customs officer specially trained to detain the secret information obtained by the Customs Crime Prevention Customs Officer specially trained for the secret acquisition of information specified in s. 24 of the Decision.
The decision may be issued for a maximum of six months at a time. […]"
s. 34 Customs Crime Prevention Act 5/22/2015 / 623 "s. 34 Deciding on a fake purchase
The head of the Customs Crime Prevention decides on a fake purchase to prevent or investigate a customs offense and submit a request to the police to carry it out. S. 35 provides for deciding on fake purchases made exclusively in the information network. […]"
s. 35 Customs Crime Prevention Act 5/22/2015 / 623 "s. 35
Deciding on a fake purchase online only
The head of the Central Criminal Police shall make a decision on a proposal made by a customs officer specially trained for the secret acquisition of information specified by a customs officer specially trained for the secret acquisition of information referred to in s. 33 (1) of the decision. […]"

Further Measures according to Chapter 10 Coercie Measures Act

Undercover operation and fake purchase

Section 27 - Undercover activity and its conditions
Section 28 - Prohibition of committing a crime
Section 29 - Participation in the activities of an organized criminal group and controlled penetration
Section 30 - Presentation and plan regarding covert activities
Section 31 - Deciding on covert activities
Section 32 - Decision on the prerequisites for covert operations
Section 33 - Expansion of covert activities
Section 34 - False purchase and its conditions
Section 35 - Deciding on a fraudulent purchase
Section 36 - Plan for the execution of a fraudulent purchase
Section 37 - Decision regarding the execution of a fraudulent purchase
Section 38 - Securing a police officer in covert information acquisition, covert operations and fake purchases
Data source operation and controlled pass-through
Section 39 - Data source operation and conditions for guided use of the data source
Section 40 - Deciding on the controlled use of a data source

f) Para 5: National Procedures and national modalities for taking investigative measures

The European Delegated Prosecutors may only order the measures referred to in paragraphs 1 and 4 where there are reasonable grounds to believe that the specific measure in question might provide information or evidence useful to the investigation, and where there is no less intrusive measure available which could achieve the same objective. ***The procedures and the modalities for taking the measures shall be governed by the applicable national law.***

aa. Coercive Measures Act, Chapter 8 Search Measures

Section 21[244] **Coercive Measures Act** **48**
Requirements for device search [Computer-search]
[see → Search any premises or land for the definition of a computer and device search]
The device search can be delivered if:
1) there is reason to suspect that a crime has been committed, for which the severest punishment provided is at least six months in prison, or matters related to the sentencing of a community fine need to be clarified; and
2) during the search, it can be assumed that a document or information to be seized as referred to in subsection 1 or 2 of chapter 7, section 1, related to the crime under investigation, or a document to be copied pursuant to chapter 7, section 2, will be found.
A device search can also be delivered to return the device to the person entitled to it, if there is reason to assume that it has been taken from someone by crime.
The decision to conduct a site-specific search can also be extended to the technical device or information system at the place where the search is performed, if it is not a site-specific search to find a person.

[244] 21 §Pakkokeinolaki Laite-etsinnän edellytykset Laite-etsintä saadaan toimittaa, jos:
1) on syytä epäillä, että on tehty rikos, josta säädetty ankarin rangaistus on vähintään kuusi kuukautta vankeutta, tai selvitettävänä ovat yhteisösakon tuomitsemiseen liittyvät seikat; ja
2) etsinnässä voidaan olettaa löytyvän tutkittavana olevaan rikokseen liittyvä 7 luvun 1 §:n 1 tai 2 momentissa tarkoitettu takavarikoitava asiakirja tai tieto taikka 7 luvun 2 §:n nojalla jäljennettävä asiakirja.
Laite-etsintä voidaan toimittaa myös laitteen palauttamiseksi siihen oikeutetulle, jos on syytä olettaa, että se on rikoksella joltakulta viety.
Päätös paikkaan kohdistuvan etsinnän toimittamisesta saadaan ulottaa koskemaan myös etsinnän toimittamispaikassa olevaa teknistä laitetta tai tietojärjestelmää, jos kyseessä ei ole paikkaan kohdistuva etsintä henkilön löytämiseksi.

Section 32[245] **Requirements for personal inspection**

A person suspected of a crime may be searched in order to find an object, property, document, information or matter under the conditions set out in Section 2 subsection 1, point 2, if there are probable reasons to suspect him of a crime for which the severest punishment is at least one year in prison, or for a drunken driving or drug use offense. If there are no probable reasons for suspicion, the suspect may only be searched if, on very valid grounds, it can be assumed that the object, property, document, information or circumstance referred to in the mentioned paragraph will be found.

If a crime has been committed, for which the severest punishment is at least four years in prison, the necessary background check to determine the DNA identifier or to take a gunpowder smoke sample or to perform other similar research can be carried out even without his consent on a person who is not suspected of the crime in question. The condition for such a background check is that the investigation has a very important meaning for the investigation of the crime because the investigation of the crime would be impossible or substantially more difficult using means that do not interfere with the rights of the subject of the investigation. DNA identifiers and corresponding investigation results must be destroyed and stored samples must be destroyed when the matter has been legally resolved or left to its own devices.

[245] 32 § Pakkokeinolaki

Henkilönkatsastuksen edellytykset

Rikoksesta epäillylle saadaan tehdä henkilönkatsastus esineen, omaisuuden, asiakirjan, tiedon tai seikan löytämiseksi 2 §:n 1 momentin 2 kohdassa säädetyin edellytyksin, jos on todennäköisiä syitä epäillä häntä rikoksesta, josta säädetty ankarin rangaistus on vähintään vuosi vankeutta, taikka rattijuopumuksesta tai huumausaineen käyttörikoksesta. Jollei epäilyyn ole todennäköisiä syitä, epäilty saadaan katsastaa vain, jos erittäin pätevin perustein voidaan olettaa löytyvän mainitussa kohdassa tarkoitettu esine, omaisuus, asiakirja, tieto tai seikka.

Jos on tehty rikos, josta säädetty ankarin rangaistus on vähintään neljä vuotta vankeutta, saadaan DNA-tunnisteen määrittämiseksi tai ruutisavunäytteen ottamiseksi taikka muun vastaavan tutkimuksen suorittamiseksi tarpeellinen henkilönkatsastus tehdä ilman hänen suostumustaankin henkilölle, jota ei epäillä kyseisestä rikoksesta. Edellytyksenä tällaiselle henkilönkatsastukselle on, että tutkimuksella on erittäin tärkeä merkitys rikoksen selvittämiselle sen vuoksi, että rikoksen selvittäminen olisi mahdotonta tai olennaisesti vaikeampaa käyttämällä tutkinnan kohteen oikeuksiin vähemmän puuttuvia keinoja. DNA-tunnisteet ja vastaavat tutkintatulokset on hävitettävä ja säilytetyt näytteet tuhottava, kun asia on lainvoimaisesti ratkaistu tai jätetty sillensä.

bb. Coercice Measures Act, Chapter 10 Secret Investigation Measures

Coercive Measures Act 49

Section 14[246] Covert information acquisition and its prerequisites

Covert information acquisition refers to the acquisition of information directed at a specific person in a short-term interaction, where false, misleading or hidden information is used to conceal the task of a policeman or a customs officer of the Customs' crime prevention.

The police may use covert information gathering if there is reason to assume that the measure will provide an explanation:

1) for a crime for which the severest punishment prescribed is at least four years in prison;

2) exploitation or pimping of a person who is the subject of sex trafficking;

3) for a narcotics offence;

4) for the preparation of a crime committed with terrorist intent or training for the commission of a terrorist crime, traveling for the purpose of committing a terrorist crime, or public incitement related to terrorist crimes, if the seriousness of the act would require a prison sentence;

5) for a gross customs clearance crime;

6) for theft or concealment related to planned, organized, professional, continuous or repeated criminal activity;

7) preparation for taking a hostage; or

8) for the preparation of aggravated robbery.

[246] 14 § (22.5.2015/628) Pakkokeinolaki Peitelty tiedonhankinta ja sen edellytykset Peitellyllä tiedonhankinnalla tarkoitetaan tiettyyn henkilöön kohdistuvaa lyhytkestoisessa vuorovaikutuksessa tapahtuvaa tiedonhankintaa, jossa poliisimiehen tai Tullin rikostorjunnan tullimiehen tehtävän salaamiseksi käytetään vääriä, harhauttavia tai peiteltyjä tietoja. Poliisi saa käyttää peiteltyä tiedonhankintaa, jos on syytä olettaa, että toimenpiteellä saadaan selvitystä:
1) rikoksesta, josta säädetty ankarin rangaistus on vähintään neljä vuotta vankeutta;
2) seksikaupan kohteena olevan henkilön hyväksikäytöstä tai parituksesta;
3) huumausainerikoksesta;
4) terroristisessa tarkoituksessa tehtävän rikoksen valmistelusta taikka kouluttautumisesta terrorismirikoksen tekemistä varten, matkustamisesta terrorismirikoksen tekemistä varten tai terrorismirikoksiin liittyvästä julkisesta kehottamisesta, jos teon vakavuus edellyttäisi vankeusrangaistusta;
5) törkeästä tulliselvitysrikoksesta;
6) suunnitelmalliseen, järjestäytyneeseen, ammattimaiseen, jatkuvaan tai toistuvaan rikolliseen toimintaan liittyvästä varkaudesta tai kätkemisrikoksesta;
7) panttivangin ottamisen valmistelusta; taikka
8) törkeän ryöstön valmistelusta.
(22.12.2021/1268)
Tulli saa käyttää peiteltyä tiedonhankintaa, jos on syytä olettaa, että toimenpiteellä saadaan selvitystä:
1) rikoksesta, josta säädetty ankarin rangaistus on vähintään neljä vuotta vankeutta;
2) tullirikokseksi katsottavasta huumausainerikoksesta;
3) salakuljetuksesta; taikka
4) törkeästä tulliselvitysrikoksesta.
Peitelty tiedonhankinta ei ole sallittua asunnossa edes asunnonhaltijan myötävaikutuksella.

Customs may use covert information acquisition if there is reason to assume that the measure will provide an explanation:
1) for a crime for which the severest punishment prescribed is at least four years in prison;
2) for a narcotics crime considered a customs crime;
3) smuggling; or
4) for gross customs clearance crime.
Covert information acquisition is not allowed in the apartment, even with the cooperation of the owner of the apartment.

Section 15[247] **Deciding on covert information acquisition**
The head of the central criminal police, protection police or police department, or an official specially trained for covert information acquisition and authorised to arrest, decides on covert information acquisition. Covert information acquisition to investigate a customs crime is decided by the head of Customs' crime prevention or a customs officer assigned to the task who is specially trained for covert information acquisition and entitled to arrest.
The decision on covert information acquisition must be made in writing. The decision must state:
1) the measure and its goal sufficiently identified;
2) the unit carrying out the covert information acquisition and the police officer responsible for it or the customs officer of the Customs Crime Prevention;
3) suspected crime;
4) a person subject to covert information acquisition;
5) the facts on which the criminal suspicion is based;
6) the planned implementation date of the measure;
7) possible restrictions and conditions of covert information acquisition.
If necessary, the decision must be revised if circumstances change.

[247] 15 § Pakkokeinolaki Peitellystä tiedonhankinnasta päättäminen Keskusrikospoliisin, suojelupoliisin tai poliisilaitoksen päällikkö taikka tehtävään määrätty salaiseen tiedonhankintaan erityisesti koulutettu pidättämiseen oikeutettu virkamies päättää peitellystä tiedonhankinnasta. Peitellystä tiedonhankinnasta tullirikoksen selvittämiseksi päättää Tullin rikostorjunnan päällikkö tai tehtävään määrätty salaiseen tiedonhankintaan erityisesti koulutettu pidättämiseen oikeutettu tullimies. (22.5.2015/628)
Päätös peitellystä tiedonhankinnasta on tehtävä kirjallisesti. Päätöksessä on mainittava:
1) toimenpide ja sen tavoite riittävästi yksilöitynä;
2) peitellyn tiedonhankinnan toteuttava yksikkö ja siitä vastaava poliisimies tai Tullin rikostorjunnan tullimies; (22.5.2015/628)
3) epäilty rikos;
4) peitellyn tiedonhankinnan kohteena oleva henkilö;
5) tosiseikat, joihin rikosepäily perustuu;
6) toimenpiteen suunniteltu toteuttamisajankohta;
7) mahdolliset peitellyn tiedonhankinnan rajoitukset ja ehdot.
Päätöstä on olosuhteiden muuttuessa tarvittaessa tarkistettava.

Section 16[248] **Technical listening and its prerequisites**

Technical eavesdropping refers to the listening, recording and other processing with a technical device, method or software of a conversation or message of a suspect of a crime, which is not intended for the information of outsiders and in which the listener does not participate, taking place with a technical device, method or software, the content of the conversation or message or its to investigate the parties or the suspected activity.

The pre-trial investigation authority may direct technical wiretapping to a criminal suspect who is outside the premises used for permanent residence and to a criminal suspect who has lost his liberty as a result of the crime in the authorities' premises. Eavesdropping can be carried out by targeting a space or other place where the suspect is likely to stay or visit.

The prerequisite for technical wiretapping is that there is reason to suspect the subject of wiretapping:

1) for a crime for which the severest punishment prescribed is at least four years in prison;

2) for a narcotics offence;

3) preparation for a crime committed with terrorist intent or training for committing a terrorist crime, traveling for the purpose of committing a terrorist crime, or public incitement related to terrorist crimes, if the seriousness of the act would require a prison sentence;

4) for a gross customs clearance crime;

5) preparation for taking a hostage; or

6) for the preparation of aggravated robbery.

[248] § 16 Pakkokeinolaki

Tekninen kuuntelu ja sen edellytykset

Teknisellä kuuntelulla tarkoitetaan rikoslain 24 luvun 5 §:n estämättä tapahtuvaa rikoksesta epäillyn sellaisen keskustelun tai viestin, joka ei ole ulkopuolisten tietoon tarkoitettu ja johon keskusteluun kuuntelija ei osallistu, kuuntelua, tallentamista ja muuta käsittelyä teknisellä laitteella, menetelmällä tai ohjelmistolla keskustelun tai viestin sisällön tai sen osapuolten taikka epäillyn toiminnan selvittämiseksi.

Esitutkintaviranomainen saa kohdistaa teknistä kuuntelua vakituiseen asumiseen käytettävän tilan ulkopuolella olevaan rikoksesta epäiltyyn ja viranomaisten tiloissa olevaan rikoksen johdosta vapautensa menettäneeseen rikoksesta epäiltyyn. Kuuntelu voidaan toteuttaa kohdistamalla se tilaan tai muuhun paikkaan, jossa epäillyn voidaan olettaa todennäköisesti oleskelevan tai käyvän.

Teknisen kuuntelun edellytyksenä on lisäksi, että kuuntelun kohteena olevaa henkilöä on syytä epäillä:

1) rikoksesta, josta säädetty ankarin rangaistus on vähintään neljä vuotta vankeutta;

2) huumausainerikoksesta;

3) terroristisessa tarkoituksessa tehtävän rikoksen valmistelusta taikka kouluttautumisesta terrorismirikoksen tekemistä varten, matkustamisesta terrorismirikoksen tekemistä varten tai terrorismirikoksiin liittyvästä julkisesta kehottamisesta, jos teon vakavuus edellyttäisi vankeusrangaistusta;

4) törkeästä tulliselvitysrikoksesta;

5) panttivangin ottamisen valmistelusta; taikka

6) törkeän ryöstön valmistelusta.

(22.12.2021/1268)

2. Articles 31 and 32 Cross-border investigations and Enforcement of assigned measures

50 Article 31 describes the procedures for the Finish EDP to "assign" investigative measures to an EDP in another Member State e.g. soon Sweden. This mechanism ensures that cross-border investigations are conducted efficiently, respecting the legal frameworks of the involved jurisdictions; Art. 4 para 3 TFEU and Art. 325 TFEU and recitals 14 and 68 request **efficieny**. Art. 31 para 2, 3–5 specify that the justification and adoption of such measures are governed by the law of the handling EDP's Member State, while the execution falls under the law of the assisting EDP's Member State.

51 Article 32 addresses the recognition and execution of decisions regarding precautionary measures and alternative sanctions. It ensures that such decisions made in one Member State are recognized and can be executed in another, facilitating seamless judicial cooperation and the effective functioning of the EPPO across different legal systems.

52 On 21 December 2023, the EJC decided the case C-281/22 *G.K. and Others*, providing critical **clarification on Article 31**. The Court ruled that when an EDP assigns an investigative measure to an EDP in another Member State, the judicial authorization required in the assisting Member State pertains solely to the enforcement aspects, not the justification or adoption of the measure. This distinction underscores that the substantive grounds for the measure are to be assessed under the law of the handling EDP's Member State, while the procedural execution is subject to the assisting EDP's national law.

53 For an EDP conducting an investigation, it can be said that this judgment needs to be read in full (see → Austrian and German volume). Even any **defence lawyer** needs to know that it is wortwhile to control the proportionality of investigative acts of the EPPO. Art. 31 and 32 EPPO Regulation clarify, read in conjunction with the ECJ's argument for efficiency that in cross-border assignments, the responsibility for justifying and adopting investigative measures lies with the handling EDP, and the assisting EDP's role is to facilitate the execution in compliance with their national procedures. This argument may streamline cross-border investigations[249], reduce bureaucratic hurdles, and enhance the EPPO's operational efficiency. Still this frequent repetition of the efficiency principle has been critiqued by many authors as procedural rights come only second.[250] For further analysis see → e.g. the German volume for a general overview.

[249] The principle is that any EDP managing the case can directly delegate an investigative action to a colleague in the Member State where it will occur, without needing mutual recognition tools. Exceptionally if the delegated action isn't available in a purely internal situation but can be used in a cross-border case, the EDP may choose to use the relevant mutual assistance tools, see Art. 13, 31 para 6 EPPO.
[250] See only Herrnfeld 2022, pp. 285 et seq.; ibid 2023, pp. 229 et seq.

3. Article 33 Pre-trial arrest and cross-border surrender

a) General relation to national law: applicable Codes 219
b) Para 1: Provisions for arrest and pre-trial detention 221
aa. Arrest 222
bb. Pre-trial detention 225
c) Para 2: Cross-border surrender 232

1. The handling European Delegated Prosecutor may order or request the arrest or pre-trial detention of the suspect or accused person **in accordance with the national law applicable in similar domestic cases.**
2. Where it is necessary to arrest and surrender a person who is not present in the Member State in which the handling European Delegated Prosecutor is located, the latter shall issue or request the competent authority of that Member State to issue a European Arrest Warrant in accordance with Council Framework Decision 2002/584/JHA (3).

a) General relation to national law: applicable Codes

See → Coercive Measures Act, Police Act, Pre-Trial Investigation Act	**1**

A first overview can be presented with the Table of Contents of the Coercice Measures Act: **2**

Chapter 2 Arrest, detention, imprisonment, and pretrial detention (30.1.2018/101)
Catching up
Section 1 - Policeman's right to arrest
Section 2 - General right of arrest
Section 3 - Use of force
Section 4 - Notification of seizure
Detention
Section 5 - Conditions for detention
Section 6 - Prohibition of unreasonable detention
Section 7 - Release of the arrested person
Section 8 - Re-arrest
Section 9 - Official entitled to arrest
Section 10 - Notification of arrest
Imprisonment
Section 11 - Conditions for imprisonment
Section 12 - Conditions for imprisonment of a convicted person
Section 12 a - Investigative arrest
Section 12 b - Content of investigative detention

Section 12 c - Decision on investigative detention
Section 12 d - Technical supervision
Section 12 e - Prohibition of issuing a passport
Section 12 f - Authority responsible for the execution of investigative detention
Section 12 g - General obligations of the person ordered into pre-trial detention
Section 12 h - Exception permit and changing the contents of the investigative detention
Section 12 i - Breach of obligations
Section 12 j - Employment assistance
Section 12 j - Employment assistance
Section 12 k - Notification of search
Section 13 - Prohibition of unreasonable imprisonment
Section 14 - Reincarceration
Section 15 - Notification of a demand for detention
Section 16 - Reversal of the arrest decision
Chapter 3 - Court procedure in detention matters
Section 1 - Authority deciding on imprisonment
Section 2 - Author of the request for detention
Section 3 - The form of the detention claim
Section 4 - Time of making the detention request for the arrested person
Section 5 - Acceptance of the request for detention
Section 6 - Processing of the request for detention
Section 7 - Consultation of the legal representative and the social welfare authority
Section 8 - Explanation to be presented in the detention case
Section 9 - Adjournment in the matter concerning the detention of the arrested person
Section 10 - Decision on detention
Section 11 - Imprisonment related to further investigation
Section 12 - Procedure related to the execution of the detention order
Section 13 - Imprisonment in a court other than the one hearing the charge
Section 14 - Setting a deadline for filing charges
Section 15 - Retrial of the detention case
Section 16 - Ordering detention in certain cases
Section 17 - Release of a prisoner
Section 18 - Imprisonment and investigative arrest in the Court of Appeal (30.1.2018/101)
Section 19 - Appeal
Section 20 - Calculation of deadlines
Section 21 - Reversal of the detention decision
Chapter 4 - Limitation of contact
Section 1 - Conditions for restricting contact
Section 2 - Content of restricting contact
Section 3 - Validity of restriction of contact

Section 4 - Deciding to restrict contact
Section 5 - Separate proceedings in court
Section 6 - Appeal
Chapter 5 - Travel ban
Section 1 - Travel ban conditions
Section 1 a - Prerequisites for an enhanced travel ban
Section 2 - Content of the travel ban
Section 2a - Obligation to stay in the apartment
Section 3 - Prohibition on issuing a passport
Section 4 - Authority deciding on a travel ban
Section 5 - Decision on travel ban
Section 6 - Exemption permit
Section 7 - Changing the travel ban decision
Section 8 - Revoking the travel ban
Section 9 - Validity of the travel ban
Section 10 - Penalties for violating the travel ban
Section 11 - Referral regulations
Section 12 - Appeal

b) Para 1: Provisions for arrest and pre-trial detention

A special feature of the renewed Finnish Criminal Code is (among other things) that if prison is or will be defined as a sanction within the criminal framework, the provision should be made in the Criminal Code (and not in the ancillary criminal code). For example, Finland does not have a unified tax code comparable to the Federal Republic of Germany's comprehensive Tax Code (*Abgabenordnung*). Instead, Finland relies on specific tax laws for different areas, such as income tax, value-added tax, and corporate tax, without a singular codified framework integrating all tax procedures. Possible criminal conduct shall despite the variouse code, be regulated in the Criminal Code. The decree of a sanction might be of releveance to determine arrest of detention conditions.

aa. Arrest

3

Pre-Trial Investigation Act

Chapter 6 Presence at the preliminary investigation

Section 3[251] Immediate consultation

A person found at the scene of a crime or in its immediate vicinity must, at the request of the pretrial investigation official conducting the preliminary investigation of crimes, remain at that location or immediately reach the nearest office of the pretrial investigation authority represented by the official, suitable for the purpose, or the corresponding office of another pretrial investigation authority. If, without an acceptable reason, he refuses to comply with the request, or if this is likely based on his behaviour, the relevant official can prevent him from leaving the place or arrest him and take him to a hearing. (30.12.2013/1145)

A person leaving the scene of a crime may be apprehended in order to give the warning referred to in subsection 1, if the circumstances are such that the warning cannot otherwise be brought to his attention and the investigation of the matter would otherwise be jeopardized.

Coercive Measures Act

Chapter 2 Arrest, detention, imprisonment and pretrial detention (30.1.2018/101)

Section 1[252] A policeman's right to arrest

In order to investigate a crime, a policeman can arrest a crime suspect who is caught in the act of murder or fleeing.

A policeman may also arrest a criminal suspect who has been ordered to be arrested or imprisoned. In addition, during the court's main hearing or decision consideration, a

[251] 3 § Välitön kuuleminen Rikospaikalta tai sen välittömästä läheisyydestä tavatun henkilön on rikosten esitutkintaa suorittavan esitutkintavirkamiehen kehotuksesta jäätävä tälle paikalle tai saavuttava välittömästi virkamiehen edustaman esitutkintaviranomaisen lähimpään tarkoitukseen sopivaan toimipaikkaan tai muun esitutkintaviranomaisen vastaavaan toimipaikkaan. Jos hän ilman hyväksyttävää syytä kieltäytyy noudattamasta kehotusta tai tämä on hänen käyttäytymisensä perusteella todennäköistä, asianomainen virkamies voi estää häntä poistumasta paikalta tai ottaa hänet kiinni ja viedä kuultavaksi. (30.12.2013/1145)
Rikospaikalta poistumassa oleva saadaan ottaa kiinni 1 momentissa tarkoitetun kehotuksen antamiseksi, jos olosuhteet ovat sellaiset, että kehotusta ei voida muuten saattaa hänen tietoonsa ja asian selvittäminen muuten vaarantuisi.

[252] 2 luku Kiinniottaminen, pidättäminen, vangitseminen ja tutkinta-aresti (30.1.2018/101) Kiinniottaminen
1 § Poliisimiehen kiinniotto-oikeus Poliisimies saa rikoksen selvittämistä varten ottaa kiinni verekseltä tai pakenemasta tavatun rikoksesta epäillyn. Poliisimies saa myös ottaa kiinni rikoksesta epäillyn, joka on määrätty pidätettäväksi tai vangittavaksi. Poliisimies saa lisäksi ottaa tuomioistuimen pääkäsittelyn tai päätösharkinnan aikana kiinni vastaajan, jonka vangitsemista on vaadittu tuomitsemisen yhteydessä, jos kiinniottaminen on tarpeen hänen poistumisensa estämiseksi. Jos pidättämiseen on edellytykset, poliisimies saa ottaa rikoksesta epäillyn kiinni ilman pidättämismääräystäkin, jos pidättäminen voi muuten vaarantua. Poliisimiehen on ilmoitettava kiinniottamisesta viipymättä pidättämiseen oikeutetulle virkamiehelle. Tämän on 24 tunnin kuluessa kiinniottamisesta päätettävä, onko kiinni otettu päästettävä vapaaksi vai pidätettävä. Kiinnioton jatkuminen yli 12 tuntia edellyttää pidättämisen edellytysten olemassaoloa.

police officer may arrest a defendant whose detention has been demanded in connection with the sentencing, if the arrest is necessary to prevent him from leaving.
If there are conditions for an arrest, a police officer may arrest a suspect of a crime even without an arrest warrant, if the arrest could otherwise be jeopardised. The police officer must immediately notify the officer entitled to arrest about the arrest. This must decide within 24 hours of the arrest whether the arrested person should be released or detained. The continuation of detention for more than 12 hours requires the existence of the conditions for detention.

Section 2[253] **General right of arrest**
Anyone may arrest a criminal suspect caught in the act of murder or fleeing, if the crime may result in imprisonment or the crime is minor assault, theft, minor embezzlement, minor unauthorised use, minor theft of a motor vehicle, minor damage or minor fraud.
Everyone can also arrest the person who, according to the wanted notice issued by the authorities, needs to be arrested or imprisoned.
Anyone caught must be handed over to a policeman without delay

Section 3[254] **Use of force**
If the detainee resists or flees in connection with the exercise of the general right of arrest, the detainee may use such means of force as are necessary for the execution of the arrest, which can be considered as defensible when evaluated as a whole, taking into account the nature of the crime, the detainee's behaviour and the situation in general.
Exaggeration of the use of force is regulated in Chapter 4, Section 6, Subsection 3 and Section 7 of the Criminal Code.

Section 4[255] **Notification of arrest**
The person arrested must be informed of the reason for the arrest without delay.
The law on the treatment of persons detained by the police (841/2006) provides for the notification of arrest to a relative or other person of the arrested person in chapter 2, section 2, subsection 2.

[253] 2 §´Yleinen kiinniotto-oikeus Jokainen saa ottaa kiinni verekseltä tai pakenemasta tavatun rikoksesta epäillyn, jos rikoksesta saattaa seurata vankeutta tai rikos on lievä pahoinpitely, näpistys, lievä kavallus, lievä luvaton käyttö, lievä moottorikulkuneuvon käyttövarkaus, lievä vahingonteko tai lievä petos.
Jokainen saa ottaa kiinni myös sen, joka viranomaisen antaman etsintäkuulutuksen mukaan on pidätettävä tai vangittava. Kiinni otettu on viipymättä luovutettava poliisimiehelle.
[254] 3 § Voimakeinojen käyttö Jos kiinniotettava yleisen kiinniotto-oikeuden käyttämisen yhteydessä tekee vastarintaa tai pakenee, kiinniottaja saa käyttää sellaisia kiinniottamisen toimittamiseksi välttämättömiä voimakeinoja, joita voidaan pitää kokonaisuutena arvostellen puolustettavina, kun otetaan huomioon rikoksen laatu, kiinniotettavan käyttäytyminen ja tilanne muutenkin.
Voimakeinojen käytön liioittelusta säädetään rikoslain 4 luvun 6 §:n 3 momentissa ja 7 §:ssä.
[255] 4 § Kiinniottamisesta ilmoittaminen Kiinni otetulle on viipymättä ilmoitettava kiinniottamisen syy.
Kiinniottamisesta ilmoittamisesta kiinni otetun läheiselle tai muulle henkilölle säädetään poliisin säilyttämien henkilöiden kohtelusta annetun lain (841/2006) 2 luvun 2 §:n 2 momentissa.

Customs Act

Section 33[256] **Arresting the wanted person**

The customs officer has the right to arrest a wanted person who, according to the notice issued by the competent authority, must be arrested, arrested or imprisoned or taken into custody. An arrested person, who is wanted by someone other than Customs, must be handed over to police custody without delay, unless he has to be released immediately.

A wanted person other than the one referred to in subsection 1 is obliged to arrive at the police station or another place where the measures according to the wanted notice can be carried out upon the summons of the customs officer. If he does not comply with the request or if it is likely that he will try to avoid the action mentioned in the search warrant, the customs officer has the right to arrest him in order to carry out the action mentioned in the search warrant.

The subject of a search warrant, unless the law provides otherwise regarding the duration of the measures required by the search warrant, is obliged to arrive for the execution of the measure no later than six hours after the apprehension.

[256] 33 § Etsintäkuulutetun kiinniottaminen Tullimiehellä on oikeus ottaa kiinni etsintäkuulutettu, joka toimivaltaisen viranomaisen antaman kuulutuksen mukaan on otettava kiinni, pidätettävä tai vangittava taikka otettava säilöön. Kiinniotettu, joka on muun kuin Tullin etsintäkuuluttama, on viipymättä toimitettava poliisin huostaan, jollei häntä ole päästettävä heti vapaaksi.

Muu kuin 1 momentissa tarkoitettu etsintäkuulutettu on velvollinen tullimiehen kehotuksesta saapumaan poliisiasemalle tai muuhun paikkaan, jossa etsintäkuulutuksen mukaiset toimenpiteet voidaan suorittaa. Jollei hän noudata kehotusta tai jos on todennäköistä, että hän pyrkii välttämään etsintäkuulutuksessa mainitun toimenpiteen, tullimiehellä on oikeus ottaa hänet kiinni kuulutuksessa mainitun toimenpiteen suorittamiseksi.

Etsintäkuulutettu on, jollei etsintäkuulutuksen edellyttämien toimenpiteiden kestoajasta laissa toisin säädetä, velvollinen olemaan toimenpiteen suorittamiseksi saapuvilla enintään kuusi tuntia kiinniottamisesta.

bb. Pre-trial detention

Coercive Measures Act	4
Detention **Section 5**[257] **Conditions of detention** A suspect with probable cause for a crime can be arrested if: 1) no lighter punishment than two years' imprisonment has been provided for the crime; 2) the crime has a lighter punishment than two years in prison, but the harshest punishment is at least one year in prison and based on the suspect's personal circumstances or other circumstances, there is reason to suspect that he: a) runs away or otherwise avoids preliminary investigation, trial or execution of punishment; b) complicates the investigation of the case by destroying, corrupting, changing or hiding evidence or by influencing a witness, interested party, expert or accomplice; or c) continue criminal activity; 3) he is unknown and refuses to give his name or address or gives apparently incorrect information about it; or 4) he does not have a permanent residence in Finland and it is likely that by leaving the country he will avoid a preliminary investigation, a trial or the execution of a sentence. When there is reason to suspect a person of a crime, he may be arrested, even if there are no probable reasons for the suspicion, if the conditions for arrest are otherwise stipulated in subsection 1 and the arrest of the suspect is very important due to the expected further investigation. A suspect of a criminal act committed under the age of 15 may not be arrested.	

[257] Pidättäminen 5 § Pidättämisen edellytykset Rikoksesta todennäköisin syin epäilty saadaan pidättää, jos:
1) rikoksesta ei ole säädetty lievempää rangaistusta kuin kaksi vuotta vankeutta;
2) rikoksesta on säädetty lievempi rangaistus kuin kaksi vuotta vankeutta, mutta siitä säädetty ankarin rangaistus on vähintään vuosi vankeutta ja epäillyn henkilökohtaisten olosuhteiden tai muiden seikkojen perusteella on syytä epäillä, että hän:
a) lähtee pakoon taikka muuten karttaa esitutkintaa, oikeudenkäyntiä tai rangaistuksen täytäntöönpanoa;
b) vaikeuttaa asian selvittämistä hävittämällä, turmelemalla, muuttamalla tai kätkemällä todistusaineistoa taikka vaikuttamalla todistajaan, asianomistajaan, asiantuntijaan tai rikoskumppaniinsa; taikka
c) jatkaa rikollista toimintaa;
3) hän on tuntematon ja kieltäytyy ilmoittamasta nimeään tai osoitettaan taikka antaa siitä ilmeisesti virheellisen tiedon; tai
4) hänellä ei ole vakinaista asuntoa Suomessa ja on todennäköistä, että hän poistumalla maasta karttaa esitutkintaa, oikeudenkäyntiä tai rangaistuksen täytäntöönpanoa.
Kun henkilöä on syytä epäillä rikoksesta, hänet saadaan pidättää, vaikka epäilyyn ei ole todennäköisiä syitä, jos pidättämiseen on muuten 1 momentissa säädetyt edellytykset ja epäillyn pidättäminen on odotettavissa olevan lisäselvityksen vuoksi erittäin tärkeää.
Alle 15-vuotiaana tehdystä rikollisesta teosta epäiltyä ei saa pidättää.

Section 6[258] **Prohibition of unreasonable detention**
No one may be arrested if the arrest would be unreasonable due to the quality of the case or the age or other personal circumstances of the suspect.

Section 7[259] **Releasing the detainee**
The detainee must be released as soon as the conditions for detention no longer exist. The detainee must be released at the latest after the time stipulated for making a request for detention, unless he is required to be detained.
The official authorised to make the arrest decides whether to release the arrested person. However, when dealing with the request for detention, the court decides on it.

Section 8[260] **Re-arrest**
A person arrested or imprisoned for a crime who has been released may not be re-arrested for the same crime on the basis of a fact that was known to the authority when it decided to arrest or imprison. (26.4.2019/587)

Section 9[261] **Official authorised to arrest**
The decision to arrest is made by an official entitled to arrest. Officials entitled to arrest are:
1) Chief of Police, Chief of Police of the National Police Board, Chief Inspector of Police and Police Inspector, Chief of Police, Deputy Chief of Police, Chief and Deputy

[258] 6 § Kohtuuttoman pidättämisen kielto Ketään ei saa pidättää, jos pidättäminen olisi kohtuutonta asian laadun taikka rikoksesta epäillyn iän tai muiden henkilökohtaisten olosuhteiden vuoksi.
[259] 7 § Pidätetyn vapaaksi päästäminen
Pidätetty on päästettävä vapaaksi heti, kun pidättämisen edellytyksiä ei enää ole. Pidätetty on päästettävä vapaaksi viimeistään vangitsemisvaatimuksen tekemistä varten säädetyn ajan kuluttua, jollei häntä vaadita vangittavaksi.
Pidätetyn päästämisestä vapaaksi päättää pidättämiseen oikeutettu virkamies. Vangitsemisvaatimusta käsiteltäessä siitä päättää kuitenkin tuomioistuin.
[260] 8 § Uudelleen pidättäminen
Rikoksesta pidätettyä tai vangittua, joka on päästetty vapaaksi, ei saa uudelleen pidättää samasta rikoksesta sellaisen seikan nojalla, joka on ollut viranomaisen tiedossa sen päättäessä pidättämisestä tai vangitsemisesta.
[261] 9 § (26.4.2019/587) Pidättämiseen oikeutettu virkamies
Pidättämisestä päättää pidättämiseen oikeutettu virkamies. Pidättämiseen oikeutettuja virkamiehiä ovat:
1) poliisiylijohtaja, Poliisihallituksen poliisijohtaja, poliisiylitarkastaja ja poliisitarkastaja, poliisipäällikkö, apulaispoliisipäällikkö, keskusrikospoliisin päällikkö ja apulaispäällikkö, rikosylitarkastaja, rikostarkastaja, rikosylikomisario, ylikomisario, rikoskomisario ja komisario;
2) Tullin rikostorjunnan päällikkö, Tullin rikostorjunnan toimintayksikön päällikkö sekä Tullin rikostorjunnan tulliylitarkastaja, jonka Tullin rikostorjunnan päällikkö on määrännyt tutkinnanjohtajaksi;
3) Rajavartiolaitoksen päällikkö ja apulaispäällikkö, Rajavartiolaitoksen esikunnan raja- ja meriosaston osastopäällikkö, Rajavartiolaitoksen esikunnan oikeudellisen osaston osastopäällikkö, apulaisosastopäällikkö, rikostorjuntayksikön yksikönpäällikkö, rajavartioylitarkastaja, ylitarkastaja, rikosylitarkastaja ja rikostarkastaja, rajavartioston ja merivartioston komentaja ja apulaiskomentaja, rajavartioston ja merivartioston rajatoimiston ja meritoimiston päällikkö, Suomenlahden merivartioston Helsingin rajatarkastusosaston päällikkö ja varapäällikkö sekä vähintään luutnantin arvoinen rajavartiomies, joka on saanut tutkinnanjohtajalle Rajavartiolaitoksessa säädetyn koulutuksen ja jonka Rajavartiolaitoksen tai sen hallintoyksikön päällikkö on määrännyt tutkinnanjohtajaksi;
4) syyttäjä.
Pidättämiseen oikeutetuista puolustusvoimien virkamiehistä säädetään erikseen.

Chief of the Central Criminal Police, Chief of Crime Inspector, Crime Inspector, Crime Commissioner, Chief Commissioner, Crime Commissioner and Commissioner;
2) The head of Customs' crime prevention, the head of the Customs' crime prevention operational unit and the customs chief inspector of Customs' crime prevention, who has been appointed by the head of Customs' crime prevention as the head of the investigation;
3) Chief and Deputy Chief of the Border Guard, Head of the Border and Maritime Department of the Border Guard Staff, Head of the Legal Department of the Border Guard, Deputy Head of Department, Crime Prevention Unit Chief, Border Guard Chief Inspector, Chief Inspector, Crime Inspector and Crime Inspector, Commander and Deputy Commander of the Border Guard and Maritime Guard, Head of the Border Guard and Maritime Guard's Border Office and Maritime Office, Gulf of Finland the head and deputy head of the Helsinki Border Inspection Department of the Coast Guard and a border guard of at least the rank of lieutenant who has received the training prescribed for the head of the investigation at the Border Guard and who has been appointed by the head of the Border Guard or its administrative unit as the head of the investigation;
4) prosecutor.
There are separate provisions on defense force officials entitled to arrest.

Section 10[262] **Notification of arrest**
The detainee must be informed of the reason for the arrest without delay when the decision to arrest has been made or he has been arrested on the basis of an arrest warrant.
Notification of the arrest to the relative or other person of the arrested person is provided for in Chapter 2, Section 2, Subsection 2 of the Act on the Treatment of Persons Detained by the Police.

[262] 10 § Pidättämisestä ilmoittaminen
Pidätetylle on ilmoitettava pidättämisen syy viipymättä, kun päätös pidättämisestä on tehty tai hänet on otettu pidättämismääräyksen perusteella kiinni.
Ilmoittamisesta pidättämisestä pidätetyn läheiselle tai muulle henkilölle säädetään poliisin säilyttämien henkilöiden kohtelusta annetun lain 2 luvun 2 §:n 2 momentissa.

Imprisonment

Section 11[263] Conditions of imprisonment

The court may, at the request of an official entitled to request detention, order the detention of a suspect of a crime with probable cause under the conditions stipulated in section 5, subsection 1.

When there is reason to suspect a person of a crime, he may be imprisoned, even if there are no probable reasons for the suspicion, if the conditions for the imprisonment are otherwise stipulated in section 5, subsection 1, and the imprisonment is very important due to the expected further investigation. If the suspect has been detained pursuant to this subsection, the detention case concerning him must be re-processed as stipulated in Chapter 3, Section 11. At the request of the person making the request for detention, the court can transfer the retrial of the detention case to the competent court in the prosecution case. The court shall immediately notify this court of its decision.

A suspect with the most probable cause of a crime, whose extradition to Finland will be requested, may be imprisoned if the severest punishment prescribed for the crime is at least one year in prison and if, based on the suspect's personal circumstances, the number or quality of the crimes included in the extradition request, or other similar circumstances, there is reason to suspect that he will not voluntarily come to Finland for prosecution for.

A suspect of a criminal act committed under the age of 15 may not be imprisoned.

A suspect under the age of 18 may not be imprisoned or ordered to continue to be detained, unless compelling reasons require it.

[263] Vangitseminen 11 § Vangitsemisen edellytykset Tuomioistuin saa vangitsemisvaatimuksen esittämiseen oikeutetun virkamiehen vaatimuksesta määrätä rikoksesta todennäköisin syin epäillyn vangittavaksi 5 §:n 1 momentissa säädetyin edellytyksin.

Kun henkilöä on syytä epäillä rikoksesta, hänet saadaan vangita, vaikka epäilyyn ei ole todennäköisiä syitä, jos vangitsemiseen muuten on 5 §:n 1 momentissa säädetyt edellytykset ja vangitseminen on odotettavissa olevan lisäselvityksen vuoksi erittäin tärkeää. Jos epäilty on vangittu tämän momentin nojalla, on häntä koskeva vangitsemisasia käsiteltävä uudelleen siten kuin 3 luvun 11 §:ssä säädetään. Vangitsemisvaatimuksen tekijän pyynnöstä tuomioistuin voi siirtää vangitsemisasian uudelleen käsittelyn syyteasiassa toimivaltaiselle tuomioistuimelle. Tuomioistuimen on heti ilmoitettava päätöksestään tälle tuomioistuimelle.

Rikoksesta todennäköisin syin epäilty, jonka luovuttamista Suomeen tullaan pyytämään, saadaan vangita, jos rikoksesta säädetty ankarin rangaistus on vähintään vuosi vankeutta ja jos epäillyn henkilökohtaisten olosuhteiden, luovuttamispyyntöön sisällytettävien rikosten määrän tai laadun taikka muiden vastaavien seikkojen perusteella on syytä epäillä, ettei hän saavu vapaaehtoisesti Suomeen syytetoimenpiteitä varten.

Alle 15-vuotiaana tehdystä rikollisesta teosta epäiltyä ei saa vangita.

Alle 18-vuotiasta epäiltyä ei saa vangita tai määrätä pidettäväksi edelleen vangittuna, elleivät painavat syyt sitä vaadi. (15.3.2019/323)

Section 12[264] **Conditions for the imprisonment of a convicted person**

The court may, at the request of the prosecutor or the interested party who demanded punishment for the defendant, order that the person sentenced to unconditional imprisonment be imprisoned or kept in further imprisonment, if:

1) the sentenced punishment is at least two years in prison;

2) the sentenced punishment is less than two years of imprisonment but at least one year of imprisonment and it is likely that the convicted:

a) runs away or otherwise avoids the execution of the punishment; or

b) continue criminal activity;

3) the sentenced punishment is less than one year of imprisonment and:

a) the convicted person does not have a permanent home in Finland and it is likely that he will avoid the execution of the sentence by leaving the country; or

b) he has been sentenced by one or more decisions to imprisonment for several crimes committed in short intervals and imprisonment is necessary to prevent the continuation of criminal activity of a similar degree of seriousness.

A convicted person under the age of 18 may not be imprisoned or ordered to continue to be imprisoned, unless compelling reasons require it.

The decision to imprison the convicted person is valid until the execution of the sentence begins or the appeals court decides otherwise.

[264] 12 § Tuomitun vangitsemisen edellytykset

Tuomioistuin saa syyttäjän tai vastaajalle rangaistusta vaatineen asianomistajan vaatimuksesta määrätä ehdottomaan vankeusrangaistukseen tuomitun vangittavaksi tai pidettäväksi edelleen vangittuna, jos:

1) tuomittu rangaistus on vähintään kaksi vuotta vankeutta;

2) tuomittu rangaistus on vähemmän kuin kaksi vuotta vankeutta mutta vähintään yksi vuosi vankeutta ja on todennäköistä, että tuomittu:

a) lähtee pakoon tai muuten karttaa rangaistuksen täytäntöönpanoa; tai

b) jatkaa rikollista toimintaa;

3) tuomittu rangaistus on vähemmän kuin yksi vuosi vankeutta ja:

a) tuomitulla ei ole vakinaista asuntoa Suomessa ja on todennäköistä, että hän poistumalla maasta karttaa rangaistuksen täytäntöönpanoa; tai

b) hänet on tuomittu yhdellä tai useammalla päätöksellä vankeusrangaistukseen useista lyhyin väliajoin suoritetuista rikoksista ja vangitseminen on tarpeen vakavuusasteeltaan samanlaisen rikollisen toiminnan jatkamisen estämiseksi. Alle 18-vuotiasta tuomittua ei saa vangita tai määrätä pidettäväksi edelleen vangittuna, elleivät painavat syyt sitä vaadi. (15.3.2019/323)

Päätös tuomitun vangitsemisesta on voimassa, kunnes rangaistuksen täytäntöönpano alkaa tai muutoksenhakutuomioistuin toisin päättää.

Section 12a[265] **Investigative arrest**

Instead of arrest and detention, in the situations referred to in Section 12, Subsection 1, Sections 2 and 3, the convicted person may be ordered to pretrial detention, if the travel ban referred to in Chapter 5, Section 1 is an insufficient means of coercion. A free defendant can only be placed in pre-trial detention at the request of the prosecutor or the interested party who demanded punishment for the defendant. The court may, on its own initiative, order pretrial detention instead of detaining a person who has been detained or who is required to be detained.

The prerequisite for ordering pre-trial detention is that:

1) the convicted person agrees to the execution of the pre-trial detention and undertakes to comply with the obligations set in the decision regarding the pre-trial detention;

2) based on the convict's personal circumstances and other circumstances, it can be considered probable that the convict will comply with the obligations imposed on him.

When considering ordering pre-trial detention, the court must take into account the explanation presented during the hearing of the case:

1) about the personal circumstances of the convicted person and other similar matters;

2) on the suitability of the convicted person's apartment or other suitable place for living for the execution of the investigative arrest;

3) the convict's need to move outside the apartment or other place suitable for living.

Investigative arrest is carried out in the convicted person's apartment or in another place suitable for living under supervision as referred to in section 12 d.

Provisions are made on investigative detention in the Court of Appeal and appeals against the decision on investigative detention in Chapter 3, Section 18 and 19.

[265] 12 a § (30.1.2018/101) Tutkinta-aresti Vangitsemisen ja vangittuna pitämisen sijasta tuomittu voidaan 12 §:n 1 momentin 2 ja 3 kohdassa tarkoitetuissa tilanteissa määrätä tutkinta-arestiin, jos 5 luvun 1 §:ssä tarkoitettu matkustuskielto on riittämätön pakkokeino. Vapaana oleva vastaaja saadaan määrätä tutkinta-arestiin vain syyttäjän tai vastaajalle rangaistusta vaatineen asianomistajan vaatimuksesta. Tuomioistuin saa omasta aloitteestaan määrätä vangitun tai vangittavaksi vaaditun vangitsemisen sijasta tutkinta-arestiin.

Tutkinta-arestiin määräämisen edellytyksenä on, että:

1) tuomittu suostuu tutkinta-arestin toimeenpanoon ja sitoutuu noudattamaan tutkinta-arestia koskevassa ratkaisussa asetettavia velvollisuuksia;

2) tuomitun henkilökohtaisten olosuhteiden ja muiden seikkojen perusteella voidaan pitää todennäköisenä, että tuomittu noudattaa hänelle asetettuja velvollisuuksia.

Harkitessaan tutkinta-arestiin määräämistä tuomioistuimen on otettava huomioon asian käsittelyn yhteydessä esitetty selvitys:

1) tuomitun henkilökohtaisista olosuhteista ja muista vastaavista seikoista;

2) tuomitun asunnon tai muun asumiseen soveltuvan paikan soveltuvuudesta tutkinta-arestin toimeenpanoon;

3) tuomitun tarpeesta liikkua asunnon tai muun asumiseen soveltuvan paikan ulkopuolella.

Tutkinta-aresti toimeenpannaan tuomitun asunnossa tai muussa asumiseen soveltuvassa paikassa 12 d §:ssä tarkoitetulla tavalla valvottuna.

Tutkinta-arestista muutoksenhakutuomioistuimessa ja muutoksenhausta tutkinta-arestia koskevaan päätökseen säädetään 3 luvun 18 ja 19 §:ssä.

Section 12b[266] **Content of investigative detention**

A person ordered into pre-trial detention is obliged to stay in their apartment or in another habitable place for at least 12 and at most 22 hours a day. As a general rule, the obligation should be scheduled between 9 p.m. and 6 a.m. The person ordered into pre-trial detention is also required to undergo the technical supervision referred to in section 12 d.

The number of hours and the timing of the obligation for the work, study or other necessary reason comparable to those ordered to pre-trial detention can be determined differently from what is stipulated in subsection 1.

In addition, the decision regarding investigative detention may oblige the person ordered to be detained:

1) to stay in the settlement in the designated locality or area;
2) to stay away from a certain area mentioned in the decision or not to move there;
3) to be available at certain times at their place of work or study;
4) to keep in touch with the Criminal Sanctions Office at certain times;
5) to stay in an institution or hospital where he is already or to which he is admitted;
6) not to contact the witness, interested party, expert or accomplice;
7) to hand over their passport and their identity card, which is acceptable as a travel document, to the Criminal Sanctions Authority.

Section 12c[267] **Decision on pre-trial detention**

The decision ordering pre-trial detention must state:

---

[266] 12 b § (30.1.2018/101) Tutkinta-arestin sisältö Tutkinta-arestiin määrätty velvoitetaan pysymään asunnossaan tai muussa asumiseen soveltuvassa paikassa vähintään 12 ja enintään 22 tuntia vuorokaudessa. Velvoite tulee pääsääntöisesti ajoittaa kello 21:n ja kello 6:n väliseksi ajaksi. Tutkinta-arestiin määrätty velvoitetaan lisäksi 12 d §:ssä tarkoitettuun tekniseen valvontaan.

Tutkinta-arestiin määrätyn työstä, opiskelusta tai muusta niihin rinnastettavasta välttämättömästä syystä velvoitteen tuntimäärä ja sen ajoittuminen voidaan määrätä toisin kuin 1 momentissa säädetään.

Tutkinta-arestiin määrätty voidaan lisäksi tutkinta-arestia koskevassa ratkaisussa velvoittaa:

1) pysymään ratkaisussa määrätyllä paikkakunnalla tai alueella;
2) pysymään poissa tietyltä ratkaisussa mainitulta alueelta tai olemaan liikkumatta siellä;
3) olemaan tiettyinä aikoina tavattavissa työ- tai opiskelupaikallaan;
4) pitämään tiettyinä aikoina yhteyttä Rikosseuraamuslaitokseen;
5) oleskelemaan laitoksessa tai sairaalassa, jossa hän ennestään on tai johon hänet otetaan;
6) olemaan ottamatta yhteyttä todistajaan, asianomistajaan, asiantuntijaan tai rikoskumppaniinsa;
7) luovuttamaan passinsa ja matkustusasiakirjaksi hyväksyttävän henkilökorttinsa Rikosseuraamuslaitokselle.

[267] 12 c § (30.1.2018/101) Ratkaisu tutkinta-arestista Ratkaisusta, jolla tutkinta-arestiin määrätään, on käytävä ilmi:

1) asunnossa pysymisen velvoitteen tuntimäärä ja ajoittuminen sekä tekninen valvontatapa;
2) muut tutkinta-arestiin määrätylle asetetut velvollisuudet;
3) seuraamukset tutkinta-arestin velvollisuuksien rikkomisesta.

Tutkinta-arestiin määräämistä koskevasta ratkaisusta ja sen tiedoksiannosta on ilmoitettava Rikosseuraamuslaitokselle. Jos tutkinta-arestiin määrätty on vapaana eikä ratkaisua tutkinta-arestista anneta hänen läsnä ollessaan, tuomioistuimen on annettava ratkaisu tutkinta-arestista tiedoksi jotakin oikeudenkäymiskaaren 11 luvun mukaista todisteellista tiedoksiantotapaa noudattaen. (12.4.2019/509)

Ratkaisu tuomitun tutkinta-arestista on voimassa, kunnes rangaistuksen täytäntöönpano alkaa tai ylempi tuomioistuin toisin päättää.

1) the number of hours and timing of the obligation to stay in the apartment, as well as the technical control method;
2) other obligations imposed on the person ordered into pre-trial detention;
3) sanctions for breaching the obligations of investigative detention.
The Criminal Sanctions Office must be notified of the decision regarding the order for pre-trial detention and its notification. If the person ordered into pre-trial detention is free and the decision on the pre-trial detention is not given in his presence, the court must serve the decision on the pre-trial detention for information by following one of the evidentiary service methods in accordance with Chapter 11 of the Judicial Procedure Code.
The decision on the pretrial detention of the convicted person is valid until the execution of the sentence begins or a higher court decides otherwise.

c) Para 2: Cross-border surrender

5 Competent authority to make a decision regarding EAW:[268]
Prosecution District of Southern Finland (*Etelä-Suomen syyttäjäalue*)

6 The following provisions may be consulted on the legal situation of extradition/surrender/EAW in Finland:

7 **The Act on Extradition due to a Crime** / *Laki rikoksen johdosta tapahtuvasta luovuttamisesta* may apply.

[268] European Judicial Network EJN, Fiches Belges: Finland, 901 EAW, see https://www.ejn-crimjust.europa.eu/ejn2021/FichesBelgesDetail/EN/C.1/272/-1. Accessed 31 December 2024.

4. Some provisions on Defence laws relating to EPPO actions concerning PIF Crime offences

a) Defence in the investigation phase 233
aa. The Input from the Regulation 2017/1939 ... 235
(1) Access to national case file 235
(2) Access to EPPO case file 236
bb. Defence while investigation is under-way, Art. 28–33 EPPO Regulation..... 236
(1) In cases involving investigative measures of Art. 30 EPPO-Regulation 236
(a) Investigation of Offence of the Criminal Code and the Constitution.....236
(b) Customs Investigation (Customs Act/*Tullilaki)*.....237
(2) Defence in case of arrest and pre-trial detention, Art. 33 EPPO Regulation 239
b) Defence in Indictment phase and the trial phase ...239

Defense laws are important in EPPO proceedings, holding the EPPO and its staff **accountable** and the mechansim fair and proportionate. However, Member States have different legal systems, despite EU Directives from the 2012 roadmap, like Directive 2010/64/EU (right to interpretation and translation) and others. These are only partially harmonised in Article 41 of the EPPO Regulation, leading to inconsistent procedures and varying rights protection for suspects. The EPPO works inbetween EU and national law, where the CFR applies when EU law is "implemented/executed". The ECJ states that the Charter applies to EU institutions and Member States when implementing EU law, not extending EU powers. It requires EU acts to comply with **fundamental rights,** but this can potentially create gaps in procedural protections in EPPO cases.[269] **1**

a) Defence in the investigation phase

The main provision from the Finnish Constitution in this regard is Section 21 ensuring the right to legal protection: **2**

3

[269] Court of Justice of the European Union 2021.

Section 21[270] **Legal protection**
Everyone has the right to have their case dealt with properly and without undue delay in a court or other authority competent by law, and the right to have a decision regarding their rights and obligations submitted to a court or other independent judicial body. The publicity of the proceedings and the right to be heard, to receive a reasoned decision and to apply for an appeal, as well as other guarantees of a fair trial and good administration, are protected by law.

4 Another important provision that can be brought forward by Finnish Defence Lawyers is s. 8 of the Constitution that ensures that the criminal law oft he Finnish Republic must be based on the principle nulla poena sine lege stricta. This might be come relevant in the case of a certain conduct e.g. in the area of tax conduct where it remains unclear if the conduct is still legal or already illegal (see → Cum-ex fraud explanations in the German volume or look up "Double-Dutch Sandwich", a tax avoiding scheme):

5
Section 8[271] **The principle of legality in criminal law**
No one may be held guilty of a crime or sentenced to punishment on the basis of an act that was not punishable by law at the time of the act. The crime may not be sentenced to a harsher punishment than is prescribed by law at the time of the crime.

[270] 21 § Suomen perustuslaki
Oikeusturva
Jokaisella on oikeus saada asiansa käsitellyksi asianmukaisesti ja ilman aiheetonta viivytystä lain mukaan toimivaltaisessa tuomioistuimessa tai muussa viranomaisessa sekä oikeus saada oikeuksiaan ja velvollisuuksiaan koskeva päätös tuomioistuimen tai muun riippumattoman lainkäyttöelimen käsiteltäväksi.
Käsittelyn julkisuus sekä oikeus tulla kuulluksi, saada perusteltu päätös ja hakea muutosta samoin kuin muut oikeudenmukaisen oikeudenkäynnin ja hyvän hallinnon takeet turvataan lailla.
[271] 8 § Suomen perustuslaki Rikosoikeudellinen laillisuusperiaate Ketään ei saa pitää syyllisenä rikokseen eikä tuomita rangaistukseen sellaisen teon perusteella, jota ei tekohetkellä ole laissa säädetty rangaistavaksi. Rikoksesta ei saa tuomita ankarampaa rangaistusta kuin tekohetkellä on laissa säädetty.

aa. The Input from the Regulation 2017/1939

(1) Access to national case file

The Pre-Trial Investigation Act and Act on the Publicity of Official Activities apply. **6**

e.g. **Section 15 Pre-Trial Investigation Act**[272]
Publicity of the parties involved in the preliminary investigation
After the initiation of the preliminary investigation, the party involved has the right to receive information about the facts that led to the preliminary investigation and that came to light in the preliminary investigation, as well as the preliminary investigation material that can or has had an impact on the handling of his case.
The party concerned does not have the right referred to in subsection 1 before the investigation is terminated, if the provision of information is detrimental to the investigation of the matter.
The interested party does not have the right referred to in subsection 1 if not providing information is necessary to protect a very important public or private interest. The interested party does not have the right to receive information about the information referred to in Section 11, Subsection 2, Section 6a, 7 or 7a of the Act on the Publicity of Public Authorities' Activities.
When considering the right of the party to receive information or its limitation, the evaluation must take into account the right of the party to properly defend himself or otherwise properly exercise his right in the trial.
The right to receive information about the use of secret means of coercion also applies to what is stipulated in Sections 60 and 62 of the Coercive Measures Act, Chapter 10, and to the right to receive information about the use of secret means of obtaining information, what is stipulated in Chapter 5, Sections 58 and 60 of the Police Act.

[272] 15 § (17.10.2014/818) Asianosaisjulkisuus esitutkinnassa Asianosaisella on esitutkinnan aloittamisen jälkeen oikeus saada tieto esitutkintaan johtaneista ja esitutkinnassa ilmi tulleista seikoista sekä esitutkinta-aineistosta, joka voi tai on voinut vaikuttaa hänen asiansa käsittelyyn.
Asianosaisella ei ole 1 momentissa tarkoitettua oikeutta ennen tutkinnan lopettamista, jos tietojen antamisesta on haittaa asian selvittämiselle.
Asianosaisella ei ole 1 momentissa tarkoitettua oikeutta, jos tiedon antamatta jättäminen on välttämätöntä erittäin tärkeän yleisen tai yksityisen edun turvaamiseksi. Asianosaisella ei ole oikeutta saada tietoa viranomaisten toiminnan julkisuudesta annetun lain (621/1999) 11 §:n 2 momentin 6 a, 7 tai 7 a kohdassa tarkoitetuista tiedoista. (8.1.2016/10) Kun harkitaan asianosaisen oikeutta saada tietoja tai sen rajoittamista, arvioinnissa on otettava huomioon asianosaisen oikeus puolustautua asianmukaisesti tai muuten asianmukaisesti valvoa oikeuttaan oikeudenkäynnissä. Oikeuteen saada tieto salaisen pakkokeinon käytöstä sovelletaan lisäksi, mitä pakkokeinolain 10 luvun 60 ja 62 §:ssä säädetään ja oikeuteen saada tieto salaisen tiedonhankintakeinon käytöstä, mitä poliisilain (872/2011) 5 luvun 58 ja 60 §:ssä säädetään.
Asianosaisen oikeuteen saada tieto esitutkinta-aineistosta sovelletaan muutoin, mitä viranomaisten toiminnan julkisuudesta annetussa laissa säädetään. Tiedon antamiseen ääni- ja kuvatallenteesta sovelletaan kuitenkin, mitä tämän lain 9 luvun 7 §:n 2 momentissa säädetään.

The right of the party to receive information about the preliminary investigation material is otherwise governed by what is stipulated in the Act on the Publicity of Authorities' Activities. However, what is stipulated in chapter 9, section 7, subsection 2 of this law applies to the provision of information about audio and video recordings.

(2) Access to EPPO case file

7 The provision is mentioned above → Access to national case file applies.

bb. Defence while investigation is under-way, Art. 28–33 EPPO Regulation

8 The defense during an ongoing investigation is critically important for several reasons. Foremost the accused has certain legal rights, such as the right to remain silent, the right to translation[273], the right to legal counsel, and protection against unlawful searches or seizures. A strong defense ensures these rights are upheld.

(1) In cases involving investigative measures of Art. 30 EPPO-Regulation

9 The defense can challenge improper and useful investigative techniques, such as unlawful searches, wiretaps, or coerced confessions, to ensure that any evidence collec-ted in violation of the law is excluded from the trial. And it can start gathering its own evidence, interviewing witnesses, and preparing an effective case while the investigation is still underway. This allows for a proactive rather than reactive approach in court.

(a) Investigation of Offence of the Criminal Code and the Constitution

10 Especially if the Finnish authorities carry out data intensive investigation measures, they must obey the standard of the Finnish Constitution (Art. 30 para 1 (e), (f), para 4). Art. 10 of the Consitution protects the privacy:

Section 10[274] Privacy protection
Everyone's private life, honor and peace at home are protected. The protection of personal data is regulated in more detail by law.
The secrecy of a letter, phone call and other confidential message is inviolable.
The law can provide for measures that are necessary to protect fundamental rights or to investigate crimes, which extend to domestic peace. (5/10/2018/817)

[273] See ECBA 2023.
[274] 10 § Yksityiselämän suoja Jokaisen yksityiselämä, kunnia ja kotirauha on turvattu. Henkilötietojen suojasta säädetään tarkemmin lailla.
Kirjeen, puhelun ja muun luottamuksellisen viestin salaisuus on loukkaamaton.
Lailla voidaan säätää perusoikeuksien turvaamiseksi tai rikosten selvittämiseksi välttämättömistä kotirauhan piiriin ulottuvista toimenpiteistä. (5.10.2018/817)
Lailla voidaan säätää välttämättömistä rajoituksista viestin salaisuuteen yksilön tai yhteiskunnan turvallisuutta taikka kotirauhaa vaarantavien rikosten tutkinnassa, oikeudenkäynnissä, turvallisuustarkastuksessa ja vapaudenmenetyksen aikana sekä tiedon hankkimiseksi sotilaallisesta toiminnasta taikka sellaisesta muusta toiminnasta, joka vakavasti uhkaa kansallista turvallisuutta. (5.10.2018/817)

The law can provide for necessary restrictions on the secrecy of the message in the investigation, trial, security inspection and deprivation of liberty of crimes endangering the safety of an individual or society or domestic peace, as well as for obtaining information about military activities or other activities that seriously threaten national security. (5/10/2018/817)

(b) Customs Investigation (Customs Act/*Tullilaki)*

Section 34[275] **Respect for fundamental rights and human rights**
Customs must respect basic rights and human rights, and when exercising its powers, choose from the justifiable alternatives the one that best promotes the realization of these rights.

Section 35[276] **Proportionality principle**
Customs measures must be defensible in relation to the importance, dangerousness and urgency of the task, the goal to be pursued, the behaviour, age, health and other similar aspects of the person subject to the measure, as well as other aspects affecting the overall assessment of the situation.

Section 36[277] **The principle of least harm**
Customs measures may not interfere with anyone's rights any more and may not cause anyone more damage or harm than is necessary to perform the task.

Section 37[278] **The principle of purposefulness**
Customs may use its authority only for the prescribed purpose.

Section 38[279] **Managing and prioritizing tasks** Customs duties must be performed efficiently and appropriately. When circumstances require, tasks must be prioritised.

[275] 6 luku Menettely toimivaltuuksia käytettäessä
34 § Tullilaki Perusoikeuksien ja ihmisoikeuksien kunnioittaminen
Tullin on kunnioitettava perusoikeuksia ja ihmisoikeuksia sekä toimivaltuuksia käyttäessään valittava perusteltavissa olevista vaihtoehdoista se, joka parhaiten edistää näiden oikeuksien toteutumista.
[276] 35 § Tullilaki
Suhteellisuusperiaate
Tullin toimenpiteiden on oltava puolustettavia suhteessa tehtävän tärkeyteen, vaarallisuuteen ja kiireellisyyteen, tavoiteltavaan päämäärään, toimenpiteen kohteena olevan henkilön käyttäytymiseen, ikään, terveyteen ja muihin vastaaviin häneen liittyviin seikkoihin sekä muihin tilanteen kokonaisarviointiin vaikuttaviin seikkoihin.
[277] 36 § Tullilaki
Vähimmän haitan periaate
Tullin toimenpiteillä ei kenenkään oikeuksiin saa puuttua enempää eikä kenellekään saa aiheuttaa suurempaa vahinkoa tai haittaa kuin on välttämätöntä tehtävän suorittamiseksi.
[278] 37 § Tullilaki Tarkoitussidonnaisuuden periaate Tulli saa käyttää toimivaltuuttaan vain säädettyyn tarkoitukseen.
[279] 38 § Tullilaki Tehtävien hoito ja tärkeysjärjestys Tullin tehtävät on hoidettava tehokkaasti ja tarkoituksenmukaisesti. Olosuhteiden vaatiessa tehtävät on asetettava tärkeysjärjestykseen.

Section 39[280] **Expressing the position of the customs officer and identifying the customs officer**

If necessary, the customs officer must state to the person subject to the customs procedure that he is a customs officer and, upon request, present his identity card.

Customs must ensure that the customs officer who performed the official duty can be identified if necessary.

Section 40[281] **Notification of the basis for the use of the authority**

The basis for the use of the authority aimed at a person's freedom must be notified to the person who is the subject of the measure or his representative as soon as possible, taking into account the person's condition and other circumstances.

Unless the law provides otherwise, the person who is the subject of a measure other than one aimed at freedom or his representative has the right to receive information about the basis for the exercise of jurisdiction as soon as possible without jeopardizing the execution of the customs measure.

Section 41[282] **The authority of the customs officer**

The customs officer, when exercising the authority provided for in this Act, the Customs Crime Prevention Act or another law, has the right in individual cases to issue every binding order and prohibition necessary for the execution of the task of the Customs.

[280] 39 § Tullilaki Tullimiehen aseman ilmaiseminen ja tullimiehen yksilöiminen Tullimiehen on tarvittaessa ilmaistava tullitoimenpiteen kohteena olevalle henkilölle olevansa tullimies ja pyynnöstä esitettävä henkilökorttinsa. Tullin on huolehdittava siitä, että virkatoimen suorittanut tullimies on tarvittaessa yksilöitävissä.

[281] 40 § Tullilaki Toimivaltuuden käytön perusteen ilmoittaminen Henkilön vapauteen kohdistuvan toimivaltuuden käytön peruste on ilmoitettava toimenpiteen kohteena olevalle henkilölle tai hänen edustajalleen niin pian kuin se on mahdollista henkilön tila ja muut olosuhteet huomioon ottaen. mJollei laissa toisin säädetä, myös muun kuin vapauteen kohdistuvan toimenpiteen kohteena olevalla henkilöllä tai tämän edustajalla on oikeus saada tieto toimivaltuuden käytön perusteesta niin pian kuin se on mahdollista tullitoimenpiteen suorittamista vaarantamatta.

[282] 41 § Tullilaki Tullimiehen käskyvalta Tullimiehellä on tässä laissa, rikostorjunnasta Tullissa annetussa laissa tai muussa laissa säädettyä toimivaltuutta käyttäessään oikeus yksittäistapauksessa antaa jokaista velvoittavia, Tullin tehtävän toteuttamiseksi tarpeellisia käskyjä ja kieltoja.

Section 43[283] **Minutes and entry in another document**
The arrest of a person in accordance with section 17, subsection 2 of this law, the seizure of property in connection with a security inspection in accordance with section 19, subsection 2, the seizure of objects and substances endangering public order and safety in accordance with section 20, and the arrest of a wanted person in accordance with section 33 shall be without undue delay a protocol to be drawn up or an entry to be made in another document.
Upon request, a copy of the minutes or entry in another document must be given to the person who has been arrested or from whom the goods have been seized.
Customs issues more detailed regulations on drawing up the protocol and making a note on the other document, as well as on the content of the protocol and the note.

(2) Defence in case of arrest and pre-trial detention, Art. 33 EPPO Regulation

For arrest and pre-trial detention in customs investigation cases see Section 42 of the Customs Act: **11**

Section 42 Customs Act 2016[284] **Treatment of the detained person**
The treatment of persons apprehended by Customs pursuant to this Act is governed by the Act on the Treatment of Persons Detained by the Police (841/2006) and what is stipulated regarding the application of that law in relation to the person detained by Customs and the place of storage of Customs in Chapter 2, Section 12, Subsections 2 and 3 of the Customs Crime Prevention Act.

b) Defence in Indictment phase and the trial phase

The investigators or persons of tax and customs investigation services might breach the official secrecy. A defence lawyer might register this: **12**

Section 5[285] **Breach and negligent breach of official secrecy** **13**
If the civil servant intentionally during or after his service relationship without rights

[283] 43 § Tullilaki Pöytäkirja ja merkintä muuhun asiakirjaan Tämän lain 17 §:n 2 momentin mukaisesta henkilön kiinniottamisesta, 19 §:n 2 momentin mukaisesta omaisuuden haltuunotosta turvallisuustarkastuksen yhteydessä, 20 §:n mukaisesta yleistä järjestystä ja turvallisuutta vaarantavien esineiden ja aineiden haltuunotosta sekä 33 §:n mukaisesta etsintäkuulutetun kiinniottamisesta on ilman aiheetonta viivytystä laadittava pöytäkirja tai tehtävä merkintä muuhun asiakirjaan.
Pöytäkirjasta tai muuhun asiakirjaan tehdystä merkinnästä on pyynnöstä annettava jäljennös sille, joka on otettu kiinni tai jolta tavara on otettu haltuun.
Tulli antaa tarkemmat määräykset pöytäkirjan laatimisesta ja merkinnän tekemisestä muuhun asiakirjaan sekä pöytäkirjan ja merkinnän sisällöstä.
[284] 42 § Tullilaki Kiinniotetun henkilön kohtelu Tullin tämän lain nojalla kiinni ottamien henkilöiden kohteluun sovelletaan poliisin säilyttämien henkilöiden kohtelusta annettua lakia (841/2006) sekä sitä, mitä kyseisen lain soveltamisesta Tullin säilyttämän henkilön ja Tullin säilytystilan osalta on säädetty rikostorjunnasta Tullissa annetun lain 2 luvun 12 §:n 2 ja 3 momentissa.
[285] 5 § (12.7.2002/604) Virkasalaisuuden rikkominen ja tuottamuksellinen virkasalaisuuden rikkominen
Jos virkamies tahallaan palvelussuhteensa aikana tai sen päätyttyä oikeudettomasti

1) discloses a document or information which according to the Act on the Publicity of Public Activities of Authorities (621/1999) or another law must be kept secret or which cannot be disclosed by law, or
2) use the document or information referred to in paragraph 1 for one's own or another's benefit or to another's detriment,
he must be sentenced, unless a more severe punishment is prescribed for the act elsewhere, for breach of official secrecy to a fine or imprisonment for a maximum of two years. An official can also be sentenced to dismissal if the crime shows that he is obviously unfit for his duties.
If a civil servant through negligence commits the act referred to in subsection 1, and considering the act's harmfulness and harmfulness as well as other aspects related to the act, when assessed as a whole is minor, he must be sentenced, unless a more severe punishment is provided for the act elsewhere, for negligent breach of official secrecy to a fine or imprisonment for a maximum of six months.

1) paljastaa sellaisen asiakirjan tai tiedon, joka viranomaisten toiminnan julkisuudesta annetun lain (621/1999) tai muun lain mukaan on salassa pidettävä tai jota ei lain mukaan saa ilmaista, taikka
2) käyttää omaksi tai toisen hyödyksi taikka toisen vahingoksi 1 kohdassa tarkoitettua asiakirjaa tai tietoa,
hänet on tuomittava, jollei teosta muualla säädetä ankarampaa rangaistusta, virkasalaisuuden rikkomisesta sakkoon tai vankeuteen enintään kahdeksi vuodeksi. Virkamies voidaan tuomita myös viralta pantavaksi, jos rikos osoittaa hänet ilmeisen sopimattomaksi tehtäväänsä.
Jos virkamies huolimattomuudesta syyllistyy 1 momentissa tarkoitettuun tekoon, eikä teko huomioon ottaen sen haitallisuus ja vahingollisuus sekä muut tekoon liittyvät seikat ole kokonaisuutena arvostellen vähäinen, hänet on tuomittava, jollei teosta muualla säädetä ankarampaa rangaistusta, tuottamuksellisesta virkasalaisuuden rikkomisesta sakkoon tai vankeuteen enintään kuudeksi kuukaudeksi.

C. OLAF-Regulation (EU, EURATOM) No 883/2013

I. General Introduction: Investigation Powers and National Law Related to OLAF in Finland (Art. 3–8 OLAF Regulation)

As OLAF has been directed by a person from Finland a long time in the last decade it can be expected that the Finish awareness for OLAF is strong. OLAF's task and role as well as it actions are determined primarily by Union law. The history of OLAF can be traced back to the early 2000s and its predecessor UCLAF.[286] OLAF has a renewed role within the changed **anti-fraud architecture** of the Union in the 2020s and is an important actor against fraud within the Multi-annual framework legislation and the Union's policies, which depend on the action of the Member States and the agreements concluded on the political levels. **1**

In addition to that OLAF and its investigators shall follow **internal guidelines**[287], manuals on procedures[288] reports and working arrangements with union partners[289] as well as Administrative Cooperation Agreements (ACAs) with national partners, EU external actors[290]. OLAF issues compendia, researches itself, organizes meetings and conferences and workshops for its national partners. All of these non-binding guides and handbooks might be useful in the course of investigations.[291] The statistics on latest ac-tions and the past year can be deduced from the OLAF Reports, equal to the new EPPO's annual report and the PIF Report, which is issued by the EU Commission in close cooperation with OLAF, IBOAs and the EPPO as well as the input from ECA and national AFCOS, governments and researchers. **2**

The European Anti-fraud office is well accommodated in the Union anti-fraud architecture these days the academic research is extensive and long lasting since the 2000s.[292] **3**

---

[286] See Hauck (soon to be published), EU Fraud Commentary, Chronology Part 3 and 4 and Art. 1 OLAF Regulation.
[287] See European Commission 2021; European Commission 2016.
[288] Brüner 2009, whereby it is unclear if investigators and the Office staff still use certain Manuals.
[289] OLAF Working Arrangement between EPPO & OLAF, Point 4: "Exchange of information", 4.5 and 4.6 (cross double check between the databases for a PIF offence action), 5 ("Mutual Reporting and transmittsion of potential cases"), 5.1, 5.1.1.European Commission – "Agreement establishing the modalities of cooperation between the European Commission and the European Public Prosecutor's Office" 18 June 2021, Art 5 para 1, 4, 5 ("Reporting by the Commission") in combination with Annex I Contact points: "information will be trasnmitted via the head of OLAF to the head of operation at EPPO/central office", Annex III.A ("Information on the Initiation of an Investigation – template").
[290] Prosecution Office of Hungary and OLAF 2022, State of Play – July 2022 Administrative Cooperation Arrangements (ACAs) with partner authorities in non-EU countries and territories and counterpart ad-ministrative investigative services of International Organisations, online: https://anti-fraud.ec.europa.eu/system/files/2022-07/list_signed_acas_en.pdf. Accessed 31 December 2024.
[291] See European Commission (DG regional Policy) 2009; European Commission (OLAF) 2011; European Commission (OLAF) 2017a.
[292] Brüner 2001, pp. 17–26; Brüner 2008, pp. 859–872; Gellert 2009, pp. 85–88.

Last decade's landmark judgement "*Sigma Orionis SA vs European Commission*", decided by the European General Court[293], clarified the application of national law and Union law[294] in relation to external investigations of OLAF.[295] In the light of this jurisprudence the resistance to the actions of OLAF, in order to awaken national law, might be a defence strategy that Economic operators use. If this is the case, OLAF has to rely on national homologue investigators and thus as well limitations, thresholds and conditions of national law i.e., **investigative powers** in various areas of budget spending and structural funds (direct management) and revenue-related obli-gations (indirect management).

4 Current debates evolve around the effectiveness of investigations regarding digital evidence by virtue of the Regulation 2185/96, which stems in parts from a more ana-logue society.[296] More and more it becomes clear the analogue society, which is still present in law enforcement and the area of criminal justice in many countries at the beginning of the 2020s is a major concern and a real problem if the digital age crashes in and the analogue structures are obstacles to effective investigations. The access to bank accounts and registers if incredibly important for OLAF investigators as well as their national homologues. The relationship to the EPPO, especially the regional centres of the EDPs in the present country should be close. In addition to that the external inves-tigations require a good coordination, which shall be governed by the relevant AFCOS (see below → Art. 12a OLAF Regulation), which has been part of the current study and answered a questionnaire or commented and reviewed (for some countries that are very prone to frauds or countries that have recently changed their anti-fraud prevention in order to fulfil the requests for a national anti-fraud prevention strategy) Part B. of this chapter.

5 Another question and debate have ever since existed concerning the Reports of OLAF (cf. → Art. 11), which can and shall constitute evidence – even – in national criminal trials. They concern EPPO cases (see → Art. 23-28 EPPO Regulation) or cases below the thresholds for which the EDPs could exercise their competence and jurisdiction on behalf of the EPPO. This area has been professionally researched in OLAF studies from the last decade, which we can refer to.[297]

6 Compendium Part B, alike to the first Part. A. on the EPPO and its investigative powers, gives a "bilingue" collection of the relevant laws – including the recently adopted on-the-spot checks laws (in relation to Regulation (EC) 2185/96) of certain countries – in

[293] GC (aka CFI), Case T-48/16, 3.5.2018, *Sigma Orionis SA v. Commission*, paras. 70 et seq., 80–81 published in the electronic Reports of Cases (Court Reports – general) and in the OJ, 01/06/2018.
[294] See de Bellis 2021, p. 431 et seq.; Herrnfeld 2021, p. 426 et seq.; recently Wouters 2020, p. 132 et seq.
[295] de Bellis 2021, pp. 431 et seq.; see OLAF Website, List of rulings 2018, online: https://anti-fraud.ec.europa.eu/about-us/legal-background/list-rulings-court-justice-eu-concerning-olaf_en. Accessed 31 December 2024.
[296] Carrera, Mitsilegas 2021.
[297] See Luchtman, Vervaele 2017.

relation to investigations and investigative powers as well as examples from Case law and trials, which relied upon evidence gathered by OLAF (Selected Case Studies from our jurisprudence and judgement studies).

Art. 1 Objectives and tasks

1. In order to step up the fight against fraud, corruption and any other illegal activity affecting the financial interests of the European Union and of the European Atomic Energy Community (hereinafter referred to collectively, when the context so requires, as 'the Union'), the European Anti-Fraud Office established by Decision 1999/352/EC, ECSC, Euratom ('the Office') shall exercise the powers of investigation conferred on the Commission by:

(a) the relevant Union acts; and

(b) the relevant cooperation and mutual assistance agreements concluded by the Union with third countries and international organisations.

2. The Office shall provide the Member States with assistance from the Commission in organising close and regular cooperation between their competent authorities in order to coordinate their action aimed at protecting the financial interests of the Union against fraud. The Office shall contribute to the design and development of methods of preventing and combating fraud, corruption and any other illegal activity affecting the financial interests of the Union. The Office shall promote and coordinate, with and among the Member States, the sharing of operational experience and best procedural practices in the field of the protection of the financial interests of the Union, and shall support joint anti-fraud actions undertaken by Member States on a voluntary basis.

3. This Regulation shall apply without prejudice to:

(a) Protocol No. 7 on the privileges and immunities of the European Union attached to the Treaty on European Union and to the Treaty on the Functioning of the European Union;

(b) the Statute for Members of the European Parliament;

I the Staff Regulations;

(d) Regulation (EC) No. 45/2001.

4. Within the institutions, bodies, offices and agencies established by, or on the basis of, the Treaties ('institutions, bodies, offices and agencies'), the Office shall conduct administrative investigations for the purpose of fighting fraud, corruption and any other illegal activity affecting the financial interests of the Union. To that end, it shall investigate serious matters relating to the discharge of professional duties constituting a dereliction of the obligations of officials and other servants of the Union liable to result in disciplinary or, as the case may be, criminal proceedings, or an equivalent failure to discharge obligations on the part of members of institutions and bodies, heads of offices and agencies or staff members of institutions, bodies, offices or agencies not subject to

the Staff Regulations (hereinafter collectively referred to as 'officials, other servants, members of institutions or bodies, heads of offices or agencies, or staff members').
5. For the application of this Regulation, competent authorities of the Member States and institutions, bodies, offices or agencies may establish administrative arrangements with the Office. Those administrative arrangements may concern, in particular, the transmission of information and the conduct of investigations.

7 The (legal) definitions[298] are regulated by Art. 2 OLAF Regulation:

Article 2 Definitions
For the purposes of this Regulation:
(1) 'financial interests of the Union' shall include revenues, expenditures and assets covered by the budget of the European Union and those covered by the budgets of the institutions, bodies, offices and agencies and the budgets managed and monitored by them;
(2) 'irregularity' shall mean 'irregularity' as defined in Article 1(2) of Regulation (EC, Euratom) No. 2988/95;
(3) 'fraud, corruption and any other illegal activity affecting the financial interests of the Union' shall have the meaning applied to those words in the relevant Union acts and the notion of 'any other illegal activity' shall include irregularity as defined in Article 1(2) of Regulation (EC, Euratom) No. 2988/95;
(4) 'administrative investigations' ('investigations') shall mean any inspection, check or other measure undertaken by the Office in accordance with Articles 3 and 4, with a view to achieving the objectives set out in Article 1 and to establishing, where necessary, the irregular nature of the activities under investigation; those investigations shall not affect the powers of the EPPO or of the competent authorities of Member States to initiate and conduct criminal proceedings;
(5) 'person concerned' shall mean any person or Economic Operator suspected of having committed fraud, corruption or any other illegal activity affecting the financial interests of the Union and who is therefore subject to investigation by the Office;
(6) 'Economic Operator' shall have the meaning applied to that term by Regulation (EC, Euratom) No. 2988/95 and Regulation (Euratom, EC) No. 2185/96;
(7) 'administrative arrangements' shall mean arrangements of a technical and/or operational nature concluded by the Office, which may in particular aim at facilitating the cooperation and the exchange of information between the parties thereto, and which do not create additional legal obligations;
'member of an institution' means a member of the European Parliament, a member of the European Council, a representative of a Member State at ministerial level in the

[298] For the important role of "legal definitions" in EU legal frameworks see only Robertson and Aodha 2023, Legal terminology of the European Union, pp. 244–270. online: https://benjamins.com/online/hot/articles/leg2#c11-s3. Accessed 31 December 2024.

Council, a member of the Commission, a member of the Court of Justice of the European Union (CJEU), a member of the Governing Council of the European Central Bank or a member of the Court of Auditors, with respect to the obligations imposed by Union law in the context of the duties they perform in that capacity.
(1) 'financial interests of the Union' shall include revenues, expenditures and assets covered by the budget of the European Union and those covered by the budgets of the institutions, bodies, offices and agencies and the budgets managed and monitored by them;
(2) 'Irregularity' shall mean 'irregularity' as defined in Article 1(2) of Regulation (EC, Euratom) No. 2988/95;
(3) 'Fraud, corruption and any other illegal activity affecting the financial interests of the Union' shall have the meaning applied to those words in the relevant Union acts;
(4) 'administrative investigations' ('investigations') shall mean any inspection, check or other measure undertaken by the Office in accordance with Articles 3 and 4, with a view to achieving the objectives set out in Article 1 and to establishing, where necessary, the irregular nature of the activities under investigation; those investigations shall not affect the powers of the competent authorities of the Member States to initiate criminal proceedings;
(5) 'person concerned' shall mean any person or Economic Operator suspected of having committed fraud, corruption or any other illegal activity affecting the financial interests of the Union and who is therefore subject to investigation by the Office;
(6) 'Economic Operator' shall have the meaning applied to that term by Regulation (EC, Euratom) No. 2988/95 and Regulation (Euratom, EC) No. 2185/96;
(7) 'administrative arrangements' shall mean arrangements of a technical and/or operational nature concluded by the Office, which may in particular aim at facilitating the cooperation and the exchange of information between the parties thereto, and which do not create additional legal obligations.

In a report from 2012 by the Council of the European Union it was clearly stated that Finnish authorities are well aware about their report obligations to OLAF.

"5.1.2. Information of OLAF on the outcome of relevant cases
The customs service reports to OLAF quarterly on any detected fraud involving a customs fee amounting to EUR 10 000 or more. Notifications about fraud and malpractice can be made with the help of the OWNRES application. Training has been arranged for the people making notifications."[299]

[299] Council of the European Union 2012, p. 88.

1. Article 3 External investigations

a) On the spot-checks and inspections – Renouncing the applicable national law – Para 2, 4 251
b) Assistance needed, competent authorities and access to information in the Member States, para 5 251
c) Resistance by the economic operator vs. law enforcement and effective investigations, para 6 or the new model and the relevance of resistance or conformity of the Economic Operator 251
d) The basic principle of conformity to Regulations 2185/96 and 883/2013 251
aa. Submission: Compliance with Union law 251
bb. Resistance: Assistance in conformity with national procedural rules applicable 252
e) Competent authorities 252
f) National law and "checks and inspections" of OLAF 256
aa. Administrative procedure in general.....256
bb. Special administrative powers and provisions in certain areas of revenue and expenditure 260
(1) Administrative provisions.....260
(a) Administrative provisions in the area of customs duties and value added tax (VAT) = revenue 260
(aa) Principle of investigation (General Tax Act, Customs Act).....265
(bb) External audit (General Tax/Customs Act) 265
(cc) Tax and customs investigation (Customs Act/General Tax Act) 266
(dd) Fiscal supervision 267
(b) Administrative provisions in the area of structural funds and internal policies (interne Politiken) = expenditure 268
(aa) Structural funds 268
(bb) Internal policies 271
(c) Administrative provisions in the area of the common organization of the markets= expenditure 271
(d) Administrative provisions in the area

of direct expenditure 272
(2) Investigative powers 273
(a) Investigative powers in the area of customs duties and VAT (General Tax Act)..... 273
(b) Investigative powers around structural funds and internal policies..... 273
(c) Investigative powers in the area of common market organisations..... 279
(d) Investigative powers in the area of direct expenditure .. 289
(3) Protection of information..... 294
(a) Tax secrecy and Customs Secrecy (General Tax Act) .. 294
(b) Administrative secrecy (Administrative laws)..... 294
(c) Data secrecy (Data protection laws, Customs Act, General Tax Act)..... 295
(4) Investigation reports (Customs Act, General Tax Act) 296
(5) Support to the inspectors (Customs Act, General Tax Act)..... 297
(6) Preservation of Evidence..... 297
g) Single measures 297
aa. Interviewing / Questioning of "persons concerned" (in relation to suspects/defendants)..... 297
bb. The taking of statements from Economic Operators..... 297
cc. Interviewing / Questioning of witnesses 298
dd. Inspections..... 299
(1) General Administrative Inspection 299
(2) Customs Inspection 300
(3) State Audit Office Act 300
(4) Structural Funds Inspection 302
ee. Searches..... 302
(1) Finnish Acts allowing searches 303
(2) General remarks... 305
(3) Formal requirements 305
(4) Substantive requirements 308
ff. Seizure of (other) evidence Customs/Tax (Procedures) Code 308
gg. Special kinds of seizure..... 309
hh. The seizure of digital forensic evidence including bank account information 309
ii. Digital forensic operations within

inspections or on-the-spot
checks 309

1. In the areas referred to in Article 1, the Office shall carry out on-the-spot checks and inspections in Member States and, in accordance with cooperation and mutual assistance agreements and any other legal instrument in force, in third countries and on the premises of international organisations.
2. The Office shall **carry out on-the-spot checks and inspections in accordance with this Regulation and, to the extent not covered by this Regulation, in accordance with Regulation (Euratom, EC) No 2185/96.**
3. Economic operators shall cooperate with the Office in the course of its investigations. The Office may request written and oral information, including through interviews.
4. Where, in accordance with paragraph 3 of this Article, the **economic operator concerned submits** to an on-the-spot check and inspection authorised pursuant to this Regulation, Article 2(4) of Regulation (EC, Euratom) No 2988/95, the third subparagraph of Article 6(1) of Regulation (Euratom, EC) No 2185/96 and Article 7(1) of Regulation (Euratom, EC) No 2185/96 **shall not apply insofar as those provisions require compliance with national law** and are capable of restricting access to information and documentation by the Office to the same conditions as those that apply to national administrative inspectors.
5. At the request of the Office, the **competent authority of the Member State** concerned shall, without undue delay, provide the staff of the Office with the assistance needed in order to carry out their tasks effectively, as specified in the written authorisation referred to in Article 7(2).
The **Member State concerned shall ensure**, in accordance with Regulation (Euratom, EC) No 2185/96, that the **staff of the Office are allowed access to all information, documents and data relating to the matter under investigation which prove necessary in order for the on-the-spot checks and inspections to be carried out effectively and efficiently, and that the staff are able to assume custody of documents or data to ensure that there is no danger of their disappearance.** Where privately owned devices are used for work purposes, those devices may be subject to inspection by the Office. The Office shall subject such devices to inspection only under the same conditions and to the same extent that national control authorities are allowed to investigate privately owned devices and where the Office has reasonable grounds for suspecting that their content may be relevant for the investigation.
6. Where the staff of the Office find that an **economic operator resists** an on-the-spot check and inspection authorised pursuant to this Regulation, namely where the economic operator refuses to grant the Office the necessary access to its premises or any other areas used for business purposes, conceals information or prevents the conduct of any of the activities that the Office needs to perform in the course of an on-the-spot check and inspection, the **competent authorities, including, where appropriate, law**

enforcement authorities of the Member State concerned shall afford the staff of the Office the necessary assistance so as to enable the Office to conduct its on-the-spot check and inspection effectively and without undue delay.

Article 2(4) of Regulation (EC, Euratom) No 2988/95

Subject to the Community law applicable, the procedures for the application of Community checks, measures and penalties shall be governed by the laws of the Member States.

the third subparagraph of Article 6(1) of Regulation (Euratom, EC) No 2185/96

~~On-the-spot checks and inspections shall be carried out on the Commission's authority and responsibility by its officials or other servants, duly empowered, hereinafter called 'Commission inspectors'. Persons placed at the disposal of the Commission by the Member States as national experts on secondment may assist in such checks and inspections.~~

~~Commission inspectors shall exercise their powers on production of a written authorization showing their identity and position, together with a document indicating the subject-matter and purpose of the on-the-spot check or inspection.~~

Subject to the Community law applicable, they shall be required to comply, with the rules of procedure laid down by the law of the Member State concerned.

Article 7(1) of Regulation (Euratom, EC) No 2185/96

Commission inspectors shall have access, under the same conditions as national administrative inspectors and in compliance with national legislation, to all the information and documentation on the operations concerned which are required for the proper conduct of the on-the-spot checks and inspections. They may avail themselves of the same inspection facilities as national administrative inspectors and in particular copy relevant documents.

On-the-spot checks and inspections may concern, in particular:

- professional books and documents such as invoices, lists of terms and conditions, pay slips, statements of materials used and work done, and bank statements held by economic operators,
- computer data,
- production, packaging and dispatching systems and methods,
- physical checks as to the nature and quantity of goods or completed operations,
- the taking and checking of samples,
- the progress of works and investments for which financing has been provided, and the use made of completed investments,
- budgetary and accounting documents,
- the financial and technical implementation of subsidized projects.]

When providing assistance in accordance with this paragraph or with paragraph 5, the competent authorities of Member States **shall act in accordance with national proce-**

dural rules applicable to the competent authority concerned. If such assistance requires authorisation from a judicial authority in accordance with national law, such authorisation shall be applied for.
7. The Office shall conduct on-the-spot checks and inspections upon production of written authorisation, as provided for in Article 7(2). It shall, at the latest at the start of the on-the-spot check and inspection, inform the economic operator concerned of the procedure applicable to the on-the-spot check and inspection, including the applicable procedural safeguards, and the economic operator's duty to cooperate.
8. In the exercise of the powers assigned to it, the Office shall comply with the procedural guarantees provided for in this Regulation and in Regulation (Euratom, EC) No 2185/96. In the conduct of an on-the-spot check and inspection, the economic operator concerned shall have the right not to make self-incriminating statements and to be assisted by a person of the economic operator's choice. When making statements during an on-the-spot check and inspection, the economic operator shall be provided with the possibility to use any of the official languages of the Member State where that economic operator is located. The right to be assisted by a person of choice shall not prevent access by the Office to the premises of the economic operator and shall not unduly delay the start of the on-the-spot check and inspection.
9. Where a Member State does not cooperate with the Office in accordance with paragraphs 5 and 6, the Commission may apply the relevant provisions of Union law in order to recover the funds related to the on-the-spot check and inspection in question.
10. As part of its investigative function, the Office shall carry out the checks and inspections provided for in Article 9(1) of Regulation (EC, Euratom) No 2988/95 and in the sectoral rules referred to in Article 9(2) of that Regulation in Member States and, **in accordance with cooperation and mutual assistance agreements and any other legal instrument in force**, in third countries and on the premises of international organisations.
11. During an external investigation, the Office may have access to any relevant information and data, irrespective of the medium on which it is stored, held by the institutions, bodies, offices and agencies, connected with the matter under investigation, where necessary in order to establish whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. For that purpose Article 4(2) and (4) shall apply.
12. Without prejudice to Article 12c(1), where, before a decision has been taken whether or not to open an external investigation, the Office handles information which suggests that there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union, it may inform the competent authorities of the Member States concerned and, where necessary, the institutions, bodies, offices and agencies concerned.

Without prejudice to the sectoral rules referred to in Article 9(2) of Regulation (EC, Euratom) No 2988/95, the competent authorities of the Member States concerned shall ensure that appropriate action is taken, in which the Office may take part, **in accordance with national law**. Upon request, the competent authorities of the Member States concerned shall inform the Office of the action taken and of their findings on the basis of information referred to in the first subparagraph of this paragraph.

On-the-spot checks have been discussed in the last decade quite thoroughly,[300] but not enough for all countries. For Finland, it is worth taking a closer look at the applicable provisions. **1**

a) On the spot-checks and inspections – Renouncing the applicable national law – Para 2, 4

The national law is renounced if the economic operator, the beneficiary, the grant recipient etc. submits to the investigation of the Office. In this case Union law applies. **2**

b) Assistance needed, competent authorities and access to information in the Member States, para 5

Even in the case that Union law applies, OLAF may need the help and information from national authorities in the Member states (managing authorities, control bodies, customs, and tax offices, etc.). **3**

c) Resistance by the economic operator vs. law enforcement and effective investigations, para 6 or the new model and the relevance of resistance or conformity of the Economic Operator

If the economic operator, the beneficiary, the grant recipient etc. resists this conduct influences the applicability of law. The ECJ rules in Sigma Orionis that national law applies in the case of resistance, which means that the investigations need to be in conformity with the national law applicable in similar national investigations. **4**

d) The basic principle of conformity to Regulations 2185/96 and 883/2013

aa. Submission: Compliance with Union law

In the case of compliance of an Estonian Economic Operator Union law applies; thus the Regulation allows OLAF officials to conduct on-the-spot checks without prior information of national authorities. **5**

[300] See Bovend'Eerdt 2018; in more-depth recently Bovend'Eerdt 2024, who analyses the OLAF Regulation in terms of on-the-spot checks and procedural rights touched by an OLAF investigation (using the examples of Netherlands and Germany; see in the Dutch volume for more impact of his research in this regard)..

bb. Resistance: Assistance in conformity with national procedural rules applicable

6 Does the participant, the personal or Economic operator concerned resist, the Regulation indicates that OLAF must follow national law and inform national authorities that can aid in conformity with national procedural rules applicable.[301]

e) Competent authorities

7 The table shows non-extensively the most important competent authorities, which need to be contacted if the Economic operator resists and thus national law applies if OLAF wants to conduct investigations into irregularities:

8 Who is responsible depends on which area is affected (direct or shared management) and which type of irregularity or fraud is suspected, as well as in which payment (expenditure) or payment (revenue) area.

9

Translated Term	Task
Finnish AFCOS, Government Financial Controller's Function[302] in the Ministry of Finance Three independent bodies operate in connection with the Function: the Audit Authority Unit, the Certifying Authority Unit, and the Ministry's Internal Audit. ➔ Budget Law[303]	Cooperation and Coordination of fraud prevention Handling of national auditing task relating to several EU-funded programmes[304]

[301] ECJ, Case T-48/16 *Sigma Orionis v the Commission*, mn. 112: "Finally, it should be noted that, according to the rules applicable to the actions carried out by OLAF, the requirement to obtain a judicial authorisation, if provided for by national law, only applies in the case of an objection raised by the economic operator and that OLAF must then have recourse to national police forces which, according to the rules applicable to them, must comply with national law."

[302] Valtiovarain controller -toiminto.

[303] Budget Law Section 24 e (19.12.2003/1216) Treasury controller function In order to ensure and develop the quality and accountability of the management and reporting system of the state's economy and operations, the Ministry of Finance has a controller function of the treasury, and in it the controller of the government and as his help and deputy the deputy controller of the government, who are appointed by the government. The eligibility requirements for the Controller and Deputy Controller of the Government are regulated by the Decree of the Government.

[304] Official website of the Ministry of Finance, see https://vm.fi/osastot. Accessed 31 December 2024.

Finnish Ministry of Finance	
EU Secretariat[305]	Revenue and Expenditure Control
International Financial Affairs Unit[306]	Management of Projects Audits
Department of National Economy[307]	Control of State Authorities
- Real economy unit - financial adviser Huovari - Public finance unit - financial adviser Pääkkönen - Policy analysis unit - financial adviser Orjasniemi - Information service unit - financial adviser Kähkönen	
Budget department[308]	
- Fiscal Policy Unit - Budget Advisor, Deputy Budget Manager - Fiscal Policy Preparation and Analysis Unit - Budget Advisor - Structural Unit - Financial Advisor Hämäläinen - Financial Administration and Legal Unit - Budget Advisor - EU Unit - Budget Advisor Kivinen - Accounting Team - Accounting Manager Orivuori - Assistant Team - Budget Advisor Taro	
Tax department[309]	
- Personal taxation unit - board advisor Pykönen - Business taxation unit - board advisor Salokoski	

[305] EU-sihteeristö.
[306] Kansainväliset rahoitusasiat -yksikkö.
[307] Kansantalousosasto.
[308] Budjettiosasto.
[309] Vero-osasto.

- Value added taxation unit - legislative advisor Anttila - Customs unit - board advisor Mäenpää - Excise taxation unit - board advisor Sandell - International taxation unit - board advisor Toivainen **Financial Market Department**[310] **State Administration Development Department**[311] **State Labor Market Institute (VTML)**[312] **Municipal and regional department**[313] **Development and administration function**[314]	
Finnish Customs authority[315]	Revenue Controls and Check on Bans (Tobacco) and Other Stuff imported via Finland

[310] Rahoitusmarkkinaosasto.
[311] Valtionhallinnon kehittämisosasto.
[312] Valtion työmarkkinalaitos (VTML).
[313] Kunta- ja alueosasto.
[314] Kehittämis- ja hallintotoiminto.
[315] Tulliviranomainen.
For the duties of the customs authorities see Customs Act:
§ 6 Obligations of the Member States regarding customs activities laid down in Union legislation
Customs is responsible for the following obligations of the member states stipulated in Union legislation:
1) notifying the other Member States and the Commission of the decision to exclude a person from TIR procedures and its date of application, in accordance with Article 229(2) of the Code;
2) reporting information on operating free zones to the Commission in accordance with Article 243, paragraph 2 of the Code;
3) reporting of actual and suspected data security breaches of electronic systems to other member states, the Commission and, if necessary, relevant economic operators in accordance with Article 3, paragraph 3 of the implementing regulation;
4) on the submission of the Customs operational units responsible for the registration of operators and their contact information to the Commission in accordance with Article 6 of the implementing regulation;
5) a list showing the Customs operational units designated as recipients of the applications and notification of any changes to the list that may be made later to the Commission in accordance with Article 11 of the implementing regulation;
6) a list showing the Union's international airports located in Finland and the notification of possible changes to the list to the Commission in accordance with Article 45 of the implementing regulation;
7) notifying the Commission of the names, addresses and contact information of the Customs operational units that are competent and responsible for making the registrations referred to in Article 84 of the Implementing Regulation and ensuring the administrative cooperation referred to in the Article, as well as notifying the Commission of changes in this information;

	to the EU or exported e.g. to Asia via Finland's Ports etc.[316]
Finnish Ministries	Supervision of the other bodies
Finnish National Bank[317]	monetary authority and national central bank responsible for the monetary policy and other central bank tasks of the countries of the Eurozone manages the use of the world's second largest currency, the euro[318]
State Audit Office[319]	See Act on the State Audit Office (676/2000) and Act on the right of the State Audit Office to audit certain fund transfers

8) on reporting the unit prices of perishable goods mentioned in Annex 23–02 of the implementing regulation to the Commission in accordance with Article 142, paragraph 6 of the implementing regulation;
9) on the determination of the exchange rate necessary for determining the customs value in the situation referred to in paragraph 4 of Article 146 of the implementing regulation;
10) on transferring the amount of security corresponding to the customs debt incurred in another member state in accordance with Article 153 of the implementing regulation to this member state, when the security has been given in Finland;
11) on providing official assistance in accordance with Article 165, paragraph 2 of the implementing regulation to other member states to collect the amount of export or import duty corresponding to the customs debt;
12) on reporting to the Commission the contact information and reference number of the Customs operational unit that coordinates customs debt issues related to the use of the ATA-carnet and CPD-carnet in accordance with Article 166(2) of the implementing regulation;
13) on submitting a list to the Commission of the cases referred to in Article 181 of the implementing regulation, where customs duties have been returned or cancelled;
14) on notifying the Commission that a decision on the cancellation or return of customs duties referred to in Article 101, paragraph 2 of the delegated regulation has been made;
15) on the national processing of a request for a tariff suspension or quota;
16) on the obligations of the member states stipulated in the Council Regulation (EC) No. 515/97 on mutual assistance of the administrative authorities of the member states and cooperation between the administrative authorities of the member states and the Commission to ensure the correct application of the legislation on customs and agricultural matters;
17) Commission Delegated Regulation (EU) on supplementing Regulation (EU) No. 952/2013 of the European Parliament and of the Council with transitional provisions concerning certain provisions of the Union Customs Code insofar as the relevant electronic systems are not yet operational and amending Commission Delegated Regulation (EU) 2015/2446 2016/341 on the obligations of the member states.

[316] See Customs Act Section 29 Prohibition of imports and exports Customs has the right to comply with international obligations binding Finland, decisions issued pursuant to Article 29 of the Treaty on the European Union, regulations issued pursuant to Article 215 of the Treaty on the Functioning of the European Union, regulations issued pursuant to the Act (659/1967) on the fulfillment of certain obligations of Finland as a member of the United Nations and the European Union or in order to implement the freezing decision made pursuant to the Act on the Freezing of Assets to Combat Terrorism (325/2013), prevents the import of goods into Finland and the export of goods from Finland. On a more general perspective see Claes and Franssen 2022, 117 et seq.

[317] Suomen Pankki.

[318] Official website of the Bank of Finland, see https://www.suomenpankki.fi/fi/suomen-pankki/. Accessed 31 December 2024.

[319] Valtiontalouden tarkastusvirasto.

	between Finland and the European Communities
Finnish Prosecution[320] **(is not competent to help, but to receive Recommendations,** see → Art. 11 OLAF Regulation**)**	"The independent National Prosecution Authority is a State authority and part of the judicial system. Its task is to ensure the realisation of criminal liability, i.e. that the proper statutory punishment is attached to a criminal act. The National Prosecution Authority is a key actor in the processing chain of criminal matters and is the only authority involved at all stages of processing a criminal matter: the pre-trial investigation, the consideration of charges and the trial. In the decisions they make in prosecution matters, prosecutors are autonomous and independent administrators of justice. The National Prosecution Authority belongs to the administrative branch of the Ministry of Justice."[321]
Special Management Bodies made competent according to the EU Regulation in the Area of Structural Funds	Structural Funds

Source: The authors.

f) National law and "checks and inspections" of OLAF

10 National checks and inspections are essential to discover fraud and irregularities in the various area of revenue and expenditure. They are the corner stone of an anti-fraud policy of the Union and the Member States under Aart. 325 TFEU. In this area national law might apply and enable OLAF with its national partners to conduct investigations.

aa. Administrative procedure in general

11 The administrative procedure in Finland is regulated mainly by the Administrative Act (*Hallintolaki*). It has the following structure and contents:

[320] Syyttäjälaitos.
[321] Official website of the National Prosecution Authority, see https://syyttajalaitos.fi/en/the-national-prosecution-authority. Accessed 31 December 2024.

Table of contents
6.6.2003/434
PART I - GENERAL PROVISIONS
Chapter 1 - Purpose and scope of the Act
§ 1 - The purpose of the law
Section 2 - Scope
Section 3 - Application to management contracts
Section 3a - Application to appeals
Section 4 - Scope limitations
Section 5 - Relationship to other legislation
Chapter 2 - Basics of good governance
§ 6 - Legal principles of administration
§ 7 - Service principle and appropriateness of the service
Section 8 - Advice
Section 9 - Requirement of good language use
§ 10 - Cooperation of authorities
Chapter 3 - Participant status and using the right to speak
Section 11 - Party involved
Section 12 - Agent and assistant
Section 13 - Confidentiality obligation of agent and assistant
Section 14 - Power of speech of a deficient person
Section 15 - The trustee’s right to speak
PART II - INITIATION OF THE ADMINISTRATIVE MATTER AND PROCESSING OF THE MATTER IN THE AUTHORITY
Chapter 4 - Sending the document to the authority and starting the administrative case
Section 16 - Content of the document
§ 17 - Responsibility of the sender of the document
Section 18 - Document Arrival Date
Section 19 - Initiation of the case
Section 20 - Initiation of the case
Section 21 - Transfer of the document
Section 22 - Supplementing the document
Chapter 5 - General requirements for handling the case
Section 23 - Immediacy of processing
Section 23 a - Defining the processing time
Section 24 - Publicity of processing
Section 25 - Dealing with matters together
Section 26 - Interpretation and translation
Section 27 - Disability
Section 28 - Reasons for disqualification
Section 29 - Resolving obstruction
Section 30 - Continuation of case processing
Chapter 6 - Investigating the matter and hearing the party involved
Section 31 - Obligation to clarify
Section 32 - Request for clarification
Section 33 - Deadline for issuing the report
Section 34 - Hearing of the interested party
Section 35 - Hearing of the principal and trustee or guardian
Section 36 - Notification of hearing
Section 37 - Oral demand and explanation
Section 38 - Examination
Section 39 - Inspection
Section 40 - Oral evidence
Section 41 - Reservation of influencing opportunities

Section 42 - Recording of information
Chapter 7 - Resolution of the case
Section 43 - Form of the decision
Section 44 - Content of the decision
Section 45 - Justification of the decision
Section 46 - Instructions for rectification claims
Section 47 - Notice of appeal
Section 48 - Notice of appeal ban and ineligibility to appeal
Section 49 - Correction of the complaint
Chapter 7 a - Adjustment claim procedure
Section 49a - Application of the provisions of the chapter and relationship to other legislation
Section 49 b - Filing a rectification claim and prohibition of appeals
Section 49 c - Period for rectification claims
Section 49 d - Form and content of the rectification claim
Section 49 e - Urgency of processing
Section 49 f - Enforceability of the decision
Section 49 g - Resolving the rectification claim and correcting the error
Chapter 8 - Correcting the error in the decision
Section 50 - Correction of factual error
Section 51 - Correcting a typographical error
Section 52 - Initiation and processing of the repair case
Section 53 - Supplementary provisions on the repair procedure
Chapter 8 a - Administrative complaint
Section 53a - Filing an administrative complaint
Section 53 b - Handling of administrative complaints
Section 53 c - Administrative guidance given as a result of an administrative complaint
Section 53 d - Prohibition of appeal
Chapter 8 b - Resolving the case automatically
Section 53 e - Conditions for automatic resolution of the case
Section 53 f - Legal protection requirement for automatic resolution
Section 53 g - Notification of automatic settlement
PART III - NOTIFICATION OF THE ADMINISTRATIVE DECISION AND OTHER DOCUMENTS
Chapter 9 - General provisions on service
Section 54 - Notification obligation
Section 55 - Methods of notification
Section 56 - Service to a private person
Section 57 - Notification to the community, foundation, estate and bankruptcy estate
Section 58 - Notification to the authority
Chapter 10 - Procedure to be followed in notification
Section 59 - Ordinary service
Section 60 - Proof service
Section 61 - Substitute service
Section 62 - General notification
Section 62 a - Public Announcement
Section 62 b - Publication of information when delivering general notification and public announcement
Section 63 - Service abroad

PART IV - MISCELLANEOUS PROVISIONS AND ENTRY INTO FORCE
Chapter 11 - Miscellaneous provisions
Section 64 - Expenses and costs of proof arising from administrative matters
Section 65 - Interpreter and translator's disability
Section 66 - Dispute concerning the management agreement
Section 67 - Administrative sanctions
Section 68 - Liability for damages for failure to forward service
Section 69 - Violation of the confidentiality obligation of the agent and assistant
Chapter 12 - Entry into force and transitional provisions
Section 70 - Entry into force
Section 71 - Transitional provisions

But the specific administrative areas, such as the Budget Area, the procurement Area or the Structural Funds area are regulated by different Acts. **12**

In the customs Area the Customs Act e.g., regulates the customs procedure as a special administrative process (see → Customs Act Chapter 3 Powers to carry out customs procedure). **13**

The Act on Tax Administration contains rules for this specific administrative process. The Tax Act and the VAT Act contain further rules as well.[322] **14**

An example from the Budget Control Area shows that the controller has a very important function: **15**

Section 24f[323] **Duties and powers of the treasury controller function**
The task of the treasury controller function is to: […]
3) coordinate the internal and administrative control of European Union funds under the responsibility of the State of Finland and prepare statements and reports regarding the control and audit of Union funds as well as errors in the management of funds and misuse of funds for the institutions of the European Union and other bodies, unless they are part of the tasks of another authority; […]
The treasury controller function can present a report on its findings to the Government and the ministry as well as to the government agency, institution, business institution and fund and present its possible proposals for measures in it. In addition, depending on the quality of the case, the function may bring its observations and proposed measures

[322] See Äimä 2011.
[323] 24 f § (19.12.2003/1216)
Valtiovarain controller -toiminnon tehtävät ja valtuudet
Valtiovarain controller -toiminnon tehtävänä on:
3) sovittaa yhteen Suomen valtion vastuulla olevien Euroopan unionin varojen sisäistä ja hallinnollista valvontaa ja valmistella unionin varojen valvontaa ja tarkastusta sekä varojen hoidon virheitä ja varoihin kohdistuneita väärinkäytöksiä koskevat kannanotot ja selvitykset Euroopan unionin toimielimille ja muille elimille, jolleivät ne kuulu jonkin muun viranomaisen tehtäviin; [...].

to the attention of the State Audit Office and other authorities competent in the matter for possible measures.

bb. Special administrative powers and provisions in certain areas of revenue and expenditure

(1) Administrative provisions

16 The administrative provisions are important because they contain the national law, which applies if an Economoc Operator resists and OLAF must rely on its national equivalent institutions with special rights to intervene in an administrative procedure e.g. carry out an audit, an inspection, or an investigation into a certain irregularity according to the Union definition of an irregularity. The complete list of single administrative provisions cannot by displayed here, but it can be said that they have in common the rules on granting and refusing money or a certain action by a Finnish administrative body, which is competent either to ensure that the duties on the revenue side of the EU budget or that the duties on the expenditure side are fulfiled.

17 If they come across an irregularity during the administrative process or the assessement of a contract, an assignement, an official resoning of an operator, an application etc. they must probably report the incidence according to the reporting obligations (within the EU Regulations) to the relevant bodies. OLAF will then decide based on Art. 5 OLAF Regulation and potentially act in accordance with Art. 7 OLAF Regulation.

(a) Administrative provisions in the area of customs duties and value added tax (VAT) = revenue

18 Fist of all, the next part shall offer an overview of the contents of the Acts, which apply in this Area if it comes to the execution Finnish law:

19 The Customs Act 2016/304[324] has the following structure:

Table of contents
29/04/2016/304
Chapter 1 - General provisions
Section 1 - Scope
Section 2 - Definitions
Chapter 2 - Competent authorities and their duties
Section 3 - Customs
Section 4 - Border Guard
Section 5 - Police
Section 6 - The obligations of the Member States regarding customs operations laid down in Union legislation
Chapter 3 - Powers to carry out a customs procedure
Section 7 - Purpose of powers
Section 8 - Inspection of goods and documents
Section 9 - Using an expert in the inspection of goods

[324] It shall not be confused with the Law on crime prevention in Customs 22.5.2015/623.

Section 10 - Detention of goods
Section 11 - Taking possession of the goods
Section 12 - Direction of road traffic
Section 13 - Stopping and inspecting the vehicle
Section 14 - Isolation of the place and restriction of the right to move
Section 15 - Placing an identification mark
Section 16 - Stopping a person
Section 17 - Identification of identity
Section 18 - Search targeting a person
Section 19 - Safety inspection
Section 20 - Seizure of objects and substances endangering public order and safety
Section 21 - Handling of seized property
Chapter 4 - Use of the Force
Section 22 - Use of force
Section 23 - Preparation for the use of force and warning
Section 24 - Force-using and protective equipment
Section 25 - Use of a firearm
Section 26 - Binding
Section 27 - More detailed provisions on the use of force
Chapter 5 - Other powers of Customs
Section 28 - Technical supervision
Section 29 - Prohibition of import and export
Section 30 - Inspection of funds
Section 31 - Border inspection
Section 32 - Detention of goods to prevent or investigate a crime other than a customs crime
Section 33 - Apprehension of wanted person
Chapter 6 - Procedure when exercising powers
Section 34 - Respect for fundamental rights and human rights
Section 35 - Proportionality principle
Section 36 - Principle of least harm
Section 37 - The principle of purpose-relatedness
Section 38 - Management of tasks and order of importance
Section 39 - Expressing the position of the customs officer and identifying the customs officer
Section 40 - Notification of the basis for the use of authority
Section 41 - Command authority of the customs officer
Section 42 - Treatment of an arrested person
Section 43 - Minutes and entry in other documents
Chapter 7 - Duty Free
Section 44 - Duty-free based on certain international agreements
Section 45 - Restriction on the transfer of duty-free goods
Section 46 - Duty-free of modified goods
Section 47 - Delivery of modified goods to a vehicle
Section 48 - Duty-free fuel in certain cases
Section 49 - Duty free of air transport goods
Chapter 8 - Customs clearance
Section 50 - Goods transport routes
Section 51 - Obligation to declare goods in internal transport within the Union

Section 52 - Customs clearance formalities and information collected to produce foreign trade statistics
Section 53 - Customs representation
Section 54 - Requiring a security deposit
Section 55 - Permit to establish a free zone
Section 56 - Reporting data to the EORI register using non-electronic data systems
Section 57 - Transfer of the rights and obligations of the holder of the procedure of the special procedure
Chapter 9 - Delivery of customs taxation
Section 58 - Determining the amount of duty
Section 59 - Customs evasion
Section 60 - Entry in customs accounts
Section 61 - Notification of the amount of duty
Section 62 - Deadline for notification of customs debt
Section 63 - Consultation of the customs agent and notification of the decision to the customs agent
Chapter 10 - Carrying the customs debt
Section 64 - Payment of customs duty
Section 65 - Due date of deferred payment
Section 66 - Transfer of due date
Section 67 - Time of execution of customs
Section 68 - Interest charged on payment facilitation
Section 69 - Receipt
Section 70 - Obstacles to set-off
Section 71 - Using the return as payment for a claim from another authority
Section 72 - Allocation of funds
Section 73 - Transfer of payments to Customs
Section 74 - Accounting for tax assets
Chapter 11 - Customs debt collection
Section 75 - Collection of customs by means of enforcement and securing of collection
Section 76 - Collection methods
Section 77 - Postponement of enforcement
Section 78 - Failure to collect customs duty
Section 79 - Waiver of collection actions
Chapter 12 - Customs auction, other sale, transfer and disposal of goods
Section 80 - Goods sold by customs auction or in another way
Section 81 - Other transfer or disposal of goods
Section 82 - Procedure in the sale of goods
Section 83 - Liability for goods to be sold or otherwise handed over
Section 84 - Customs payable on goods to be sold
Section 85 - Payment of the purchase price and transfer of ownership
Section 86 - Proceeds from the sale
Chapter 13 - Appeal
Section 87 - Referral of an application for refund or cancellation of customs duty to the Commission
Section 88 - Claim for rectification
Section 89 - Appeal to the administrative court
Section 90 - Appeal to the Supreme Administrative Court

Section 91 - Retention of documents relating to appeals
Section 92 - Failure to consult the state trustee
Section 93 - Duty to be refunded due to appeal
Section 94 - Referral provision
Chapter 14 - Sanctions
Section 95 - Customs duty increase
Section 96 - Error payment
Section 97 - Retrospective customs duty increase and error fee
Section 98 - Determination of customs duty increase and error fee
Section 99 - Customs violation
Section 99 a - Penalty fee
Section 99 b - Subsidiarity of penalty payment
Chapter 15 - Miscellaneous provisions
Section 100 - Official assistance provided by Customs
Section 101 - Official assistance given to Customs
Section 102 - Obligation to provide information
Section 103 - Costs arising from providing information and assisting in the inspection
Section 104 - Section 105 - Public law charges borne by Customs
Section 106 - Transfer of control premises
Section 107 - Electronic transaction and signature
Chapter 16 - Entry into force and transitional provisions
Section 108 - Entry into force
Section 109 - Transitional provisions

The VAT Act (Arvonlisäverolaki, 30.12.1993/1501) has following structure: **20**

Table of contents
30.12.1993/1501
PART I
Chapter 1 - General scope
Chapter 2 - Tax liability
Chapter 3 - Taxable sale
Sale of goods and services
Chapter 3 a - Community procurement of goods
Section 26a-j
Chapter 4 - Exemptions from the taxation of sales
Transfers of real estate
Chapter 5 - Sales and collective procurement in Finland (29.12.1994/1486)
General provision for the sale of goods
Section 63
Distance selling of goods
Section 63a
Section 63a
Connecting transport in sales using an electronic interface
Section 63 b
Section 63 b
Connecting transport to sales in intra-Community chain transactions
Section 63c
Sales in means of transport within the Community
Section 63d
Sale of electricity and gas or heating and cooling energy delivered via the network
Section 63e
Community procurement
Chapter 7 - Basis of tax
Chapter 8 - Tax rate

Chapter 9 - Import of goods
Obligation to pay tax
Chapter 10 - Deductible tax
Chapter 11 - Review of the deduction for real estate investment
Chapter 12 - Refund of tax to non-taxpayers
Chapter 12 a - Special systems for sales of services, remote sales of goods and sales of goods made using certain electronic interfaces (May 7, 2021/387)
PART II
Chapter 13 - The title has been repealed by L 27.6.2014/505. (27.6.2014/505)
Chapter 14 - Tax procedure in certain community procurements
Chapter 14 a - Relief related to the lower limit of tax liability
Chapter 15 - Refund of tax for certain foreign entrepreneurs
Chapter 16 - Tax authorities
Section 157
Section 158
Section 159
Section 160
Chapter 17 - Incorporation notice and summary notice
Chapter 18 - Registration
Chapter 19
Chapter 20 - Guidance and preliminary ruling (9/9/2016/773)
Section 189
Chapter 22 - Invoices and other documents (9/9/2016/773)
Section 209a-u
Chapter 22 a - Miscellaneous provisions (25.4.2003/325)
Chapter 23 - Entry into force and transitional provisions

(aa) Principle of investigation (General Tax Act, Customs Act)

A typical administrative process starts either via an information or ex officio if the documents request an action of the relevant body: **21**

Section 19[325] **Initiating the case**
The case is initiated in writing by stating the requirements and the grounds. With the consent of the authority, the matter may also be initiated orally.

Section 20[326] **The initiation of the matter**
An administrative case is initiated when the document intended to initiate the case has arrived at the competent authority or when the case has been presented to it in connection with an oral initiation and the necessary information to start processing has been recorded.

The principle of investigation is, equally to Germany and other countries a primary state task. Thus, the state bodies carry out investigations ex-officio. **22**

(bb) External audit (General Tax/Customs Act)

Audits are typical and usually annualy, or at least frequently, according to a preset plan carried out inspections and review including assessement of relevant budget material e.g. of an Economoic operator, which received EU funding or someone, who has to pay duties to the EU budget. The Finnish Tax Authorities and the Finnish Customs are competent in this area. The Audit Act contains rules on the audit process.[327] The Act on Tax Administration contain special rules for this area. **23**

A typical audit is described for the persons concerned online.[328] **24**

The Tax Procedures Act foresees the following: **25**

[325] 19 §
Asian vireillepano
Asia pannaan vireille kirjallisesti ilmoittamalla vaatimukset perusteineen. Viranomaisen suostumuksella asian saa panna vireille myös suullisesti.
[326] 20 §
Asian vireilletulo
Hallintoasia tulee vireille, kun asian vireille panemiseksi tarkoitettu asiakirja on saapunut toimivaltaiseen viranomaiseen tai kun asia on sille suullisen vireillepanon yhteydessä esitetty ja käsittelyn aloittamiseksi tarvittavat tiedot on kirjattu.
[327] See Audit Act, 18.9.2015/1141.
[328] See https://tilintarkastajat.fi/tilintarkastajan-palvelut/yhteisojen-tilintarkastus/tilintarkastusprosessi/. Accessed 31 December 2024.

Section 14[329] **Tax audit**
At the request of the Tax Administration, during the tax year or later, the taxpayer must present his accounting, records, as well as everything related to business activities or other income-generating activities, as well as other materials and assets that may be necessary for his taxation or when handling appeals regarding his taxation, for inspection in Finland.
The tax payer must be notified in advance of the start date and location of the tax audit, unless there is a special reason for another procedure. (9/9/2016/772)
A tax audit report must be drawn up on the performed tax audit, unless there are special reasons.
A representative of another authority can assist as an expert in the tax audit.
The procedure to be followed in the tax audit, as well as the material and assets to be presented, are regulated in more detail by a government decree.

26 The Budget Act might apply as well. But be aware that the provisions there relate to internal audits. The internal control procedures are required in sections 69 and 69a of the State Budget Regulation. The task of the internal audit is to find out to the management the appropriateness and adequacy of the internal control and to perform the audit tasks assigned by the management.

(cc) Tax and customs investigation (Customs Act/General Tax Act)

In 2020 a high-level conference on customs fraud took place in Finland.[330]

Case Study 2: Alcohol smuggling in Finland

Case-Study: Alcohol smuggling

At the beginning of thid century and in the first decade Finish customs became aware of a lot of smuggling offences and irregularities in the area of alcohol import and export as well as cigarettes:

[329] § 14
Verotarkastus
Verovelvollisen on Verohallinnon kehotuksesta verovuoden aikana tai myöhemmin esitettävä Suomessa tarkastettavaksi kirjanpitonsa, muistiinpanonsa samoin kuin kaikki se elinkeinotoimintaan tai muuhun tulonhankkimistoimintaan liittyvä sekä muu aineisto ja omaisuus, joka saattaa olla tarpeen hänen verotuksessaan tai hänen verotustaan koskevaa muutoksenhakua käsiteltäessä. (11.6.2010/520)
Verotarkastuksen aloittamisajankohdasta ja tarkastuspaikasta on ilmoitettava verovelvolliselle etukäteen, jollei erityisestä syystä ole aihetta muuhun menettelyyn. (9.9.2016/772)
Suoritetusta verotarkastuksesta on laadittava verotarkastuskertomus, jollei erityisistä syistä muuta johdu.
Toisen viranomaisen edustaja voi avustaa asiantuntijana verotarkastuksessa. (13.11.2020/782)
Verotarkastuksessa noudatettavasta menettelystä sekä esitettävästä aineistosta ja omaisuudesta säädetään tarkemmin valtioneuvoston asetuksella. (9.9.2016/772)
[330] See Wahl T 2020, eucrim news, 18 February 2020, online: https://eucrim.eu/news/high-level-conference-customs-fraud-helsinki/. Accessed 31 December 2024.

"Cigarettes: The seizures of cigarettes have slightly decreased from previous years, but the smuggling of cigarettes has become more organized, international and large-scale. The contraband cigarettes have primarily been Chinese counterfeit products that have been smuggled into Finland either from Russia or Estonia."[331]
It is very hard to obtain new data about such conduct in Finland. But the National Statistics Office offers more information about relevant conduct for OLAF investigators.
Frontex reported in June 2023 "46 people smugglers arrested, millions of cigarattes seized in global operation led by Frontex"
More than 30 million of cigarettes seized, 43 fraudulent documents confiscated, 46 people smugglers arrested in a global operation against tobacco, human smuggling.

Frontex coordinated Joint Action Days (JAD) Arktos 5, focusing on tackling tobacco smuggling, migrant smuggling and document fraud in the Baltic Sea Region. This JAD was led by Latvia and co-led by both Estonia and Lithuania. The coordination centre was established in Frontex HQ, with border guards and customs representatives from participating countries as well as Interpol.

Between 9–19 June, eight EU Member States joined their efforts to prevent hundreds of thousands smuggled excise goods. Other organisations, including EUROJUST, EUROPOL, INTERPOL and OLAF, were also involved."[332]

As OLAF and Finland were both parts of this FRONTEX operation it can be guessed that at least cases with a connection to Finland or Finish customs were suspected. This shows that this kind of fraudulent conuct is still an important matter and could potentially make on-the-spot-checks by OLAF necessary in Finland.

(dd) Fiscal supervision

The Finnish Ministry of Finance has certain functions but one of the most important is the control of the fiscal area, the spending and the revenue and the execution of the Budget Laws. It supervises the whole area including the EU money area in Finland.[333] **27**

[331] See https://anti-fraud.ec.europa.eu/system/files/2021-07/fi_customs_report.pdf. Accessed 31 December 2024.
[332] See Frontex, 46 people smugglers arrested, millions of cigarattes seized in global operation led by Frontex, News of 6 July 2023, online: https://frontex.europa.eu/media-centre/news/news-release/46-people-smugglers-arrested-millions-of-cigarattes-seized-in-global-operation-led-by-frontex-RUNn7e. Accessed 31 December 2024.
[333] See Ministry of Finance, Departments, online: https://vm.fi/osastot. Accessed 31 December 2024.

(b) Administrative provisions in the area of structural funds and internal policies (interne Politiken) = expenditure

28 The area of spending on structural funds is highly important and therefore dealt with in the Finnish Ministry of Finance. A special controller, which audits the Finnish Budget and the money Finland receives from the EU has the following tasks:

> "**Treasury controller function**
> The treasury controller function supports and ensures compliance with the principles of good governance. We develop control and reporting systems for state finances and operations and ensure their quality. We are responsible for the guidance, coordination and development of internal control and the risk management included in it. In terms of EU financial management, we coordinate, among other things, fraud prevention cooperation and are responsible for the audit tasks of several EU-funded programs in Finland.
> The treasury controller function has a treasury controller unit. In connection with the operation, the independent audit authority unit and the verification authority unit and the independent internal audit of the ministry, which works under the head of the secretary of state's office, also operate.
> **The state treasury controller function and unit is headed by Jaana Kuusisto, controller of the government.**
> **Audit advisor Kari Rouvinen is the head of the audit authority unit.**
> **Audit advisor Jarkko Huhtaniska is the head of the verification authority unit.**"[334]

29 This information, which stem directly from the self-presentation of the Finnish Ministry of Finance on the website present a first hint on whom to contact if OLAF has issues dealing with audits and the audit system in Finland itself. Another possibility is to contact the AFCOS body, see → Art. 12a OLAF Regulation below.

(aa) Structural funds

30 The area of structural funds has been updated for the period 2021–2027:

- Act on the financing of regional development and regional and structural policy projects of the European Union, 13.8.2021/757

[334] See Ministry of Finance, Departments, online: https://vm.fi/osastot. Accessed 31 December 2024.

Section 7[335] **Conditions for the recipient of the support** **31**

Support can be granted to a public-law entity and a private-law legal entity. If it is a joint project or a group project, all applicants must meet the conditions set for the grant recipient.

The recipient of the support must have sufficient financial and other conditions to implement the project and sufficient conditions to ensure the continuity of operations after the end of the project, unless ensuring continuity is unnecessary due to the nature of the operation.

A Government decree can provide more detailed regulations on the conditions for the recipient of the support.

Chapter 3 Special provisions concerning the implementation of the European Union's regional and structural policy program

Section 37[336] **Specific obstacles to the granting of support in the European Union's regional and structural policy program**

In addition to what this "of the law" the obstacles to the granting of support granted pursuant to are stipulated in Section 8, no support is granted from the funds of the European Union's regional and structural policy program if the project or the recipient of the support does not meet the general selection criteria referred to in Article 73 of the general regulation, approved by the monitoring committee and confirmed by the administrative authority.

The following codes may be applicable as well: **32**

- Law on amending the law on internal affairs funds in the program period 2021–2027[337]
- Law 1334/2022 on the implementation of certain European Union and national agricultural subsidies[338]

[335] 7 § Tuen saajaa koskevat edellytykset
Tukea voidaan myöntää julkisoikeudelliselle yhteisölle ja yksityisoikeudelliselle oikeushenkilölle. Jos kyse on yhteishankkeesta tai ryhmähankkeesta, kaikkien hakijoiden on täytettävä tuen saajalle asetetut edellytykset.
Tuen saajalla tulee olla riittävät taloudelliset ja muut edellytykset hankkeen toteuttamiseksi ja riittävät edellytykset toiminnan jatkuvuudesta huolehtimiseksi hankkeen päättymisen jälkeen, jollei jatkuvuudesta huolehtiminen ole toiminnan luonteen vuoksi tarpeetonta.
Valtioneuvoston asetuksella voidaan antaa tarkempia säännöksiä tuen saajaa koskevista edellytyksistä.

[336] 3 luku Euroopan unionin alue- ja rakennepolitiikan ohjelman toimeenpanoa koskevat erityissäännökset
37 § Tuen myöntämisen erityiset esteet Euroopan unionin alue- ja rakennepolitiikan ohjelmassa
Sen lisäksi, mitä tämän "lain" nojalla myönnettävän tuen myöntämisen esteistä säädetään 8 §:ssä, Euroopan unionin alue- ja rakennepolitiikan ohjelman varoista ei myönnetä tukea, jos hanke tai tuen saaja ei täytä siihen sovellettavia yleisasetuksen 73 artiklassa tarkoitettuja seurantakomitean hyväksymiä ja hallintoviranomaisen vahvistamia yleisiä valintaperusteita.

[337] Laki sisäasioiden rahastoista ohjelmakaudella 2021–2027 annetun lain muuttamisesta.

[338] Laki tiettyjen Euroopan unionin ja kansallisten maatalouden tukien toimeenpanosta.

- Decree of the Government Implementation of surface-based and some other subsidies financed by the European Union (134/2023)[339]
- The Act on European Union Direct Farmer Subsidies 1332/2022[340]

33 *Table 12: Structural funds and national administrative authorities – Cohesion policy acc. to the CFR Regulation in Finland (2021–2027)*

Fund	**Total EU allocations**	**Managing authority**:
The European Regional Development Fund (ERDF) – includes European Territorial Cooperation (Interreg)	Total EU allocations for Finland: 870 million euros	Operational Programme Entrepreneurship and Skills: Ministry of Economic Affairs and Employment Operational Programme Sustainable Growth and Jobs: Centres for Economic Development, Transport and the Environment
Just Transition fund	Total EU allocations for Finland: 466 million euros	/
European Social Fund Plus (ESF+)	Total EU allocations for Bulgaria: 605 million euros	(for ESF) – see Managing authority at ERDF.
European Maritime, Fisheries and Aquaculture Fund (EMFAF)	Total EU allocations for Bulgaria: 72 million euros	Finnish Ministry of Agriculture and Forestry; regional management through the Centres for Economic Development, Transport and Environment; EMFF supports coastal communities in diversifying their economies and finances projects that create jobs and improve

[339] Valtioneuvoston asetus Euroopan unionin rahoittamien pinta-alaperusteisten sekä eräiden muiden tukien toimeenpanosta (134/2023).
[340] Laki Euroopan unionin suorista viljelijätuista.

		quality of life along European coasts[341]
Asylum, Migration and Integration Fund (AMIF)	Total EU allocations for Bulgaria: approx 98 million euros	Ministry of the Interior, International Affairs Unit.
Internal Security Fund (ISF)	Total EU allocations for Finland: approx. 37 million euros	/
Instrument for Financial Assistance in the Field of Border Management and Visa (BMVI)	Total EU allocations for Finland: approx. 78 million euros	/
European Rural Development Fund (EAFRD) * Not part of the CFR Regulation anymore (as of 2023)	EU funds for Finland in 2021 and 2022: 201.9 million euros[342] EU funds for Finland in MFF 2021–2027 program: 2 037.6 million euros[343] Total EU Allocation in period 2014–2020: 3 377 million euros	Finnish Ministry of Agriculture and Forestry (mainland), Åland Provincial Government Department of Trade and Industry (Åland)[344]

(bb) Internal policies

For internal policies the Administrative Act may be the applicable code, see Section 39. See as well above → Structural funds. **34**

(c) Administrative provisions in the area of the common organization of the markets= expenditure

The COM is a cornerstone of the Common Agricultural Policy (CAP), aiming to stabilize markets, ensure fair competition, and support farmers' incomes. The Act on the Market Organisation of Agricultural Products, 28.12.2012/999 and the Act on Support **35**

[341] European website in Integration, https://ec.europa.eu/migrant-integration/funding/national-level/funds-migrant-integration-finland_en. Accessed 31 December 2024.
[342] Breakdown of European Agricultural Fund for Rural Development per Member State (NextGenerationEU), see https://ec.europa.eu/info/sites/default/files/about_the_european_commission/eu_budget/eafrd_-_ngeu_current_0_0.pdf. Accessed 31 December 2024.
[343] Breakdown of European Agricultural Fund for Rural Development per Member State (MFF), see https://ec.europa.eu/info/sites/default/files/about_the_european_commission/eu_budget/eafrd_-_mff_current.pdf. Accessed 31 December 2024.
[344] European website in Integration, https://ec.europa.eu/migrant-integration/funding/national-level/funds-migrant-integration-finland_en. Accessed 31 December 2024.

for Rural Development (1443/2006)[345], which contains definitions in s. 4 will apply. The administrative conditions e.g. for grants are laid down in ss. 10–39 of 1443/2006.

36 **Section 4**[346] (29.12.2022/1336)
General authority of the Food Agency and the authority referred to in EU legislation
The Food Agency is the competent national authority for the implementation of Chapter III of Title III of the EU's common agricultural policy market organization and plan regulation and is responsible for the implementation of the measures belonging to the national authority related to the market organization and the said chapter and the decisions required for implementation, unless otherwise provided for in this law below.
On the management of the strategic plan of the common agricultural policy "given" "of the law" (1324/2022), hereinafter the Administration Act, Chapter 3 provides for the authorities and institutions referred to in EU legislation.

See → Chapter 10 General regulations regarding application, notification, decisions, payment, recovery and penalty payments

37 See also the Decree of the Ministry of Agriculture and Forestry on the rules of procedure of the Ministry of Agriculture and Forestry (835/2022)

(d) Administrative provisions in the area of direct expenditure

38 The provisions applicable to the area of direct expenditure may be found in the
- Act on Public Procurement and License Agreements,[347] **Chapter 10 Selection of candidates and tenderers and selection of tender, section 79** et seq.
- Act on European Union Direct Farmer Subsidies (1332/2022)[348]
- Administrative Act[349]

[345] This Act excludes support for agricultural production, structural improvements, EU-funded programs, and fully nationally funded rural research and development projects not linked to any program. DS. 4: "2) Community funding means funds from the European Agricultural Fund for Rural Development or other funding of the European Community allocated for support referred to in this Act."
[346] 4 § (29.12.2022/1336)
Ruokaviraston yleistoimivalta ja EU:n lainsäädännössä tarkoitettu viranomainen
Ruokavirasto on toimivaltainen kansallinen viranomainen EU:n yhteisen maatalouspolitiikan markkinajärjestelyn ja suunnitelma-asetuksen III osaston III luvun täytäntöönpanossa ja vastaa markkinajärjestelyyn ja mainittuun lukuun liittyvien kansalliselle viranomaiselle kuuluvien toimenpiteiden täytäntöönpanosta ja täytäntöönpanon edellyttämistä päätöksistä, jollei jäljempänä tässä laissa toisin säädetä.
Yhteisen maatalouspolitiikan strategiasuunnitelman hallinnoinnista "annetun" "lain" (1324/2022), jäljempänä hallinnointilaki, 3 luvussa säädetään EU:n lainsäädännössä tarkoitetuista viranomaisista ja toimielimistä.
[347] Laki julkisista hankinnoista ja käyttöoikeussopimuksista.
[348] Laki Euroopan unionin suorista viljelijätuista.
[349] Hallintolaki.

(2) Investigative powers

Investigative powers are very important tools. If OLAF cannot act directly, it has to rely on the powers of potential partners of the Finish law enforcement or administrative branch. This requires the OLAF SNEs, OLAF Units and Investigators to know the applicable national law. The next pages are by no way exhaustive, but they try to picture the scenery of investigative powers, which OLAF can rely on, if it cooperates in an external investigation with Finish authorities. **39**

(a) Investigative powers in the area of customs duties and VAT (General Tax Act)

The investigative powers in the area of customs duties and VAT (General Tax Act) vested to the Finish Customs are particulary important for OLAF because a lot of EU irregularities and fraudulent conduct stems from this area according to press releases. **40**

Customs Investigations Measures 1 **41**

	Measures
In Chapter 3 of the Customs Act the powers to carry out a customs procedure and inspection are regulated within sections 7 et seq. The detailed provisions will be explored below (Single measures), see ss. 2, 4 (controlled deliveries) 5 (criminal units and investigation teams, 8 (border control), 9 (international cooperation). In 2022 the parliament wanted to amend the VAT Act to enable an easier inspection of fraudulent activies. See the government's proposal to the parliament as a law on amending the value added tax law and some other laws in the province of Åland (2022). Other measures are regulated in the Customs Act and the Act on the Enforcement of Taxes and Public Payments.	

(b) Investigative powers around structural funds and internal policies

Given that structural funds are managed jointly by the EU and national authorities under the **shared management principle,** Finish authorities (see above → **Institutions**) need to pay great attention and act according to the laws in order to properly oversee the distribution and utilisation of these funds.[350] For instance, in 2023, the European Union faced significant challenges with its budget as nearly €11 billion in spending was marked by irregularities, according to the EU's auditors.[351] The Ministry of Economic points out **42**

[350] See European Commission (OLAF) 2022b.
[351] The Times 2023, News Article, EU warned over €11bn spending irregularities as suspected fraud rises. https://www.thetimes.co.uk/article/eu-warned-over-11bn-spending-irregularities-as-suspected-fraud-rises-zzmtvgngg. Accessed 31 December 2024.

that: "The **Administrative Procedure Act** (434/2003) lays down provisions on disqualification, or conflicts of interest, in administrative tasks."[352] The competent authorities investigating are the police, mostly involved by a managing authority under the radar of the **MEA** and the **NAOF**, which accepts complaints by individuals. The Act on the financing of regional development and regional and structural policy projects of the European Union **13.8.2021/757** applies, too. For OLAF investigators the Finish **Glossary of Legislative Terms** and the **Glossary of Court Terms** are practical tools – even foreign lawyers might use them as an introduction to the Finish system.[353]

43 **Section 47**[354] **Audits regarding the use of funds from the European Union's regional and structural policy program**

Based on articles 72 and 74 of the general regulation, the administrative authority has the right to carry out inspections related to the use of the funds of the European Union's regional and structural policy program on intermediary institutions and aid recipients.

Based on articles 77–81 of the general regulation, the audit authority has the right to conduct audits related to the use of funds from the European Union's regional and structural policy program targeting the administrative authority, the accounting function, mediating institutions and grant recipients.

Based on articles 76 and 98 of the general regulation, the authority managing the accounting function has the right to conduct audits of the administrative authority and intermediary institutions related to the use of funds from the European Union's regional and structural policy program.

Based on Article 74, paragraph 1, subparagraph a of the general regulation, the mediating institution has the right to carry out audits on the recipients of support related to the

[352] Rakennerahastot Fraud prevention. Available at: https://rakennerahastot.fi/en/fraud-prevention. Accessed 31 December 2024.

[353] See National Audit Office of Finland (n.d.) Complaints and irregularities. https://www.vtv.fi/en/naof/complaints-and-irregularities/. Accessed 31 December 2024. For Glossary see https://bit.ly/4h68D7J.

[354] 47 § Euroopan unionin alue- ja rakennepolitiikan ohjelman varojen käyttöä koskevat tarkastukset

Hallintoviranomaisella on yleisasetuksen 72 ja 74 artiklaan perustuen oikeus tehdä Euroopan unionin alue- ja rakennepolitiikan ohjelman varojen käyttöön liittyviä välittäviin toimielimiin sekä tuen saajiin kohdistuvia tarkastuksia.

Tarkastusviranomaisella on yleisasetuksen 77–81 artiklaan perustuen oikeus tehdä Euroopan unionin alue- ja rakennepolitiikan ohjelman varojen käyttöön liittyviä hallintoviranomaiseen, kirjanpitotoimintoon, välittäviin toimielimiin sekä tuen saajiin kohdistuvia tarkastuksia.

Kirjanpitotoimintoa hoitavalla viranomaisella on yleisasetuksen 76 ja 98 artiklaan perustuen oikeus tehdä Euroopan unionin alue- ja rakennepolitiikan ohjelman varojen käyttöön liittyviä hallintoviranomaiseen ja välittäviin toimielimiin kohdistuvia tarkastuksia.

Välittävällä toimielimellä on yleisasetuksen 74 artiklan 1 kohdan a alakohtaan perustuen oikeus tehdä Euroopan unionin alue- ja rakennepolitiikan ohjelman varojen käyttöön liittyviä tuen saajiin kohdistuvia tarkastuksia. Välittävän toimielimen valtionapuviranomaisena tekemästä "tarkastuksesta" säädetään valtionavustuslain 16–18 §:ssä.

Edellä 1, 2 ja 4 momentissa tarkoitettujen viranomaisten tarkastusoikeus koskee yksittäistä hanketta tarkastettaessa hanketta ja sen rahoitusta kokonaisuudessaan. Lisäksi hallintoviranomaisella, tarkastusviranomaisella ja Ruokavirastolla on oikeus tehdä ESR-asetuksen 24 artiklassa tarkoitettuja vähävaraisten aineellisen avun hankkeisiin kohdistuvia tarkastuksia, jotka voivat kattaa kaikki hankkeiden toteutuksen vaiheet ja aineellisen avun jakeluketjujen tasot.

use of funds from the European Union's regional and structural policy program. From what the mediating institution does as a state aid authority "from the inspection" is stipulated in Sections 16–18 of the State Aid Act.

The inspection right of the authorities referred to in subsections 1, 2 and 4 above applies to an individual project when inspecting the project and its financing as a whole. In addition, the administrative authority, the inspection authority and the Food Agency have the right to carry out inspections referred to in Article 24 of the ESR Regulation targeting material aid projects for the needy, which can cover all phases of project implementation and levels of material aid distribution chains.

Section 48[355] **Inspection powers regarding the use of funds from the European Union's regional and structural policy program**

The administrative authority, the inspection authority and the authority managing the accounting function can carry out the inspection referred to in section 47 themselves or authorise another authority performing inspection work or an auditor to do it on their behalf. The auditor must be an auditor or audit firm as referred to in the Auditing Act (1141/2015) or the Act on Public Administration and Finance Auditing (1142/2015). The authorised audit firm must be appointed "from the inspection" Auditor with primary responsibility.

At the request of the authority referred to in section 47, an external expert may assist in the inspection.

Sections 14 and 15 of the State Civil Service Act (750/1994) and the provisions on criminal liability apply to auditors and external experts when they perform the tasks referred to in this Act. Liability for damages is regulated in the Damages Compensation Act (412/1974).

[355] 48 § Euroopan unionin alue- ja rakennepolitiikan ohjelman varojen käyttöä koskevat tarkastusvaltuudet
Hallintoviranomainen, tarkastusviranomainen ja kirjanpitotoimintoa hoitava viranomainen voivat tehdä 47 §:ssä tarkoitetun tarkastuksen itse tai valtuuttaa muun tarkastustyötä tekevän viranomaisen tai tilintarkastajan tekemään sen puolestaan. Tilintarkastajan on oltava tilintarkastuslaissa (1141/2015) tai julkishallinnon ja -talouden tilintarkastuksesta annetussa laissa (1142/2015) tarkoitettu tilintarkastaja tai tilintarkastusyhteisö. Valtuutetun tilintarkastusyhteisön on nimettävä "tarkastuksesta" päävastuussa oleva tilintarkastaja.
Ulkopuolinen asiantuntija voi 47 §:ssä tarkoitetun viranomaisen pyynnöstä avustaa tarkastuksessa.
Tilintarkastajaan ja ulkopuoliseen asiantuntijaan sovelletaan valtion virkamieslain (750/1994) 14 ja 15 §:ää sekä rikosoikeudellista virkavastuuta koskevia säännöksiä heidän hoitaessaan tässä laissa tarkoitettuja tehtäviä. Vahingonkorvausvastuusta säädetään vahingonkorvauslaissa (412/1974).

Section 49[356] **The authority of the European Union regional and structural policy program inspector**

In order to properly conduct the inspection referred to in Section 47 above, the administrative authority, the inspection authority and the authority referred to in Section 48 authorised by them and the auditor have the right to enter buildings, premises and places relevant to the use of the support. However, the inspection may not be performed in premises used for permanent housing.

The person performing the inspection has the right to inspect all information, reports, documents, information systems, recordings, other material and conditions necessary for the inspection. The inspector has the right to take possession of the material referred to above, if the proper conduct of the inspection requires it. The seized documents and other material must be returned without delay when the inspection no longer requires their possession.

The person conducting the inspection has the right to receive official assistance from the police, customs, tax and enforcement authorities in conducting the inspection.

In addition, what is stipulated in **Section 39** of the Administration Act applies to the inspection.

44 The Administrative Act contains an equal provision:

Section 39[357] **of the Administrative Act**

Inspection

The authority must notify the party directly affected of the start date of the inspection within its jurisdiction, unless the notification endangers the fulfillment of the purpose of the inspection. The interested party referred to above has the right to be present at the

[356] 49 § Euroopan unionin alue- ja rakennepolitiikan ohjelman tarkastajan toimivalta
Edellä 47 §:ssä tarkoitetun tarkastuksen asianmukaista tekemistä varten hallintoviranomaisella, tarkastusviranomaisella ja niiden valtuuttamalla 48 §:ssä tarkoitetulla viranomaisella ja tilintarkastajalla on oikeus päästä tuen käytön kannalta merkityksellisiin rakennuksiin, toimitiloihin ja paikkoihin. Tarkastusta ei kuitenkaan saa suorittaa pysyväisluonteiseen asumiseen käytettävissä tiloissa.
Tarkastusta tekevällä on oikeus tarkastaa kaikki tarkastuksen kannalta tarpeelliset tiedot, selvitykset, asiakirjat, tietojärjestelmät, tallenteet, muu aineisto ja olosuhteet. Tarkastajalla on oikeus ottaa edellä tarkoitettu aineisto haltuunsa, jos tarkastuksen asianmukainen tekeminen sitä edellyttää. Haltuun otetut asiakirjat ja muu aineisto tulee viipymättä palauttaa, kun tarkastaminen ei enää edellytä niiden hallussapitoa. Tarkastusta tekevällä on oikeus saada poliisi-, tulli-, vero- ja ulosottoviranomaisilta virka-apua tarkastuksen tekemisessä. Tarkastukseen sovelletaan lisäksi, mitä hallintolain 39 §:ssä säädetään.

[357] 39 § Tarkastus Viranomaisen on ilmoitettava toimivaltaansa kuuluvan tarkastuksen aloittamisajankohdasta asianosaiselle, jota asia välittömästi koskee, jollei ilmoittaminen vaaranna tarkastuksen tarkoituksen toteutumista. Edellä tarkoitetulla asianosaisella on oikeus olla läsnä tarkastuksessa sekä esittää mielipiteensä ja kysymyksiä tarkastukseen liittyvistä seikoista. Tarkastuksen kuluessa asianosaiselle on, mikäli mahdollista, kerrottava tarkastuksen tavoitteista, sen suorittamisesta ja jatkotoimenpiteistä. Tarkastus on suoritettava aiheuttamatta tarkastuksen kohteelle tai sen haltijalle kohtuutonta haittaa.
Tarkastajan on viipymättä laadittava tarkastuksesta kirjallinen tarkastuskertomus, josta tulee käydä ilmi tarkastuksen kulku ja tarkastajan tekemät keskeiset havainnot. Tarkastuskertomus on annettava tiedoksi tarkastuksessa läsnäoloon oikeutetulle asianosaiselle.

inspection and to present his opinion and questions about matters related to the inspection. During the inspection, the interested party must, if possible, be informed about the objectives of the inspection, its execution and follow-up measures. The inspection must be carried out without causing unreasonable harm to the object of the inspection or its holder.

The inspector must immediately draw up a written inspection report of the inspection, which must reveal the course of the inspection and the main observations made by the inspector. The inspection report must be served on the party entitled to be present at the inspection.

In addition, the Act on the right of the State Audit Office to audit certain fund transfers between Finland and the European Communities[358] might apply, e.g.: **45**

Section 2[359] **Jurisdiction** **46**

The National Audit Office has the right to inspect the transfers of funds referred to in § 1 and their use and, to the extent required by the supervision and inspection, also the intermediary, grantor and recipient or payer of the transfer of funds, or the person to whom the recipient of the transfer of funds has transferred the funds, finances and activities received.

The National Audit Office has the right to inspect the transfers of funds referred to in § 1 at the premises of the recipients of the funds or those liable to pay, and those inspected are obliged to assist the supplier of the inspection. The National Audit Office can use experts to assist in the delivery of the audit.

The audit committee of the Parliament has the right to supervise the transfers of funds referred to in subsection 1.

[358] Laki valtiontalouden tarkastusviraston oikeudesta tarkastaa eräitä Suomen ja Euroopan yhteisöjen välisiä varainsiirtoja.

[359] 2 § (25.5.2007/599)
Toimivalta
Valtiontalouden tarkastusvirastolla on oikeus tarkastaa 1 §:ssä tarkoitettuja varainsiirtoja ja niiden käyttöä sekä valvontaa ja tarkastuksen edellyttämässä laajuudessa myös varainsiirron välittäjän, myöntäjän ja saajan tai maksajan taikka sen, jonka käyttöön varainsiirron saaja on siirtänyt saamiaan varoja, taloutta ja toimintaa.
Valtiontalouden tarkastusvirastolla on oikeus tarkastaa 1 §:ssä tarkoitettuja varainsiirtoja varojensaajien tai maksuvelvollisten tiloissa, ja tarkastettavat ovat velvollisia avustamaan tarkastuksen toimittajaa. Valtiontalouden tarkastusvirasto voi käyttää tarkastuksen toimittamisessa apunaan asiantuntijoita.
Eduskunnan tarkastusvaliokunnalla on oikeus valvoa 1 momentissa tarkoitettuja varainsiirtoja.

Section 3[360] **Right of access to information**

The auditees are obliged to provide the State Audit Office without undue delay with the information, statements, documents and records requested by it for the purposes of the audit.

The National Audit Office has the right to receive from the auditee's auditor all the information, documents, other recordings and copies of the auditee necessary for the purpose of the audit referred to in this Act, which the auditor has in his possession, as well as copies of the auditor's prepared memos, protocols and other documents related to the auditee's activities drawn up during the audit.

The authorities of the state, municipal corporation and municipality and parish are obliged to provide the State Audit Office with the official assistance necessary to implement the right of access to information and inspection provided for in this law, as well as to provide the information, documents and other records and reports necessary for the inspection regarding the subject to be inspected.

The audit committee of the Parliament has the right to receive the information referred to in subsections 1–3 necessary for supervision.

Section 4[361] **Disclosure of confidential information**

Notwithstanding the duty of confidentiality stipulated in the Act on the Publicity of Public Activities of Officials (621/1999), information obtained during the performance of duties in accordance with this Act on another's financial position, business secrets and the personal circumstances of an individual may be disclosed to the police and other pre-investigation authorities, customs and prosecutor's authorities and the court in order to investigate the crime, and to the institutions of the European Communities and to other competent authorities, if required by Community legislation.

---

[360] 3 § (25.5.2007/599) Tietojensaantioikeus Tarkastettavat ovat velvollisia antamaan ilman aiheetonta viivytystä valtiontalouden tarkastusvirastolle sen pyytämät tarkastuksen kannalta tarpeelliset tiedot, selvitykset, asiakirjat ja tallenteet.

Valtiontalouden tarkastusvirastolla on oikeus saada tarkastettavan tilintarkastajalta kaikki ne tässä laissa tarkoitetun tarkastuksen kannalta tarpeelliset tarkastettavaa koskevat tiedot, asiakirjat, muut tallenteet ja jäljennökset, jotka tilintarkastajalla on hallussaan, samoin kuin jäljennökset tilintarkastajan laatimista muistioista, pöytäkirjoista ja muista tilintarkastuksessa laadituista tarkastettavan toimintaa koskevista asiakirjoista.

Valtion, kuntayhtymän ja kunnan sekä seurakunnan viranomaiset ovat velvollisia antamaan valtiontalouden tarkastusvirastolle tässä laissa säädetyn tietojensaanti- ja tarkastusoikeuden toteuttamiseksi tarpeellista virka-apua sekä antamaan tarkastettavaa koskevat tarkastuksen kannalta tarpeelliset tiedot, asiakirjat ja muut tallenteet sekä selvitykset.

Eduskunnan tarkastusvaliokunnalla on oikeus saada valvonnan kannalta tarpeelliset 1–3 momentissa tarkoitetut tiedot.

[361] 4 § (10.8.2018/654) Salassa pidettävien tietojen luovuttaminen Viranomaisten toiminnan julkisuudesta annetussa laissa (621/1999) säädetyn salassapitovelvollisuuden estämättä saa tämän lain mukaisia tehtäviä suoritettaessa saatuja tietoja toisen taloudellisesta asemasta, liikesalaisuudesta sekä yksityisen henkilökohtaisista oloista luovuttaa poliisi- ja muille esitutkintaviranomaisille, tulli- ja syyttäjäviranomaisille ja tuomioistuimelle rikoksen selvittämiseksi sekä Euroopan yhteisöjen toimielimille ja muille toimivaltaisille viranomaisille, jos yhteisön lainsäädännössä niin edellytetään.

Section 5[362] **Relationship to other legislation**
When carrying out the supervision and inspection in accordance with this law, the other provisions of the law regarding the parliamentary audit committee and the State Finance Audit Office are otherwise followed.

(c) Investigative powers in the area of common market organisations

Several Acts may apply. The Act on **Rural Development Aid (1443/2006)** of Finland provides a detailed framework for investigative auditing powers, see ss. 43 grants the Ministry of Agriculture and Forestry, Finnish Agency for Rural Affairs, and Employment and Economic Development Centres the authority to audit: grantors of support, eneficiaries of support, enterprises receiving transferred support under certain conditions. Section 44 rules on the performance of an audit of premises. Section 53 contains the right to access to and disclosure of information to e.g. OLAF. According to s. 43 authorities must interrupt payments and recover support if conditions are not met; otherwise, they can be pursued with legal action under the Act on Enforcement of Taxes and Charges. Next, the **Act on the Market Organisation of Agricultural Products**, 28.12.2012/999 can apply: **47**

Chapter 9 Inspections, ss. 4968 **48**
Section 49[363] **General control of inspections, selection of inspection targets, general inspection procedures and reporting on inspections**
With the exception of price statements, the Food Agency is responsible for general guidance regarding inspections and related reporting. The Ministry of Agriculture and Forestry is responsible for general guidance regarding inspections related to price surveys. (29.12.2022/1336)
In accordance with this chapter, the authority performing the inspections decides on the number of inspections and selects the inspection targets based on risk analysis or random

[362] 5 § (25.5.2007/599) Suhde muuhun lainsäädäntöön Tämän lain mukaista valvontaa ja tarkastusta suoritettaessa noudatetaan muutoin, mitä muualla laissa säädetään eduskunnan tarkastusvaliokunnasta ja valtiontalouden tarkastusvirastosta.

[363] 9 luku Tarkastukset 49 § Tarkastusten yleinen ohjaus, tarkastuskohteiden valinta, yleiset tarkastusmenettelyt ja tarkastuksista raportointi Tarkastuksia ja niihin liittyvää raportointia koskevasta yleisestä ohjauksesta vastaa hintaselvityksiä lukuun ottamatta Ruokavirasto. Hintaselvityksiin liittyvien tarkastusten osalta yleisestä ohjauksesta vastaa maa- ja metsätalousministeriö. (29.12.2022/1336)
Tämän luvun mukaisesti tarkastuksia suorittava viranomainen päättää tarkastusten määrästä ja valitsee tarkastuskohteet riskianalyysiin tai satunnaisotantaan perustuen, jollei asiasta EU:n markkinajärjestelylainsäädännössä muuta säädetä. Mainituista seikoista voidaan tarvittaessa antaa tarkempia säännöksiä valtioneuvoston asetuksella. (29.12.2022/1336) Tarkastuksissa sovelletaan hallintolain (434/2003) 39 §:ää.
Tarkastuksia suorittavat viranomaiset raportoivat toteutetuista tarkastuksista ja havainnoistaan tarkastusten yleisestä ohjauksesta vastaavalle viranomaiselle. Tarkastuksia suorittavan viranomaisen on pyydettäessä ilmoitettava tarkastusten yleisestä ohjauksesta vastaavalle viranomaiselle myös valvontatoimenpiteitä, valvontahenkilöstöä ja valvontaa koskevia muita tietoja valvonnan seurantaa varten.

sampling, unless the EU market organization legislation provides otherwise. If necessary, more detailed regulations can be issued on the mentioned points by a decree of the Government. (29.12.2022/1336)

Section 39 Administrative Act (434/2003) applies to inspections.
The authorities performing the inspections report on the inspections carried out and their observations to the authority responsible for the general control of the inspections. Upon request, the authority carrying out the inspections must also inform the authority responsible for the general control of the inspections of control measures, control personnel and other information regarding the control for the purpose of monitoring the control.
→ See Investigative powers around structural funds and internal policies for s. 39 of the Administrative Act

Section 50[364] (29.12.2022/1336) **Inspections of applications and notifications**
The Finnish Food Agency checks the information related to the application and notification regarding the conditions for grant and payment of support and other measures referred to in the application or notification. Applications and notices related to the requirements of running a store will check their processing "of the law" In accordance with Sections 46 b and 46 d–46 f, the responsible authority.

Section 51[365] **Inspections related to storage**
Before starting the intervention storage, the Food Agency checks the compliance of the premises intended for the storage of butter, milk powder and cereal products. (29.12.2022/1336)

[364] 50 § (29.12.2022/1336)
Hakemusten ja ilmoitusten tarkastukset
Ruokavirasto tarkastaa hakemukseen ja ilmoitukseen liittyvät tuen myöntämisen ja maksamisen edellytyksiä sekä muun hakemuksessa tai ilmoituksessa tarkoitetun toimenpiteen edellytyksiä koskevat tiedot. Kaupan pitämisen vaatimuksiin liittyvät hakemukset ja ilmoitukset tarkastaa niiden käsittelystä tämän "lain"46 b ja 46 d–46 f §:n mukaisesti vastaava viranomainen.

[365] 51 § Varastointiin liittyvät tarkastukset
Ennen interventiovarastoinnin aloittamista Ruokavirasto tarkastaa voin, maitojauheen ja viljatuotteiden varastointiin tarkoitettujen tilojen vaatimustenmukaisuuden. (29.12.2022/1336)
Interventiovarastoinnin aikana varastojen, varastointiolosuhteiden ja varastointimenettelyjen sekä varastoitujen tuotteiden määrän, laadun, pakkaustavan ja pakkausmerkintöjen vaatimustenmukaisuuden tarkastaa EU:n interventiolainsäädännössä edellytetyllä tavalla Ruokavirasto. Voin, maitojauheen ja naudanlihan osalta "tarkastuksesta" vastaa kuitenkin Tulli. (29.12.2022/1336)
Yksityiseen varastointiin käytettyjen tilojen ja niiden varastointiolosuhteiden ja varastointimenettelyjen sekä varastoitujen tuotteiden määrän, laadun, pakkaustavan ja pakkausmerkintöjen vaatimustenmukaisuuden tarkastaa EU:n interventiolainsäädännössä edellytetyllä tavalla Tulli. (9.12.2016/1074)
Tässä pykälässä tarkoitetuilla viranomaisilla on oikeus päästä tarkatusta varten varastointiin tarkoitettuihin ja käytettyihin tiloihin ja tarkastaa varastoidut tuotteet ja varastointiolosuhteet sekä tuotteiden varastointiin liittyvät varastonpitäjän asiakirjat ja kirjanpito varastojen, varastointiolosuhteiden ja varastointimenettelyjen vaatimustenmukaisuuden ja varastoitujen tuotteiden laadun, määrän, pakkaustavan ja merkintöjen vaatimustenmukaisuuden sekä viranomaisille annettujen tietojen oikeellisuuden varmistamisen edellyttämässä laajuudessa. Tarkastusta ei kuitenkaan saa suorittaa pysyväisluonteiseen asumiseen käytettävässä tilassa.

During intervention storage, the conformity of warehouses, storage conditions and storage procedures, as well as the quantity, quality, packaging method and packaging labeling of stored products is checked by the Food Agency in the manner required by the EU intervention legislation. For butter, milk powder and beef "from the inspection" however, Customs is responsible. (29.12.2022/1336)
The compliance of the premises used for private storage and their storage conditions and storage procedures, as well as the quantity, quality, packaging method and packaging markings of the stored products, is checked by Customs in the manner required by the EU intervention legislation.
The authorities referred to in this section have the right to enter for inspection the premises intended for and used for storage and to inspect the stored products and storage conditions as well as the documents and accounting of the storekeeper related to the storage of the products for the conformity of the warehouses, storage conditions and storage procedures and the conformity of the quality, quantity, packaging and labeling of the stored products and the correctness of the information given to the authorities to the extent required for verification. However, the inspection may not be carried out in a space used for permanent housing.

Section 52[366] **Inspection of the manufacturer of the products to be stored**

Section 53[367] **(9.12.2016/1074) Inspection of products delivered to and removed from the warehouse**

Section 54[368] **(29.12.2022/1336) Import and export inspections**
Customs checks the conformity of import and export certificates, import and export declarations and other documents presented in connection with import and export and related products in connection with and during the placing of the products in the customs procedure, unless otherwise provided in this law

[366] 52 § Varastoitavien tuotteiden valmistajan tarkastus
[367] 53 § (9.12.2016/1074) Varastoon toimitettavien ja sieltä poistettavien tuotteiden tarkastus
[368] 54 § (29.12.2022/1336) Tuonnin ja viennin tarkastukset Tulli tarkastaa tuonti- ja vientitodistusten, tuonti- ja vienti-ilmoitusten ja muiden tuonnin ja viennin yhteydessä esitettävien asiakirjojen ja näihin liittyvien tuotteiden vaatimustenmukaisuuden tuotteiden tullimenettelyyn asettamisen yhteydessä ja sen aikana, jollei tässä laissa toisin säädetä Tullilla on tarkastuksen toimittamiseksi oikeus päästä varastoihin, tiloihin ja muihin paikkoihin, missä tuotteita kuljetetaan, säilytetään tai lastataan, ja tarkastaa tuotteet sekä tuotteita, tuotteiden haltijaa, muuta asianosaista ja kulkuneuvoa koskevat asiakirjat tuotteiden ja niistä esitettyjen tietojen vaatimustenmukaisuuden varmistamisen edellyttämässä laajuudessa. Tarkastusta ei kuitenkaan saa suorittaa pysyväisluonteiseen asumiseen käytettävässä tilassa. Tulli voi tarkastusten yhteydessä edellyttää tuotteiden tarkastettavaksi asettamista ja purkamista kulkuneuvosta ja asettaa tullivalvonnassa olevaan kulkuneuvoon tullisinetin. Tulli voi estää tuotteiden tuonnin Suomen alueelle tai viennin Suomesta, jos tuonti tai vienti edellyttää EU:n markkinajärjestelylainsäädännön nojalla tuonti- tai vientitodistusta eikä sitä ole taikka jos tuonti edellyttää tuontitullin tai maksun maksamista eikä sitä ole maksettu.

In order to carry out the inspection, Customs has the right to access warehouses, premises and other places where products are transported, stored or loaded, and to inspect the products and the documents concerning the products, the holder of the products, other parties involved and the vehicle to the extent necessary to ensure the conformity of the products and the information presented about them. However, the inspection may not be carried out in a space used for permanent housing.
In connection with inspections, customs may require the products to be inspected and unloaded from the vehicle and place a customs seal on the vehicle under customs control. Customs can prevent the import of products into or export from Finland, if the import or export requires an import or export certificate based on EU market organization legislation and there is no such certificate, or if the import requires the payment of an import duty or fee and it has not been paid.

Section 55[369] **(29.12.2022/1336) Inspections of applicants and recipients of support**
The Finnish Food Agency inspects the applicants and recipients of aid referred to in this law to determine compliance with the conditions for awarding and paying aid.
The Food Agency has the right to enter the premises of the applicant and the recipient of the aid related to the activity that is the subject of the aid and inspect the products, documents and accounting to the extent necessary to ensure the compliance of the measures and compliance with the conditions for awarding and paying the aid. However, the inspection may not be carried out in a space used for permanent housing.

Section 56[370] **(29.12.2022/1336) Inspections of approved operators and operators providing price statements**

Section 57[371] **Inspections of product use and destination**

Section 58[372] **Audits of commercial documents** Customs inspects the commercial documents referred to in the horizontal regulation of the recipient of support or other compensation referred to in EU market organization legislation.

[369] 55 § (29.12.2022/1336) Tuen hakijoiden ja saajien tarkastukset Ruokavirasto tarkastaa tässä laissa tarkoitettuja tuen hakijoita ja saajia tuen myöntämisen ja maksamisen edellytysten vaatimustenmukaisuuden selvittämiseksi. Ruokavirastolla on oikeus päästä tuen kohteena olevaan toimintaan liittyviin tuen hakijan ja saajan tiloihin ja tarkastaa tuotteet, asiakirjat ja kirjanpito toimenpiteiden vaatimustenmukaisuuden ja tuen myöntämis- ja maksamisedellytysten noudattamisen varmistamisen edellyttämässä laajuudessa. Tarkastusta ei kuitenkaan saa suorittaa pysyväisluonteiseen asumiseen käytettävässä tilassa.
[370] 56 § (29.12.2022/1336) Hyväksyttyjen toimijoiden ja hintaselvityksiä antavien toimijoiden tarkastukset
[371] 57 § (30.12.2013/1194) Tuotteiden käytön ja määräpaikan tarkastukset
[372] 58 § (6.4.2018/207) Kaupallisten asiakirjojen tarkastukset
Tulli tarkastaa EU:n markkinajärjestelylainsäädännössä tarkoitettua tukea tai muuta korvausta saavan horisontaaliasetuksessa tarkoitetut kaupalliset asiakirjat.

Customs has the right to enter the premises of an operator receiving support or other compensation referred to in the EU market organization legislation and to inspect the documents and accounting related to this activity to the extent necessary to ensure the correctness of the conditions for granting support or compensation or the basis of payment. However, the inspection may not be carried out in a space used for permanent housing.

Section 58a[373] (30.12.2013/1194) Customs inspections related to the requirements of conducting trade

Section 58 b[374] (6.4.2018/207) Inspections by the Licensing and Control Agency of the Social and Health Sector related to the requirements of running a business

Section 58 c[375] (29.12.2022/1336) Municipal inspections related to the requirements of running a store

Section 58 d[376] (29.12.2022/1336) Inspections by the Food Agency related to the requirements of running a store

Section 58 e[377] (29.12.2022/1336) Use of the Center for Business, Transport and the Environment as an aid in inspections of marketing requirements

Section 58f[378] (30.12.2013/1194) Guidance, reporting, use of data and payment related to inspections of trading requirements (14.11.2014/937)

Tullilla on oikeus päästä EU:n markkinajärjestelylainsäädännössä tarkoitettua tukea tai muuta korvausta saavan toimijan tiloihin ja tarkastaa tämän mainittuun toimintaan liittyvät asiakirjat ja kirjanpito tuen tai korvauksen myöntämisedellytysten tai maksun perusteiden oikeellisuuden varmistamisen edellyttämässä laajuudessa. Tarkastusta ei kuitenkaan saa suorittaa pysyväisluonteiseen asumiseen käytettävässä tilassa.

[373] 58 a § (30.12.2013/1194)
Kaupan pitämisen vaatimuksiin liittyvät Tullin tarkastukset

[374] 58 b § (6.4.2018/207)
Kaupan pitämisen vaatimuksiin liittyvät Sosiaali- ja terveysalan lupa- ja valvontaviraston tarkastukset

[375] 58 c § (29.12.2022/1336)
Kaupan pitämisen vaatimuksiin liittyvät kuntien tarkastukset

[376] 58 d § (29.12.2022/1336)
Kaupan pitämisen vaatimuksiin liittyvät Ruokaviraston tarkastukset

[377] 58 e § (29.12.2022/1336)
Elinkeino-, liikenne- ja ympäristökeskuksen käyttö apuna kaupan pitämisen vaatimusten tarkastuksissa

[378] 58 f § (30.12.2013/1194)
Kaupan pitämisen vaatimusten tarkastuksiin liittyvä ohjaus, raportointi, tietojen käyttö ja maksu (14.11.2014/937)

Section 58g[379] **(30.12.2013/1194) Inspection right in inspections related to marketing requirements**

The authorities responsible for inspections of compliance with marketing requirements and used as assistance in inspections have the right to enter the premises used by the operator responsible for compliance with marketing requirements for the manufacture, marketing, storage and transportation of products and to inspect the products subject to marketing requirements and the related documents and accounting required to ensure compliance with marketing requirements in scope. Regarding inspections of imports and exports, the provisions of Section 54 apply to the right of inspection. However, the inspection may not be carried out in a space used for permanent housing.

Section 59[380] **Use of private operators to assist in inspections**

Referred to in this chapter "from the inspection" the responsible authority can use an external auditor to help with the audit, with the latter's consent, if this is necessary for the purposeful implementation of the audit. The auditor must be an auditor as referred to in the Auditing Act. The auditing organization must appoint an auditor responsible for the audit.

The Food Agency can authorise the Center for Business, Transport and the Environment to use the intervention storekeeper of grain products as an aid in the inspection of grain

[379] 58 g § (30.12.2013/1194)
Tarkastusoikeus kaupan pitämisen vaatimuksiin liittyvissä tarkastuksissa
Kaupan pitämisen vaatimusten noudattamisen tarkastuksista vastaavilla ja tarkastuksissa apuna käytettävillä viranomaisilla on oikeus päästä kaupan pitämisen vaatimusten noudattamisesta vastaavan toimijan tuotteiden valmistukseen, kaupan pitämiseen, varastointiin ja kuljetukseen käyttämiin tiloihin ja tarkastaa kaupan pitämisen vaatimusten alaiset tuotteet ja niitä koskevat asiakirjat ja kirjanpito kaupan pitämisen vaatimusten noudattamisen varmistamisen edellyttämässä laajuudessa. Tuontia ja vientiä koskevien tarkastusten osalta tarkastusoikeuteen sovelletaan 54 §:n säännöksiä. Tarkastusta ei kuitenkaan saa suorittaa pysyväisluonteiseen asumiseen käytettävässä tilassa.

[380] 59 § Yksityisten toimijoiden käyttö apuna tarkastuksissa
Tässä luvussa tarkoitettu "tarkastuksesta" vastaava viranomainen voi käyttää tarkastuksessa apuna ulkopuolista tilintarkastajaa tämän suostumuksella, jos tämä on tarpeen tarkastuksen tarkoituksenmukaiseksi toteuttamiseksi. Tilintarkastajan on oltava tilintarkastuslaissa (1141/2015) tarkoitettu tilintarkastaja. Tilintarkastusyhteisön on nimettävä tarkastuksesta vastuullinen tilintarkastaja. (18.9.2015/1233)
Ruokavirasto voi oikeuttaa elinkeino-, liikenne- ja ympäristökeskuksen käyttämään interventiovarastoon toimitettavien viljatuotteiden tarkastuksessa apuna viljatuotteiden interventiovarastonpitäjää tämän suostumuksella, jos tämä on tarpeen tarkastusten tarkoituksenmukaiseksi toteuttamiseksi. Interventiovarastonpitäjällä on oltava tehtävän edellyttämät riittävät tekniset ja hallinnolliset resurssit ja tämän tarkastuksessa käyttämällä henkilöstöllä tehtävän edellyttämä kokemukseen tai koulutukseen perustuva riittävä ammattitaito. Interventiovarastonpitäjän on kirjattava ja ilmoitettava Ruokavirastolle toteutettuihin tarkastuksiin liittyvät tiedot. Henkilökunnan ammattitaidosta, interventiovarastolta edellytettävistä resursseista sekä kirjattavista ja ilmoitettavista tiedoista voidaan antaa tarkempia säännöksiä valtioneuvoston asetuksella. (29.12.2022/1336)
Ruokavirasto voi käyttää ruhonluokituksen tarkastuksessa apuna yksityisoikeudellista yhteisöä tämän suostumuksella, jos tämä on tarpeen tarkastuksen tarkoituksenmukaiseksi toteuttamiseksi. Yhteisöllä on oltava käytettävissä tehtävään riittävä määrä henkilöitä, joilla on tarkastusten toteuttamisen edellyttämä koulutukseen tai kokemukseen perustuva ammattitaito. Edellytettävästä ammattitaidosta voidaan antaa tarkempia säännöksiä valtioneuvoston asetuksella. Yhteisön on nimettävä tarkastuksista vastuulliset henkilöt. (29.12.2022/1336)
Tarkastuksessa avustavaan sovelletaan tämän luvun mukaisissa tehtävissä rikosoikeudellista virkavastuuta koskevia säännöksiä. Vahingonkorvausvastuusta säädetään vahingonkorvauslaissa (412/1974).

products delivered to the intervention warehouse, with his consent, if this is necessary for the purposeful implementation of the inspections. The intervention warehouse keeper must have the sufficient technical and administrative resources required for the task, and the staff used in the inspection must have sufficient professional skills based on experience or training required for the task. The intervention warehouse keeper must record and notify the Food Agency of the information related to the inspections carried out. More detailed regulations can be issued by government decree on the professional skills of the staff, the resources required from the intervention stockpile, and the information to be recorded and reported. (29.12.2022/1336)
The Food Agency can use a private legal entity for assistance in the inspection of carcass classification, with its consent, if this is necessary for the purposeful implementation of the inspection. The entity must have a sufficient number of persons available for the task who have the skills required to carry out the inspections, based on education or experience. More detailed regulations on the required professional skills can be issued by a government decree. The entity must appoint the persons responsible for the inspections. (29.12.2022/1336)
The regulations regarding official liability under criminal law apply to the assistant in the inspection in tasks according to this chapter. Liability for damages is regulated in the Damages Compensation Act.

Section 60[381] **Inspections by the certification authority**
The verification authority referred to in Section 8 of the Administrative Act can carry out inspections in the authorities or entities that perform the tasks prescribed for the paying agency, or at the aid recipient or the intervention warehouse keeper, in order to carry out the necessary investigations to issue the statement provided for in Article 12 of the horizontal regulation, and to carry out other inspections separately stipulated for the task of the verification authority in EU legislation. (29.12.2022/1336)

[381] 60 § (6.4.2018/207)
Todentamisviranomaisen tarkastukset
Hallinnointilain 8 §:ssä tarkoitettu todentamisviranomainen voi horisontaaliasetuksen 12 artiklassa säädetyn lausunnon myöntämiseksi välttämättömien tutkimusten tekemiseksi sekä muiden erikseen EU:n lainsäädännössä todentamisviranomaisen tehtäväksi säädettyjen tarkastusten suorittamiseksi tehdä tarkastuksia niissä viranomaisissa tai yhteisöissä, jotka suorittavat maksajavirastolle säädettyjä tehtäviä, taikka tuensaajan tai interventiovarastonpitäjän luona. (29.12.2022/1336)
Tarkastusta suorittavalla on oikeus tarkastaa tehtävänsä edellyttämässä laajuudessa tuensaajan ja interventiovarastonpitäjän rakennukset, toimitilat ja muut tuen tai korvauksen maksamisen taikka hyväksymisen edellytyksenä olevat olosuhteet. Tarkastusta ei kuitenkaan saa suorittaa pysyväisluonteiseen asumiseen käytettävässä tilassa.
Todentamisviranomaisella on salassapitosäännösten estämättä oikeus saada viranomaisilta tarkastustehtävän suorittamiseksi välttämättömiä tietoja.
Tarkastustehtävää suoritettaessa todentamisviranomaiseen sovelletaan rikosoikeudellista virkavastuuta koskevia säännöksiä. Vahingonkorvausvastuusta säädetään vahingonkorvauslaissa.

The person performing the inspection has the right to inspect, to the extent required by his task, the buildings, premises and other conditions of the aid recipient and the intervention warehouse keeper and other conditions that are a prerequisite for the payment or acceptance of the aid or compensation. However, the inspection may not be carried out in a space used for permanent housing.
The certifying authority has the right to receive information from the authorities necessary for the performance of the inspection task, regardless of confidentiality regulations. When performing the inspection task, the regulations regarding official liability under criminal law apply to the verification authority. Liability for damages is regulated in the Damages Act.

Section 61[382] **Sampling and examination of samples**
If carrying out the inspection requires sampling, "from the inspection" the responsible authority and the authority used as assistance in the inspection, as well as the private legal entity used as assistance in the inspection, have the right to take the necessary number of samples for the inspection without compensation.
If the implementation of the inspection requires analysis of the quality of the samples in a laboratory, the analysis is carried out in the laboratory of the authority responsible for the delivery of the inspection or in the official laboratory referred to in Section 34 of the Food Act or in a designated self-monitoring laboratory. (29.12.2022/1336)

Section 62[383] **Obligation to assist in an inspection**
The operator subject to the inspection referred to in this chapter has the obligation to give "from the inspection" documents and information necessary to perform the inspection are available to the responsible authority free of charge. The authority must return the material handed over to it without delay after the possession of the material is no longer necessary to carry out the inspection.

[382] 61 § Näytteenotto ja näytteiden tutkiminen
Jos tarkastuksen toteuttaminen edellyttää näytteenottoa, "tarkastuksesta" vastaavalla viranomaisella ja tarkastuksessa apuna käytettävällä viranomaisella sekä tarkastuksessa apuna käytettävällä yksityisoikeudellisella toimijalla on oikeus ottaa korvauksetta valvontaa varten tarvittava määrä näytteitä.
Jos tarkastuksen toteuttaminen edellyttää näytteiden laadun analysointia laboratoriossa, analysointi toteutetaan tarkastuksen toimittamisesta huolehtivan viranomaisen laboratoriossa taikka elintarvikelain 34 §:ssä tarkoitetussa virallisessa laboratoriossa tai nimetyssä omavalvontalaboratoriossa. (29.12.2022/1336)
[383] 62 § Avustamisvelvollisuus tarkastuksessa
Tässä luvussa tarkoitetun tarkastuksen kohteena olevalla toimijalla on velvollisuus antaa "tarkastuksesta" vastaavan viranomaisen käyttöön maksutta tarkastuksen suorittamiseksi tarpeelliset asiakirjat ja tiedot. Viranomaisen on palautettava tälle luovutettu aineisto viivytyksettä sen jälkeen, kun aineiston hallussapito ei ole tarpeen tarkastuksen toteuttamiseksi.
Tässä luvussa tarkoitetulla tarkastusten kohteena olevalla toimijalla on velvollisuus antaa "tarkastuksesta" vastaavan viranomaisen käyttöön tarkastusten toteuttamisen edellyttämät tilat ja laitteet sekä asettaa tarkastettavat tuotteet esille siten, että ne voidaan tarkastaa. Tarkastuksen kohteena olevan toimijan on sallittava näytteiden ottaminen tarkastusten edellyttämässä laajuudessa.
Tässä luvussa tarkoitetun tarkastusten kohteena olevan toimijan on tarvittaessa avustettava tarkastustoimenpiteiden toteuttamisessa ja näytteidenotossa.

The operator referred to in this chapter who is the subject of inspections has the obligation to give "from the inspection" the facilities and equipment required to carry out the inspections are available to the relevant authority, and the products to be inspected are displayed in such a way that they can be inspected. The operator subject to the inspection must allow the taking of samples to the extent required by the inspections.
The operator referred to in this chapter who is the subject of inspections must, if necessary, assist in the implementation of inspection procedures and sampling.

Section 63[384] (29.12.2022/1336) Right of access to information by the Ministry of Agriculture and Forestry, the Food Agency and the inspection authority
The Ministry of Agriculture and Forestry and the Food Agency, as well as the authorities responsible for inspections in accordance with this chapter and used as assistance in inspections, have the right, without prejudice to confidentiality regulations, to receive free of charge from the state and municipal authority the applicant, his economic status and business or professional activities, or other support or other provisions in this law or the EU: n information regarding circumstances relevant to handling the matter referred to in the market organization legislation, performing the inspection or reporting.

The authorities mentioned in subsection 1 above have the right, notwithstanding the confidentiality regulations, to receive free of charge information from the Tax Administration regarding the applicant for taxes, and from other authorities and the above-mentioned entity performing a public function, information regarding statutory pension, accident or unemployment insurance premiums, or handling registration, notification and payment obligations related to payments collected by the Customs, operations, finances and the connections of the above-mentioned entity and any deficiencies that may have occurred in them in relation to the above-mentioned obligations, if the information is necessary for granting, paying or monitoring the use of support.

[384] 63 § (29.12.2022/1336) Maa- ja metsätalousministeriön, Ruokaviraston ja tarkastusviranomaisen tiedonsaantioikeus Maa- ja metsätalousministeriöllä ja Ruokavirastolla sekä tämän luvun mukaisesti tarkastuksista vastaavilla ja tarkastuksissa apuna käytettävillä viranomaisilla on salassapitosäännösten estämättä oikeus saada maksutta valtion ja kunnan viranomaiselta asian käsittelemiseksi välttämättömiä hakijaa, tämän taloudellista asemaa ja liike- tai ammattitoimintaa tai muita tuen tai muun tässä laissa tai EU:n markkinajärjestelylainsäädännössä tarkoitetun asian käsittelemisen, tarkastuksen suorittamisen tai raportoinnin toteuttamisen kannalta merkityksellistä olosuhdetta koskevia tietoja. Edellä 1 momentissa mainituilla viranomaisilla on oikeus salassapitosäännösten estämättä saada maksutta Verohallinnolta hakijaa koskevat tiedot veroihin sekä muulta viranomaiselta ja julkista tehtävää hoitavalta edellä mainittua tahoa koskevat tiedot lakisääteisiin eläke-, tapaturma- tai työttömyysvakuutusmaksuihin taikka Tullin perimiin maksuihin liittyvien rekisteröitymis-, ilmoitus- ja maksuvelvollisuuksien hoitamisesta, toiminnasta, taloudesta sekä edellä mainitun tahon kytkennöistä ja niissä mahdollisesti esiintyneistä puutteellisuuksista edellä mainittuihin velvollisuuksiin liittyen, jos tiedot ovat välttämättömiä tuen myöntämiseksi, maksamiseksi tai tuen käytön valvomiseksi. Maa- ja metsätalousministeriöllä ja Ruokavirastolla sekä tämän luvun mukaisesti tarkastuksista vastaavilla ja tarkastuksissa apuna käytettävillä viranomaisilla on salassapitosäännösten estämättä oikeus saada maksutta tässä laissa tai EU:n markkinajärjestelylainsäädännössä tarkoitettua toimintaa harjoittavilta toimijoilta tässä laissa tai EU:n markkinajärjestelylainsäädännössä tarkoitetun asian käsittelemisen, tarkastuksen suorittamisen tai raportoinnin kannalta välttämättömät asiakirjat ja tiedot.

The Ministry of Agriculture and Forestry and the Finnish Food Agency, as well as the authorities responsible for inspections in accordance with this chapter and assisted in inspections, have the right to receive free of charge information from operators engaged in activities referred to in this Act or in EU market organization legislation, in terms of handling matters referred to in this Act or in EU market organization legislation, performing an inspection or reporting, without prejudice to confidentiality provisions necessary documents and information.

Section 64[385] **(29.12.2022/1336) The right of inspection and access to information by authorities directing inspections and authorities referred to in EU legislation**
What is stipulated in this chapter "from the inspection" on the inspection right of the responsible authority, also applies to the Ministry of Agriculture and Forestry, which is responsible for the general guidance of the inspection in question, and the Food Agency. In order to ensure the proper administration and use of EU funds, the Food Agency has the right to carry out the quality control referred to in the Financial Regulation in those authorities that perform the tasks prescribed for the paying agency.
What is stipulated in this chapter "from the inspection" on the right of inspection and access to information by the responsible authority, also applies to the persons performing inspection duties of the EU Commission referred to in the horizontal regulation. Other authorities referred to in EU legislation, whose tasks include similar inspection tasks, have the corresponding right of inspection and access to information.

Section 65[386] **(29.12.2022/1336) The authority's right to disclose information to other authorities**
The Ministry of Agriculture and Forestry, the Food Agency and the provisions of this law "from the inspection" the data from the food administration's data reserve applies to the data transfer of information obtained by the responsible authority in the implementation of this law to other authorities or EU institutions "given" "of the law" Section 8.

[385] 64 § (29.12.2022/1336) Tarkastuksia ohjaavien viranomaisten ja EU:n lainsäädännössä tarkoitettujen virano maisten tarkastus- ja tiedonsaantioikeus
Mitä tässä luvussa säädetään "tarkastuksesta" vastaavan viranomaisen tarkastusoikeudesta, koskee myös kyseisen tarkastuksen yleisestä ohjauksesta vastaavaa maa- ja metsätalousministeriötä ja Ruokavirastoa.
EU:n varojen asianmukaisen hallinnon ja käytön varmistamiseksi Ruokavirastolla on oikeus suorittaa varainhoitoasetuksessa tarkoitettua laadunvalvontaa niissä viranomaisissa, jotka suorittavat maksajavirastolle säädettyjä tehtäviä. Mitä tässä luvussa säädetään "tarkastuksesta" vastaavan viranomaisen tarkastus- ja tiedonsaantioikeudesta, koskee myös horisontaaliasetuksessa tarkoitettuja EU:n komission tarkastustehtäviä suorittavia henkilöitä. Vastaava tarkastus- ja tiedonsaantioikeus on muilla EU:n lainsäädännössä tarkoitetuilla viranomaisilla, joiden tehtäviin kuuluu vastaavanlaisia tarkastustehtäviä.
[386] 65 § (29.12.2022/1336) Viranomaisen oikeus luovuttaa tietoja muille viranomaisille
Maa- ja metsätalousministeriön, Ruokaviraston ja tässä laissa tarkoitetun "tarkastuksesta" vastaavan viranomaisen tämän lain toimeenpanossa saamien tietojen tiedonluovutukseen muille viranomaisille tai EU-toimielimille sovelletaan ruokahallinnon tietovarannosta "annetun" "lain" 8 §:ää.

Section 66[387] **Requirements regarding the information to be recorded and reported related to the implementation of supervision**

Section 67[388] **Method of recording data**
If EU market organization legislation or this law provides for the operator's obligation to record information related to its operations, the information must be recorded in a reliable manner and in such a way that it can be easily checked. More detailed regulations on the way of recording data can be issued by a government decree.

Section 68[389] **Retention of documents**

(d) Investigative powers in the area of direct expenditure

In the area of direct expenditure, the direct management i.e., the control and managing by one main authority (mainly the Commission itself) is the main source of money transfer. If it is the European Commission, its agencies and delegations that manage the EU budget in this are, they are competent to supervision the accounting of projects in this area. The EU Commission runs e.g., the Funding and Tenders Portal (SEDIA) for this specific area. The whole direct expenditure area is not immune to fraud. It can be said that it is prone to procurement, or procurement related fraud (causing damage to the expenditure side of the budget).[390] **49**

OLAF describes and displays investigations in this area as follows: **50**

[387] 66 § Valvonnan toteuttamiseen liittyvät kirjattavia ja ilmoitettavia tietoja koskevat vaatimukset.
[388] 67 § Tietojen kirjaamistapa.
Jos EU:n markkinajärjestelylainsäädännössä tai tässä laissa säädetään toimijan velvollisuudesta kirjata tämän toimintaan liittyviä tietoja, tiedot on kirjattava luotettavalla tavalla ja siten, että ne ovat helposti tarkastettavissa. Tietojen kirjaamistavasta voidaan antaa tarkempia säännöksiä valtioneuvoston asetuksella.
[389] 68 § Asiakirjojen säilyttäminen
[390] See OECD 2019, pp. 7, 14: "The implementation stage of the project cycle brings with it numerous fraud and corruption risks due to the number of actors potentially involved in project implementation and the complexity of some of the processes at this stage. For projects with high investment value, such as large-scale infrastructure projects, this stage becomes even more vulnerable to fraud and corruption. Furthermore, tenders put out either directly by the MA or beneficiary are common during the implementation stage, and procurement processes are notoriously prone to fraud and corruption. As shown in the illustrated schemes in the final part of the guide, there are a number of procurementspecific risks that occur at this stage. For example, members of an MA or beneficiary may tailor tender specifications or leak commercially sensitive tender information to favour one particular company or individual. Companies or contractors may also take part in collusive bidding schemes to manipulate competitive procedures. Responses from an OECD survey that was distributed to programme authorities show that procurement-related fraud and corruption risks at the level of beneficiaries are sometimes overlooked in risk analysis activities. In addition, some MAs generally base the identification of fraud risks on their own experience, without any additional input from other knowledgeable actors. Outside of the procurement process, perpetrators employ other tactics to siphon off funds and defraud the EU budget. For example, a beneficiary may fabricate fictitious works, services or activities, or inflate labour costs. In attempt to cover up fraudulent or corrupt behaviour or to justify non-eligible expenditure, perpetrators may manipulate documents and submit fictitious invoices. In some cases, perpetrators may even attempt to bribe officials or staff within programme authorities to conceal the scheme.

51 "**Direct expenditure**
Accounting for 14% of the EU budget, this is expenditure allocated and directly managed by EU institutions, bodies, agencies alone (not jointly with national authorities, as with the structural funds). Beneficiaries are located in EU countries.
It includes expenditure in, among others, the following areas:

- research and innovation (e.g. Horizon Europe programme)
- education, training and mobility of young people (e.g. ERASMUS+ programme)
- supporting the competitiveness of industry and in particular of micro, small and medium-sized enterprises (e.g. Single Market programme)
- environment and climate action (LIFE programme)
- improving the capacity of the EU to face security threats (Internal Security Fund)
- European public administration.

As a rule, national authorities are not involved in investigating fraud affecting direct expenditure."[391]

52 In the area of direct expenditure beneficiaries subject themselves often under the regime of civil and administrative anti-fraud clauses, which are usually enshrined in the contract between the recipient and the monitoring payment office.

53 Examples: The EU Commission supports large infrastructure projects.

54 OLAF has a **special unit**, which is competent to investigate and detect irregularities in the area of direct expenditure:

- **Direct Expenditure – Operations and Investigations (OLAF.A.2)** Rue Joseph II 30 / Josef II-straat 30, 1000, (postal office Box: 1049), Bruxelles / Brussel Belgium[392]

[391] OLAF, Information on Investigations related to EU expenditure, online: https://ec.europa.eu/anti-fraud/investigations/investigations-related-eu-expenditure_hr. Accessed 31 December 2024.
[392] EU, WHOisWHO, online: https://bit.ly/3ZxClw2. Accessed 31 December 2024.

The following provisions may be consulted from the Public Procurement Code: **55**

Chapter 15 Procurement control
Section 139[393] **Supervisory authority and taking measures to investigate illegal conduct**
The Finnish Competition and Consumer Authority supervises compliance with this law. Anyone who considers that the procurement unit has acted in violation of this law can submit a request for action to the Finnish Competition and Consumer Authority to investigate the legality of the procedure. The provisions of chapter 8a of the Administrative Law on administrative complaints apply to the making and processing of a request for action. The processing of the request for action shall cease if the Competition and Consumer Agency deems the act that is the subject of the action request, in accordance with Section 53 c of the Administration Act, to take measures to initiate the procedure provided for in this or another law.
The Finnish Competition and Consumer Authority can take a case under its jurisdiction for investigation also on its own initiative.

Section 142[394] **Information obligation of the procurement unit, contract partner and tenderer**
The procuring entity, its contractual partner, the entity exercising control over the procuring entity and the business operator who participated in the procurement procedure are obliged, regardless of confidentiality regulations, at the request of the Competition and Consumer Agency to provide it with all the information and documents necessary to determine the legality of the procurement procedure.
If required, the information must be provided in writing.
The Finnish Competition and Consumer Authority can impose a penalty fine as an effect of complying with the call referred to in subsection 1. A fine is ordered to be paid by the market court.

[393] 15 luku Hankintojen valvonta
139 § *Hallintolaki*
Valvontaviranomainen ja toimenpiteisiin ryhtyminen lainvastaisen menettelyn tutkimiseksi
Kilpailu- ja kuluttajavirasto valvoo tämän lain noudattamista.
Jokainen, joka katsoo hankintayksikön menetelleen tämän lain vastaisesti, voi tehdä Kilpailu- ja kuluttajavirastolle toimenpidepyynnön menettelyn lainmukaisuuden tutkimiseksi. Toimenpidepyynnön tekemiseen ja käsittelyyn sovelletaan, mitä hallintolain 8 a luvussa säädetään hallintokantelusta. Toimenpidepyynnön käsittely raukeaa, jos Kilpailu- ja kuluttajavirasto katsoo toimenpidepyynnön kohteena olevan teon antavan hallintolain 53 c §:n mukaisesti aiheen ryhtyä toimenpiteisiin tässä tai muussa laissa säädetyn menettelyn käynnistämiseksi.
Kilpailu- ja kuluttajavirasto voi ottaa toimivaltaansa kuuluvan asian tutkittavakseen myös omasta aloitteestaan.
[394] 142 § Hankintayksikön, sopimuskumppanin ja tarjoajan tietojenantovelvollisuus
Hankintayksikkö, tämän sopimuskumppani, hankintayksikössä määräysvaltaa käyttävä taho ja hankintamenettelyyn osallistunut elinkeinonharjoittaja on salassapitosäännösten estämättä velvollinen Kilpailu- ja kuluttajaviraston kehotuksesta antamaan sille kaikki hankintamenettelyn lainmukaisuuden selvittämiseksi tarpeelliset tiedot ja asiakirjat. Tiedot on niin vaadittaessa annettava kirjallisina.
Kilpailu- ja kuluttajavirasto voi asettaa 1 momentissa tarkoitetun kehotuksen noudattamisen tehosteeksi uhkasakon. Uhkasakon tuomitsee maksettavaksi markkinaoikeus.

56

Administrative law/*Hallintolaki*

Chapter 6 Investigating the matter and hearing the party involved

Section 31[395] **et seq.**

Obligation to clarify

The authority must take care of sufficient and appropriate investigation of the case by obtaining the necessary information and reports to resolve the case.

The interested party must present an explanation of the grounds for his claim. The party involved must also contribute to the investigation of the case he initiated.

Section 38[396] **Review**

The authority can deliver an inspection if it is necessary to clarify the matter. The interested party must be given the opportunity to be present at the inspection and express his opinion on the issues raised. If the quality of the case so requires, an authority whose tasks include the supervision of the relevant activity according to the law or whose expertise is needed to resolve the case must also be invited to the inspection. The review must be delivered without causing unreasonable harm to the subject of the review or its holder.

A protocol must be kept during the inspection, which must reveal the key observations made by the authority and the comments made by the party involved. The minutes must be given to the interested party and others invited to the delivery without delay.

The review is public. The authority can restrict the public's access to the viewing if it is necessary due to the quality of the matter or the nature of the activity subject to the viewing. The inspection may not be carried out in the premises covered by domestic peace, unless the law specifically provides otherwise.

[395] 6 luku Asian selvittäminen ja asianosaisen kuuleminen
31 § Selvittämisvelvollisuus
Viranomaisen on huolehdittava asian riittävästä ja asianmukaisesta selvittämisestä hankkimalla asian ratkaisemiseksi tarpeelliset tiedot sekä selvitykset.
Asianosaisen on esitettävä selvitystä vaatimuksensa perusteista. Asianosaisen on muutoinkin myötävaikutettava vireille panemansa asian selvittämiseen.

[396] 38 § *Hallintolaki* Katselmus Viranomainen voi toimittaa katselmuksen, jos se on tarpeen asian selvittämiseksi. Asianosaiselle on varattava tilaisuus olla läsnä katselmuksessa ja esittää mielipiteensä esille tulevista seikoista. Asian laadun niin vaatiessa katselmukseen on kutsuttava myös viranomainen, jonka tehtäviin asianomaisen toiminnan valvonta lain mukaan kuuluu tai jonka asiantuntemusta tarvitaan asian ratkaisemiseksi. Katselmus on toimitettava aiheuttamatta kohtuutonta haittaa katselmuksen kohteelle tai sen haltijalle.
Katselmuksessa on pidettävä pöytäkirjaa, josta tulee käydä ilmi viranomaisen tekemät keskeiset havainnot ja asianosaisen esittämät huomautukset. Pöytäkirja on viipymättä annettava tiedoksi asianosaiselle ja muille toimitukseen kutsutuille.
Katselmus on julkinen. Viranomainen voi rajoittaa yleisön pääsyä katselmukseen, jos se on tarpeen asian laadun tai katselmuksen kohteena olevan toiminnan luonteen vuoksi. Katselmusta ei saa toimittaa kotirauhan piiriin kuuluvissa tiloissa, ellei laissa erikseen toisin säädetä.

Section 39[397] **Inspection**

The authority must notify the party directly affected of the start date of the inspection within its jurisdiction, unless the notification endangers the fulfillment of the purpose of the inspection. The interested party referred to above has the right to be present at the inspection and to present his opinion and questions about matters related to the inspection. During the inspection, the interested party must, if possible, be informed about the objectives of the inspection, its execution and follow-up measures. The inspection must be carried out without causing unreasonable harm to the object of the inspection or its holder.

The inspector must immediately draw up a written inspection report of the inspection, which must reveal the course of the inspection and the main observations made by the inspector. The inspection report must be served on the party entitled to be present at the inspection.

Section 40[398] **Oral evidence**

For a special reason, a witness can be heard on the basis of an insurance policy in an administrative case, as well as the parties involved orally. The interested parties, who are directly affected by the decision made in the case, must be given the opportunity to be present when hearing the witness or the interested party. The parties involved have the right to ask questions to the hearing party and express their opinion on the hearing party's story.

Official assistance to use oral evidence is provided by the administrative court where the hearing of the witness or party can take place most appropriately. In the judicial administration matter before the court, the hearing is delivered by the relevant court.

The provisions of the Act on Trial in Administrative Matters apply to the witness's disability and the witness's right to refuse to testify. (27.11.2020/854)

---

[397] 39 § *Hallintolaki* Tarkastus Viranomaisen on ilmoitettava toimivaltaansa kuuluvan tarkastuksen aloittamisajankohdasta asianosaiselle, jota asia välittömästi koskee, jollei ilmoittaminen vaaranna tarkastuksen tarkoituksen toteutumista. Edellä tarkoitetulla asianosaisella on oikeus olla läsnä tarkastuksessa sekä esittää mielipiteensä ja kysymyksiä tarkastukseen liittyvistä seikoista. Tarkastuksen kuluessa asianosaiselle on, mikäli mahdollista, kerrottava tarkastuksen tavoitteista, sen suorittamisesta ja jatkotoimenpiteistä. Tarkastus on suoritettava aiheuttamatta tarkastuksen kohteelle tai sen haltijalle kohtuutonta haittaa.

Tarkastajan on viipymättä laadittava tarkastuksesta kirjallinen tarkastuskertomus, josta tulee käydä ilmi tarkastuksen kulku ja tarkastajan tekemät keskeiset havainnot. Tarkastuskertomus on annettava tiedoksi tarkastuksessa läsnäoloon oikeutetulle asianosaiselle.

[398] 40 § (26.6.2015/801) *Hallintolaki*

Suullinen todistelu Erityisestä syystä hallintoasiassa voidaan kuulla todistajaa vakuutuksen nojalla sekä suullisesti asianosaista. Asianosaisille, joita asiassa tehtävä päätös välittömästi koskee, on varattava tilaisuus olla läsnä kuultaessa todistajaa tai asianosaista. Asianosaisilla on oikeus esittää kuultavalle kysymyksiä sekä lausua käsityksensä kuultavan kertomuksesta. Virka-apua suullisten todistuskeinojen käyttämiseksi antaa se hallinto-oikeus, jossa todistajan tai asianosaisen kuuleminen voi tapahtua soveliaimmin. Tuomioistuimen käsiteltävässä oikeushallintoasiassa kuulemisen toimittaa asianomainen tuomioistuin. Todistajan esteellisyyteen sekä todistajan oikeuteen kieltäytyä todistamasta sovelletaan, mitä oikeudenkäynnistä hallintoasioissa annetussa laissa säädetään. (27.11.2020/854)

(3) Protection of information

57 OLAF officials and national inspectors and investigators need to obey the rules that apply in order to protect confidentiality and data protection or they have to rely on exemptions that empower them to check despite a provision that requests confidentiality:

(a) Tax secrecy and Customs Secrecy (General Tax Act)

58 In the tax area, the following applies:

- 30.12.1999/1346, The Act on Publicity and Confidentiality of Tax Information
- See for the tax secrecy[399]

59 A special customs secrecy does not exist and the customs officers have powerful rights to control goods and check whether an offence is committed or an irregularity exists, see e.g.:

60

Customs Act 29/04/2016/304

Section 30 Checking of funds[400]

The customs officer has the right to check the money and other property in his po-ssession in order to reveal the money laundering crime referred to in chapter 32 of the Criminal Code and the financing of terrorism referred to in chapter 34 a of the Criminal Code, which is considered a customs crime.

(b) Administrative secrecy (Administrative laws)

61 The Act on public authorities' activities might apply.

62

§ 2 Scope of the law

This law provides for the right to obtain information about the public documents of the authorities, as well as the duty of confidentiality of the person working in the authority, the confidentiality of documents and other restrictions on access to information necessary to protect public and private interests, as well as the obligations of the authorities to implement the purpose of this law.

The information management of official documents is regulated in the Act on Information Management in Public Administration (906/2019).

63 The Administrative Act itself refers to the confidentiality e.g. in section 13 for the agent or assistant.

[399] See Lohiniva-Kerkelä, Mirva, Verosalaisuus.

[400] 30 § Rahavarojen tarkastaminen Tullimiehellä on oikeus tarkastaa henkilön mukana olevat rahavarat ja muu hänen hallussaan oleva omaisuus tullirikoksena pidettävän, rikoslain 32 luvussa tarkoitetun rahanpesurikoksen ja rikoslain 34 a luvussa tarkoitetun terrorismin rahoittamisen paljastamiseksi.

(c) Data secrecy (Data protection laws, Customs Act, General Tax Act)

In the general area the GDPR Regulation applies directly in all areas that concern OLAF investigations in Finland. **64**

In the area of the Budget Control and Accounting the following applies: **65**

The Budget Act contains certain provisions that ensure during this special administrative procedure the confidentiality and data protection: **66**

The right of access to information might confere with the data secrecy and requires then lawful action to intercept confidential information: **67**

Section 24g State Budget Act[401]
Right of access to information
The controller function of the state treasury has the right to receive the information, documents and reports necessary for the performance of their duties free of charge from the state agency and institution, the state business institution and the extra-budgetary fund.

The state treasury controller function has the right to receive information and documents from the state agency and institution, state business enterprise and non-budgetary state fund about the state economy and operations, as well as the state economy or funds or property under the state's responsibility or related to them, from the state agency and institution, the state enterprise and the state fund outside the budget, if for the function section 24 f: The performance of the task stipulated in subsection 1, paragraphs 1–3 necessarily requires it.

[401] 24 g § (19.12.2003/1216) Laki valtion talousarviosta
Tietojensaantioikeus Valtiovarain controller -toiminnolla on oikeus saada maksutta tehtäviensä hoitamiseksi tarpeelliset tiedot, asiakirjat ja selvitykset valtion virastolta ja laitokselta, valtion liikelaitokselta sekä talousarvion ulkopuoliselta rahastolta.
Valtiovarain controller -toiminnolla on oikeus saada salassapitosäännösten estämättä valtion virastolta ja laitokselta, valtion liikelaitokselta ja talousarvion ulkopuolella olevalta valtion rahastolta tietoja ja asiakirjoja valtion taloudesta ja toiminnasta sekä valtiontaloutta tai valtion vastuulla olevia varoja tai omaisuutta koskevasta tai niihin kohdistuvasta menettelystä, jos toiminnolle 24 f §:n 1 momentin 1–3 kohdassa säädetyn tehtävän suorittaminen sitä välttämättä edellyttää.

(4) Investigation reports (Customs Act, General Tax Act)

68 The Customs Act contains provisions that request to draw a report, e.g.:

69

> **Section 11**[402] **Taking possession of the goods**
> If Customs determines that the conditions for the import, export, transfer or transit of the goods referred to in section 10 subsection 1 are not met, or if it determines during the customs inspection that the person does not have the right to keep the goods according to section 83 of the Alcohol Act (1102/2017) in possession, it makes a decision to take possession of the goods. (28.12.2017/1120)
> The decision is given to the person from whom the goods are taken over. The decision to take over the postal shipment is given to the recipient or sender of the goods, if the recipient or sender is known to Customs.
> **Customs must keep a record of seized goods.**
> Chapter 12 provides for the sale, other transfer and disposal of seized goods.

70 The State Audit Office Act requires the Office to submit a report:

71

> **Section 5**[403] **Inspection report**
> The Audit Office issues the audit report drawn up from the audit for information and necessary measures to the audited and the ministry to which the audited belongs, as well as for information to the parliamentary audit committee and the Ministry of Finance. The auditee and the ministry to which the auditee belongs must inform the audit agency what measures have been taken as a result of the comments presented in the audit report. (25.5.2007/597)
> The regulations on confidentiality are not an obstacle to issuing an inspection report to the inspected authority and other authorities referred to in subsection 1. Confidential information can be given to an auditee other than the authority, to the extent that he or

[402] 11 § Tavaran haltuunotto Jos Tulli toteaa, että 10 §:n 1 momentissa tarkoitetun tavaran tuontia, vientiä, siirtoa tai kauttakuljetusta koskevat edellytykset eivät täyty, taikka jos se toteaa tullitarkastuksen yhteydessä, että henkilöllä ei ole alkoholilain (1102/2017) 83 §:n mukaan oikeutta pitää tavaraa hallussaan, se tekee päätöksen tavaran haltuunotosta. (28.12.2017/1120)
Päätös annetaan sille, jolta tavara otetaan haltuun. Päätös postilähetyksen haltuunotosta annetaan tavaran vastaanottajalle tai lähettäjälle, jos vastaanottaja tai lähettäjä on Tullin tiedossa.
Tullin on pidettävä haltuun otetuista tavaroista kirjaa.
Haltuun otetun tavaran myynnistä, muusta luovutuksesta ja hävittämisestä säädetään 12 luvussa.

[403] 5 § Tarkastuskertomus Tarkastusvirasto antaa tarkastuksesta laaditun tarkastuskertomuksen tiedoksi ja tarvittavia toimenpiteitä varten tarkastetulle ja ministeriölle, jonka toimialalle tarkastettu kuuluu, sekä tiedoksi eduskunnan tarkastusvaliokunnalle ja valtiovarainministeriölle. Tarkastetun ja ministeriön, jonka toimialalle tarkastettu kuuluu, on ilmoitettava tarkastusvirastolle, mihin toimenpiteisiin tarkastuskertomuksessa esitettyjen huomautusten johdosta on ryhdytty. (25.5.2007/597)
Salassapitoa koskevat säännökset eivät ole esteenä tarkastuskertomuksen antamiselle tarkastetulle viranomaiselle ja muille 1 momentissa tarkoitetuille viranomaisille. Muulle tarkastetulle kuin viranomaiselle salassa pidettäviä tietoja voidaan antaa siltä osin kuin tällä olisi viranomaisen toiminnan julkisuudesta annetun lain (621/1999) tai muun lain nojalla oikeus saada kertomukseen sisältyviä tietoja. Tarkastusvirasto voi myös antaa tarkastusta suoritettaessa saatuja salassa pidettäviä asiakirjoja ja muita tietoja näille viranomaisille ja eduskunnan asianomaiselle valiokunnalle, jos se on tarpeen tarkastushavaintojen edellyttämien toimenpiteiden suorittamiseksi tai muutoin niiden tehtävän hoidon kannalta perusteltua.

she has the right to receive the information contained in the report under the Act on the Publicity of the Authority's Activities (621/1999) or another law. The Audit Office can also provide confidential documents and other information obtained during the audit to these authorities and the relevant committee of the parliament, if it is necessary to carry out the measures required by the audit findings or otherwise justified in terms of handling their tasks.

(5) Support to the inspectors (Customs Act, General Tax Act)

The State Audit Office Act requires the competent authorities or the persons investigated to cooperate. The same applies in a customs or tax procedure. **72**

(6) Preservation of Evidence

The preservation of evidence is foressen by every Act, which allows the inspection of premises, things, files etc. See below → Inspection. **73**

g) Single measures

It is important to take a closer look at single measures as the thresholds for Investigations stem from the details in the law. **74**

aa. Interviewing/Questioning of "persons concerned" (in relation to suspects/defendants)

Persons concerned may be interviewed if they are informed about their status and their rights according to the Croatian Constitution and the relevant Acts, such as the Administrative Procedure Code, the Tax Code, the Customs Code and the relevant Acts from the area of budget spending (Budget Act, Structural Funds Acts established according to the structural funds related EU Regulations): **75**

bb. The taking of statements from Economic Operators

In a normal administrative process, the inspectors or the person handling the case will be obliged to hear the economic operator as proclaimed e.g. in the Finnish Admistrative Act: **76**

77 **Section 34**[404] **Hearing of the party concerned**
Before the case is settled, the interested party must be given an opportunity to state his opinion on the matter and to give his explanation of such requirements and explanations that may affect the settlement of the case.
The case may be resolved without hearing the parties involved, if:
1) the claim is left unexamined or rejected immediately as unfounded;
2) the matter concerns admission to employment or voluntary training;
3) the matter concerns the granting of an advantage based on an assessment of the applicant's characteristics;
4) the hearing may jeopardize the realization of the purpose of the decision or the delay in handling the matter caused by the hearing causes considerable harm to people's health, public safety or the environment; or
5) a claim is accepted that does not concern the other party involved, or the hearing is otherwise obviously unnecessary.

cc. Interviewing/Questioning of witnesses

78 Again, we can refer to make an example for this heading to the Finnish Administrative Act, which relates to witness hearings in section 40:

79 **Section 40**[405] **Oral evidence**
For a special reason, a witness can be heard on the basis of an insurance policy in an administrative case, as well as the parties involved orally. The interested parties, who are directly affected by the decision made in the case, must be given the opportunity to be present when hearing the witness or the interested party. The parties involved have the right to ask questions to the hearing party and express their opinion on the hearing party's story.

[404] § 34 Asianosaisen kuuleminen Asianosaiselle on ennen asian ratkaisemista varattava tilaisuus lausua mielipiteensä asiasta sekä antaa selityksensä sellaisista vaatimuksista ja selvityksistä, jotka saattavat vaikuttaa asian ratkaisuun. Asian saa ratkaista asianosaista kuulematta, jos:
1) vaatimus jätetään tutkimatta tai hylätään heti perusteettomana;
2) asia koskee palvelussuhteeseen tai vapaaehtoiseen koulutukseen ottamista;
3) asia koskee hakijan ominaisuuksien arviointiin perustuvan edun myöntämistä;
4) kuuleminen saattaa vaarantaa päätöksen tarkoituksen toteutumisen tai kuulemisesta aiheutuva asian käsittelyn viivästyminen aiheuttaa huomattavaa haittaa ihmisten terveydelle, yleiselle turvallisuudelle taikka ympäristölle; tai
5) hyväksytään vaatimus, joka ei koske toista asianosaista tai kuuleminen on muusta syystä ilmeisen tarpeetonta.

[405] 40 § (26.6.2015/801) Suullinen todistelu Erityisestä syystä hallintoasiassa voidaan kuulla todistajaa vakuutuksen nojalla sekä suullisesti asianosaista. Asianosaisille, joita asiassa tehtävä päätös välittömästi koskee, on varattava tilaisuus olla läsnä kuultaessa todistajaa tai asianosaista. Asianosaisilla on oikeus esittää kuultavalle kysymyksiä sekä lausua käsityksensä kuultavan kertomuksesta. Virka-apua suullisten todistuskeinojen käyttämiseksi antaa se hallinto-oikeus, jossa todistajan tai asianosaisen kuuleminen voi tapahtua soveliaimmin. Tuomioistuimen käsiteltävässä oikeushallintoasiassa kuulemisen toimittaa asianomainen tuomioistuin.
Todistajan esteellisyyteen sekä todistajan oikeuteen kieltäytyä todistamasta sovelletaan, mitä oikeudenkäynnistä hallintoasioissa annetussa laissa säädetään. (27.11.2020/854)

Official assistance to use oral evidence is provided by the administrative court where the hearing of the witness or party can take place most appropriately. In the judicial administration matter before the court, the hearing is delivered by the relevant court. The provisions of the Act on Trial in Administrative Matters apply to the witness's disability and the witness's right to refuse to testify. (27.11.2020/854).

dd. Inspections

Inspections in general are very **important tools** within an on-the-spot check. They are allowed by the relevant acts in the area of the most prominent frauds, such as tax and customs frauds to the detriment of the Union's budget: **80**

- Customs Inspection
- Tax Inspection
- Structural Funds Inspection
- Agircutural Related Inspections
- Classical Budget Inspections
- Other Special Inspections (e.g. wine producers, alcohol producers etc.)
- Fishing Area

(1) General Administrative Inspection

The general administrative law regulates a **normal inspection**, which can be initiated to determine a matter concerning a certain EU-related question e.g. a decision about a grant, a contract etc.: **81**

Section 39[406] **Inspection** **82**

The authority must **notify the party directly affected of the start date of the inspection** within its jurisdiction, unless the notification endangers the fulfillment of the purpose of the inspection. The interested party referred to above has the right to be present at the inspection and to present his opinion and questions about matters related to the inspection. During the inspection, the interested party must, if possible, be informed about the objectives of the inspection, its execution and follow-up measures. The inspection must be carried out without causing unreasonable harm to the object of the inspection or its holder.

[406] 39 § Tarkastus
Viranomaisen on ilmoitettava toimivaltaansa kuuluvan tarkastuksen aloittamisajankohdasta asianosaiselle, jota asia välittömästi koskee, jollei ilmoittaminen vaaranna tarkastuksen tarkoituksen toteutumista. Edellä tarkoitetulla asianosaisella on oikeus olla läsnä tarkastuksessa sekä esittää mielipiteensä ja kysymyksiä tarkastukseen liittyvistä seikoista. Tarkastuksen kuluessa asianosaiselle on, mikäli mahdollista, kerrottava tarkastuksen tavoitteista, sen suorittamisesta ja jatkotoimenpiteistä. Tarkastus on suoritettava aiheuttamatta tarkastuksen kohteelle tai sen haltijalle kohtuutonta haittaa.
Tarkastajan on viipymättä laadittava tarkastuksesta kirjallinen tarkastuskertomus, josta tulee käydä ilmi tarkastuksen kulku ja tarkastajan tekemät keskeiset havainnot. Tarkastuskertomus on annettava tiedoksi tarkastuksessa läsnäoloon oikeutetulle asianosaiselle.

The inspector must immediately draw up a written inspection report of the inspection, which must reveal the course of the inspection and the main observations made by the inspector. The inspection report must be served on the party entitled to be present at the inspection.

(2) Customs Inspection

83 A customs inspection is regulated in Chapters 2–4 Customs Act. The use of force during an inspection or to prevent customs crime from happening is regulated in Chapter 4 Customs Act.

(3) State Audit Office Act

84

Section 2[407] Right of inspection

The Audit Office has the right to inspect:

1) state authorities, institutions, business establishments, business establishment groups and state funds;

2) state-controlled companies and other companies referred to in § 19, especially in order to find out how the state's ownership control and shareholder power have been used;

2 a) the legality and appropriateness of the financial management of the welfare areas and the communities and foundations belonging to the welfare area group referred to in § 4 of the law on the welfare area (611/2021), as well as other communities, foundations and institutions referred to in the said section where the welfare area together with one

[407] 2 § Tarkastusoikeus Tarkastusvirastolla on oikeus tarkastaa: 1) valtion viranomaisia, laitoksia, liikelaitoksia, liikelaitoskonserneja ja valtion rahastoja;
2) valtion määräysvallassa olevia yhtiöitä ja muita 19 §:ssä tarkoitettuja yhtiöitä erityisesti sen selvittämiseksi, miten valtion omistajaohjausta ja osakasvaltaa on käytetty;
2 a) hyvinvointialueiden ja hyvinvointialueesta annetun lain (611/2021) 4 §:ssä tarkoitettuun hyvinvointialuekonserniin kuuluvien yhteisöjen ja säätiöiden taloudenhoidon laillisuutta ja tarkoituksenmukaisuutta sekä mainitussa pykälässä tarkoitettuja sellaisia muita yhteisöjä, säätiöitä ja laitoksia joissa hyvinvointialue yhdessä yhden tai useamman hyvinvointialueen, yhden tai useamman kunnan tai valtion kanssa käyttää määräysvaltaa valtiolta saadun rahoituksen osalta; (29.6.2021/660)
2 b) Helsingin kaupungin sosiaali- ja terveydenhuollon sekä pelastustoimen sekä näitä tehtäviä varten perustettujen kaupungin määräysvallassa olevien yhteisöjen toiminnan ja taloudenhoidon laillisuutta, tarkoituksenmukaisuutta ja tuloksellisuutta valtiolta saadun rahoituksen osalta; (29.6.2021/660)
3) valtiolta varoja tai muuta taloudellista tukea tai etua saaneita kuntia, kuntayhtymiä, säätiöitä sekä muita yhteisöjä ja oikeushenkilöitä sekä yksityisiä henkilöitä sen selvittämiseksi, ovatko varojen tai muun taloudellisen tuen tai edun saamiseksi annetut tiedot oikeat, onko myöntämispäätöksessä määrättyjä ehtoja noudatettu ja onko varat tai muu taloudellinen tuki tai etu käytetty siihen tarkoitukseen, johon ne on annettu;
4) yhteisöjä ja muita oikeushenkilöitä, jotka ovat saaneet valtiolta luvan hankkia varoja tiettyyn tarkoitukseen valtion viranomaisten käytettäväksi tai edelleen jaettavaksi;
5) valtion maksuliikettä hoitavia luottolaitoksia ja muita yhteisöjä valtion maksuliikkeen hoidon selvittämiseksi samoin kuin sellaisia muita yhteisöjä ja oikeushenkilöitä, joille on uskottu muu valtion varojen käyttöä, omaisuuden hoitoa tai tilinpitoa koskeva tehtävä sen hoidon selvittämiseksi; sekä
6) valtion viranomaisten hallussa olevia muille kuuluvia varoja, joista valtio on vastuussa.
Mitä 1 momentin 3 kohdassa säädetään valtion tuen ja muun rahoituksen saajasta, koskee soveltuvin osin myös varojen välittäjää ja sitä, jonka käyttöön saaja on siirtänyt näitä varoja.
Tarkastusoikeutta ei kuitenkaan ole siltä osin kuin yksityinen henkilö on saanut varoja tai muuta taloudellista tukea tai etua omiin henkilökohtaisiin tai perheensä tarpeisiin tai kotitaloutensa suoranaiseen tukemiseen.

or more welfare areas, one or more municipalities or with the state to exercise control over funding received from the state; (29.6.2021/660)
2 b) The legality, expediency and effectiveness of the operation and management of the City of Helsinki's social and health care and rescue operations, as well as the entities under the control of the city established for these tasks, with regard to the funding received from the state; (29.6.2021/660)
3) municipalities, associations of municipalities, foundations and other associations and legal entities, as well as private individuals that have received funds or other financial support or benefits from the state, **in order to find out whether the information provided in order to receive funds or other financial support or benefits is correct**, whether the conditions specified in the granting decision have been complied with, and whether the funds or other financial support or benefit used for the purpose for which it was given;
4) entities and other legal entities that have received permission from the state to acquire funds for a specific purpose to be used or further distributed by state authorities;
5) credit institutions and other entities that manage the state's payment business, in order to investigate the management of the state's payment business, as well as such other entities and legal entities that have been entrusted with other tasks related to the use of state funds, property management or accounting in order to investigate its management; mixed
6) funds belonging to others in the possession of state authorities, for which the state is responsible.
What is stipulated in subsection 1, section 3, regarding the recipient of state support and other funding, also applies, where applicable, to the intermediary of the funds and the person to whose use the recipient has transferred these funds.
However, there is no right of inspection to the extent that a private person has received funds or other financial support or benefits for their own personal or family needs or for the direct support of their household.

Section 3[408] **Conducting inspections**
Inspections are carried out based on the inspection plan approved by the inspection agency.
The inspection agency has the right to carry out inspections in the premises of the persons to be inspected mentioned in § 2, and the persons to be inspected are obliged to

[408] 3 § Tarkastusten suorittaminen Tarkastusten suorittaminen perustuu tarkastusviraston vahvistamaan tarkastussuunnitelmaan. Tarkastusvirastolla on oikeus suorittaa tarkastukset 2 §:ssä mainittujen tarkastettavien tiloissa ja tarkastettavat ovat velvollisia tarvittaessa avustamaan tarkastuksen suorittajaa. Asunnossa tarkastus voidaan suorittaa vain, jos se on välttämätöntä 2 §:n 1 momentin 3 kohdassa tarkoitettujen seikkojen selvittämiseksi ja jos on perusteltua syytä epäillä varojen käytöstä annettuja säännöksiä rikotun tai rikottavan.
Tarkastusvirasto voi käyttää tarkastuksen suorittamisessa apunaan asiantuntijoita.
4 momentti on kumottu L:lla 25.5.2007/597.

assist the person performing the inspection if necessary. An inspection can only be carried out in the apartment if it is necessary to find out the matters referred to in section 2, subsection 1, point 3, and if there is a justified reason to suspect that the provisions on the use of funds have been violated or will be violated.
The Audit Office can **use experts to assist** in carrying out the audit.
Subsection 4 has been repealed by L 25.5.2007/597.

(4) Structural Funds Inspection

85 The main Act in this area is the Act on the financing of regional development and regional and structural policy projects of the European Union from 13.8.2021/757.

86

Section 47 Audits regarding the use of funds from the European Union's regional and structural policy program
Based on articles 72 and 74 of the general regulation, the administrative authority has the right to carry out inspections related to the use of the funds of the European Union's regional and structural policy program on intermediary institutions and aid recipients. […]

Section 49 [See above for the original text → Investigative powers around structural funds and internal policies]
The authority of the European Union regional and structural policy program inspector
In order to properly conduct the inspection referred to in Section 47 above, the administrative authority, the inspection authority and the authority referred to in Section 48 authorised by them and the auditor have the right to enter buildings, premises and places relevant to the use of the support. However, the inspection may not be performed in premises used for permanent housing. […]

ee. Searches

87 A search is *per se* a (very**) intensive and potentially fundamental rights infringing coercive measure**. This is the reasons, why the Finsih Coercive Measures Act is oftn cited within other laws and these laws refer to the regulations on searches within this special Act.

88 Despite these searches and search measures are allowed by various Acts. They enable inspectors and investgators to find things that are hidden within buidlings, on premises, in cupboards or stored **digitally on a computer** or smart device hidden in a room within a building etc. (e.g. a computer not connected to the internet is very rare today but sometimes used by criminals – it can only be found via a search).

Generally speaking, two kinds of searches can be distinguished – either the search for a person or the search for a thing or things. **89**

(1) Finnish Acts allowing searches

The following Acts are important: **90**

- Customs Act **91**
- General Tax Act, VAT Act
- Act on Support for Rural Development (1443/2006)
- Act on the financing of regional development and regional and structural policy projects of the European Union, 13.8.2021/757

An excerpt of the Act below shows an important part that relates to the right mentioned above: **92**

Section 49 The authority of the European Union regional and structural policy program inspector Act on the financing of regional development and regional and structural policy projects of the European Union, 13.8.2021/757 **93**

In order to properly conduct the inspection referred to in Section 47 above, the administrative authority, the inspection authority and the authority referred to in Section 48 authorised by them and the auditor have the right to enter buildings, premises and places relevant to the use of the support. However, the inspection may not be performed in premises used for permanent housing.

The person performing the inspection has the **right to inspect all information, reports, documents, information systems, recordings, other material and conditions necessary for the inspection**. The inspector has the right to take possession of the material referred to above, if the proper conduct of the inspection requires it. The seized documents and other material must be returned without delay when the inspection no longer requires their possession.

The Customs Act contains the following: This provision applies when e.g. EU fraud is suspected in customs matters in Finland. Thus, probably if the person is suspected on the most probable grounds of a crime related to customs fraud, the suspected crime needs a minimum penalty of at least one year in prison (e.g., serious smuggling, fraud affecting EU financial interests (see above → Part A); it needs to be conducted to check for prohibited goods during customs procedures. The search shall be discreet, documented, and must follow the Coercive Measures Act rules, which were cited above in the EPPO Part. A preliminary investigation does not need to be initiated for the search. The wording of the relevant sections can be read and retrieved below: **94**

95 **Section 18**[409] **A search targeting a person**

In order to check whether a person is carrying goods, the control of import, export or transit of which has been stipulated to be the task of Customs, the person may, upon entering the Finnish customs territory, when leaving the Finnish customs territory, or when visiting a vehicle or a place where goods are unloaded, loaded or stored, or for a special reason elsewhere in the Finnish customs territory, carries out the search of a person referred to in Chapter 8, Section 30 of the Coercive Measures Act as stipulated below.

The customs officer performing the customs procedure decides on the performance of the personal inspection referred to in Chapter 8, Section 30 of the Coercive Measures Act in order to examine what the person being inspected has on their clothes or in the goods they are carrying.

A personal search or a personal search referred to in Chapter 8, Section 30 of the Coercive Measures Act, to examine what the subject is wearing other than his clothes, can be carried out on a person who is suspected on the most probable grounds of a crime, for which the severest punishment prescribed is at least one year in prison. The inspection can then be carried out without starting a preliminary investigation. The customs officer assigned to the task as the supervisor of customs crime prevention or customs supervision decides on the execution of the measure.

The search of a person must be carried out discreetly and in such a way that it does not cause unnecessary harm or damage to the person being searched or damage to the property on him or with him. A protocol must be prepared for the search of a person referred to in subsection 3 above, in which the course of the delivery is explained with sufficient accuracy. A copy of the minutes must be given to the auditee upon request. When conducting a search on a person, the procedure must also comply with the Coercive Measures Act.

[409] 18 § Henkilöön kohdistuva etsintä Sen tarkastamiseksi, onko henkilöllä mukanaan tavaraa, jonka tuonnin, viennin tai kauttakuljetuksen valvonta on säädetty Tullin tehtäväksi, henkilölle voidaan hänen saapuessaan Suomen tullialueelle, lähtiessään Suomen tullialueelta tai käydessään sellaisessa kulkuneuvossa tai paikassa, jossa tavaraa puretaan, lastataan tai säilytetään taikka erityisestä syystä muuallakin Suomen tullialueella, suorittaa pakkokeinolain 8 luvun 30 §:ssä tarkoitettu henkilöön kohdistuva etsintä siten kuin jäljempänä säädetään.
Pakkokeinolain 8 luvun 30 §:ssä tarkoitetun henkilöntarkastuksen suorittamisesta sen tutkimiseksi, mitä tarkastettavalla on vaatteissaan tai mukanaan olevissa tavaroissa päättää tullitoimenpidettä suorittava tullimies.
Pakkokeinolain 8 luvun 30 §:ssä tarkoitettu henkilönkatsastus tai henkilöntarkastus sen tutkimiseksi, mitä tarkastettavalla on muuten kuin vaatteissaan yllään, voidaan suorittaa henkilölle, jota epäillään todennäköisin syin rikoksesta, josta säädetty ankarin rangaistus on vähintään vuosi vankeutta. Tarkastus voidaan tällöin suorittaa esitutkintaa aloittamatta. Toimenpiteen suorittamisesta päättää tehtävään määrätty tullirikostorjunnan tai tullivalvonnan esimiehenä toimiva tullimies.
Henkilöön kohdistuva etsintä on suoritettava hienotunteisesti ja siten, ettei siitä aiheudu tarpeetonta haittaa tai vahinkoa tarkastettavalle henkilölle tai vahinkoa hänen yllään tai mukanaan olevalle omaisuudelle. Edellä 3 momentissa tarkoitetusta henkilöön kohdistuvasta etsinnästä on laadittava pöytäkirja, jossa toimituksen kulku selostetaan riittävällä tarkkuudella. Pöytäkirjasta on pyynnöstä annettava tarkastettavalle jäljennös. Henkilöön kohdistuvaa etsintää toimitettaessa menettelyssä on lisäksi noudatettava pakkokeinolakia.

Section 19[410] **Security check**
The customs officer has the right to check what the person has in his clothes or otherwise wearing, or in the belongings he is carrying, in connection with the search of a person referred to in § 18 and in connection with the arrest, detention, imprisonment, detention and other measures affecting personal freedom. The security check ensures that he does not have any objects or substances in his possession that could endanger his inspection or storage or cause danger to himself or others. The customs officer may perform an inspection on a person to find such objects or substances in other cases as well, if it is necessary for a justified reason to ensure the customs officer's work safety or the performance of the customs procedure.
If necessary, the dangerous objects and substances referred to in subsection 1 must be removed from the inspection. Such objects and substances must also be removed, the possession of which is prohibited by law or a regulation or order issued pursuant to it.
The security inspection is carried out by hand palpation, using a trained dog, using a metal detector or other similar technical device, or in another comparable way. The inspection must not interfere with the personal integrity of the person being inspected more than is necessary to perform the task. In the inspection, the tact required by the circumstances must be observed.

(2) General remarks

The **system of searches and search measures** is regulated mostly in the same way in the various Acts. A special body or a controller, an inspector e.g., is allowed to carry out a search in case of a certain irregularity and threshold. **96**

(3) Formal requirements

Chapter 6 of the Customs Act contains rules on all measures, which relate to the prevention of custims crime or the control of customs duties. It contains formal and substantive requirement, which must be ensured in order to make the whole process lawful. **97**

[410] 19 § Turvallisuustarkastus Tullimiehellä on oikeus 18 §:ssä tarkoitetun henkilöön kohdistuvan etsinnän sekä kiinniottamisen, pidättämisen, vangitsemisen, säilöön ottamisen ja muun henkilökohtaiseen vapauteen kohdistuvan toimenpiteen yhteydessä tarkastaa, mitä henkilöllä on vaatteissaan tai muuten yllään taikka mukanaan olevissa tavaroissa. Turvallisuustarkastuksella varmistetaan, ettei hänellä ole hallussaan esineitä tai aineita, joilla hän voi vaarantaa tarkastamisen tai säilyttämisensä taikka aiheuttaa vaaraa itselleen tai muille. Tullimies voi tehdä henkilölle tarkastuksen tällaisten esineiden tai aineiden löytämiseksi muussakin tapauksessa, jos se on perustellusta syystä tarpeen tullimiehen työturvallisuuden tai tullitoimenpiteen suorittamisen varmistamiseksi.
Edellä 1 momentissa tarkoitetut vaaralliset esineet ja aineet on tarvittaessa otettava pois tarkastettavalta. Myös sellaiset esineet ja aineet on otettava pois, joiden hallussapito on lain tai sen nojalla annetun säännöksen tai määräyksen nojalla kielletty.
Turvallisuustarkastus toimitetaan käsin tunnustelemalla, koulutettua koiraa käyttäen, metallinilmaisinta tai muuta vastaavaa teknistä laitetta käyttäen taikka muulla niihin rinnastettavalla tavalla. Tarkastuksella ei saa puuttua tarkastettavan henkilökohtaiseen koskemattomuuteen enempää kuin tehtävän suorittamiseksi on välttämätöntä. Tarkastuksessa on noudatettava olosuhteiden edellyttämää hienotunteisuutta.

98 **Chapter 6 Customs Act Procedure when exercising powers**
[See above for the original texts →
Defense laws are important in EPPO proceedings, holding the EPPO and its staff **accountable** and the mechansim fair and proportionate. However, Member States have different legal systems, despite EU Directives from the 2012 roadmap, like Directive 2010/64/EU (right to interpretation and translation) and others. These are only partially harmonised in Article 41 of the EPPO Regulation, leading to inconsistent procedures and varying rights protection for suspects. The EPPO works inbetween EU and national law, where the CFR applies when EU law is "implemented/executed". The ECJ states that the Charter applies to EU institutions and Member States when implementing EU law, not extending EU powers. It requires EU acts to comply with fundamental **rights,** but this can potentially create gaps in procedural protections in EPPO cases.
Defence in the investigation phase, Defence while investigation is under-way, → Art. 28–33 EPPO Regulation, Customs Investigation]

Section 34 Respect for fundamental rights and human rights
Customs must respect basic rights and human rights, and when exercising its powers, choose from the justifiable alternatives the one that best promotes the realization of these rights.

Section 35 Proportionality principle
Customs measures must be defensible in relation to the importance, dangerousness and urgency of the task, the goal to be pursued, the behaviour, age, health and other similar aspects of the person subject to the measure, as well as other aspects affecting the overall assessment of the situation.

Section 36 The principle of least harm
Customs measures may not interfere with anyone's rights any more and may not cause anyone more damage or harm than is necessary to perform the task.

Section 37 The principle of purposefulness
Customs may use its authority only for the prescribed purpose.

Section 38 Managing and prioritizing tasks
Customs duties must be performed efficiently and appropriately. When circumstances require, tasks must be prioritised.

Section 39 Expressing the position of the customs officer and identifying the customs officer
If necessary, the customs officer must state to the person subject to the customs procedure that he is a customs officer and, upon request, present his identity card. Customs must ensure that the customs officer who performed the official duty can be identified if necessary.

Section 40 Notification of the basis for the use of the authority
The basis for the use of the authority aimed at a person's freedom must be notified to the person who is the subject of the measure or his representative as soon as possible, taking into account the person's condition and other circumstances.
Unless the law provides otherwise, the person who is the subject of a measure other than one aimed at freedom or his representative has the right to receive information about the basis for the exercise of jurisdiction as soon as possible without jeopardizing the execution of the customs measure.

Section 41 The authority of the customs officer
When using the authority provided for in this law, the Customs Crime Prevention Act or another law, the customs officer has the right in individual cases to issue every binding order and prohibition necessary for the execution of the task of the Customs.

Section 42 Treatment of the detained person
The treatment of persons apprehended by Customs pursuant to this Act is governed by the Act on the Treatment of Persons Detained by the Police (841/2006) and what is stipulated regarding the application of that law in relation to the person detained by Customs and the place of storage of Customs in Chapter 2, Section 12, Subsections 2 and 3 of the Customs Crime Prevention Act.

Section 43 Minutes and entry in another document
The arrest of a person in accordance with section 17, subsection 2 of this law, the seizure of property in connection with a security inspection in accordance with section 19, subsection 2, the seizure of objects and substances endangering public order and safety in accordance with section 20, and the arrest of a wanted person in accordance with section 33 shall be without undue delay a protocol to be drawn up or an entry to be made in another document.
Upon request, a copy of the minutes or entry in another document must be given to the person who has been arrested or from whom the goods have been seized.
Customs issues more detailed regulations on drawing up the protocol and making a note on the other document, as well as on the content of the protocol and the note.

(4) Substantive requirements

99 For the Customs Act the rules have been displayed above. It is important that the officers and the servants obey foremost the **proportionality principle**. An administrative court will assess if the measure was necessary and if none other method would have been less heavy. A search is often allowed but it is a measure like others: It should in principle be ultima ratio.

ff. Seizure of (other) evidence Customs/Tax (Procedures) Code

100 The Customs Acts contains provisions on what to do with seized property and hereby reveals tat seizure is an option:

Section 21[411] **Handling of seized property**
Objects and substances seized by Customs pursuant to Sections 19 and 20 must be returned to the person from whom they were seized without delay and within 14 days at the latest.
However, goods will not be returned if:
1) the object or substance cannot be safely returned to the person from whom it was taken;
2) Customs or another authority has taken the confiscation measure referred to in Chapter 7 of the Coercive Measures Act;
3) another authority has taken measures to revoke the permit for possession of the object or substance;
4) according to the law, there is another obstacle to return.
If the object or substance cannot be safely returned to the person from whom it was taken, it will be handed over to the police for the measures stipulated in the Police Act or the Firearms Act (1/1998).

Section 49 The authority of the European Union regional and structural policy program inspector
Act on the financing of regional development and regional and structural policy projects of the European Union, 13.8.2021/757 In order to properly conduct the inspection referred to in Section 47 above, the administrative authority, the inspection authority and the authority referred to in Section 48 authorised by them and the auditor have the right

[411] 21 § Haltuun otetun omaisuuden käsittely Tullin haltuun 19 ja 20 §:n nojalla otetut esineet ja aineet on palautettava sille, jolta ne otettiin haltuun, viipymättä ja viimeistään 14 vuorokauden kuluessa.
Tavaroita ei kuitenkaan palauteta, jos:
1) esinettä tai ainetta ei voida vaaratta palauttaa sille, jolta se otettiin haltuun;
2) Tulli tai muu viranomainen on ryhtynyt pakkokeinolain 7 luvussa tarkoitettuun takavarikointitoimenpiteeseen;
3) muu viranomainen on ryhtynyt toimenpiteisiin esineen tai aineen hallussapitoa koskevan luvan peruuttamiseksi;
4) palauttamiselle on lain mukaan muu este.
Jollei esinettä tai ainetta voida vaaratta palauttaa sille, jolta se otettiin haltuun, se luovutetaan poliisille poliisilaissa tai ampuma-aselaissa (1/1998) säädettyjä toimenpiteitä varten.

to enter buildings, premises and places relevant to the use of the support. However, the inspection may not be performed in premises used for permanent housing.

The person performing the inspection has the right to inspect all information, reports, documents, information systems, recordings, other material and conditions necessary for the inspection. The inspector has the right to take possession of the material referred to above, if the proper conduct of the inspection requires it. The seized documents and other material must be returned without delay when the inspection no longer requires their possession. […]

gg. Special kinds of seizure

A special kind of seizure would be the **seizure** with the **use of force**. **101**

hh. The seizure of digital forensic evidence including bank account information

The seizure of digital forensic evidence including bank account information becomes increasingly important. The **recent changes** of the OLAF Regulation No 883/2013 (as amended **2020/2223**) codified that OLAF shall under the same conditions that apply to national competent authorities have access to bank account information. The relevant national law shall be displayed by the compendium on the following pages: **102**

- Banking Act
- Act on the Monitoring System of Bank and Payment Accounts

ii. Digital forensic operations within inspections or on-the-spot checks

Digital forensic operations within inspections or on-the-spot checks became increasingly important in the last decade already, Bulgaria, which has included a special paragraph in the State Investigations Office Act, Art. 31a (see → Bulgarian volume) makes a direct reference to Art. 7 of the applicable provision of Regulation 2185/96 and is therefore a role model regarding Digital forensic operations within inspections or on-the-spot checks of OLAF. **103**

The **Act on Support for Rural Development** (1443/2006) contains in s. 25 of the Act specifically that the beneficiary must maintain books for the supported measure in a way that allows clear identification and distinction from other financial activities. The bookkeeping must be integrated into the overall financial record-keeping of the beneficiary but organized in such a way that it's easy to track the use of funds related to the supported measure. Given the provisions in the law, these records will likely be maintained digitally, as most businesses today use digital bookkeeping systems to comply with regulations and ensure efficient tracking of financial transactions. **104**

105 Moreover, the law also grants authorities the right to access the beneficiary's premises and the related books and documents. This access can typically include digital records stored by the beneficiary, as modern bookkeeping often involves digital storage for ease of access, accuracy, and compliance with legal obligations.

106 Further Finish frameworks that allows digital forensic operations during inspections or on-the-spot checks primarily involves laws related to financial audits, data protection, and criminal investigations are the Accounting Act (1336/1997).

107 The Customs Act provides Finnish Customs with the authority to perform inspections, including on-the-spot checks, for issues like smuggling, tax fraud, and other customs violations. Digital forensics can be used during these inspections to analyze electronic records, devices, and data for evidence.

108 The Finish Data Protection Act and the GDPR lay down the rules under which digital forensics can be conducted, ensuring that privacy rights are respected even during inspections or on-the-spot checks.

109 Last but not least the **Act on Electronic Communications Services** (917/2014) might apply as this Act has the objective to foster the provision and use of electronic communications services and to ensure that everyone across Finland has access to communications networks and services at reasonable conditions, which typically involves access for investigators if crimes or irregularities are suspected (see → Chapter 18, s. 145a, 19, ss. 167 et seq. Obligation to store data for the purposes of the authorities in connection with the Coercive Measures Act (806/2011), which involves Traficom according to s. 172 and s. 173 excludes legal counsels, notaries and taxation matters.

2. Article 4 Internal investigations

1. Investigations within the institutions, bodies, offices and agencies in the areas referred to in Article 1 shall be conducted **in accordance with this Regulation and with the decisions adopted by the relevant institution, body, office or agency** ('internal investigations'). […]
8. Without prejudice to Article 12c(1), where, before a decision has been taken whether or not to open an internal investigation, the Office handles information which suggests that there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union, it may inform the institution, body, office or agency concerned. Upon request, the institution, body, office or agency concerned shall inform the Office of any action taken and of its findings on the basis of such information.
Where necessary, the Office shall also inform the **competent authorities of the Member State concerned**. In this case, the procedural requirements laid down in the second and third subparagraphs of Article 9(4) shall apply. If the **competent authorities** decide to **take any action on the basis of the information transmitted to them, in accordance with national law**, they shall, upon request, inform the Office thereof.

Internal investigations of OLAF can lead to repercussions at national level i.e. the level of the authorities that cooperate with OLAF and which e.g. employed the economic operator, managed his funds etc. or who are responsible for disciplinary actions for officials that work at Union level or as a national expert for OLAF (corruption cases). The relationship of national disciplinary, union disciplinary proceedings and national criminal proceedings is incredibly important.[412] **1**

The competent authorities have been enumerated above, see → Institutions. The wording "Where necessary, the Office shall also inform the competent authorities of the Member State concerned" means that the competent Finnish authorities in this case could be the Finnish Police, Customs, Tax Administration, or any other relevant authority with the responsibility to investigate financial crimes, fraud, or other relevant matters affecting EU funds. In Finland para 8 means that Finnish authorities (e.g., the Finnish police or tax authorities) must follow the national procedural rules, such as a fair administrative procedure when receiving the information from OLAF and, if they decide to take any actions based on the information received, they must also respect Finnish laws on criminal investigations, privacy, and due process. **2**

If e.g. OLAF identifies fraudulent activities involving EU-funded customs projects in Finland, OLAF notifies the Finnish Tax Administration and Finnish Customs. If these authorities decide to investigate the fraud (in line with Finnish law), they must inform OLAF of their actions, upon request, about how the case progresses. **3**

[412] See ECJ, Research note, Impact of ongoing criminal proceedings on the conduct of disciplinary proceedings, https://curia.europa.eu/jcms/upload/docs/application/pdf/2022-09/ndr_2020_001_neutralisee_en.pdf.

3. Article 5 Opening of investigation

1. The Director-General may open an investigation when there is a sufficient suspicion, which may also be based on information provided by any third party or anonymous information, that there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. The decision by the Director-General whether or not to open an investigation shall take into account the investigation policy priorities and the annual management plan of the Office established in accordance with Article 17(5). That decision shall also take into account the need for efficient use of the Office's resources and for proportionality of the means employed. With regard to internal investigations, specific account shall be taken of the institution, body, office or agency best placed to conduct them, based, in particular, on the nature of the facts, the actual or potential financial impact of the case, and the likelihood of any judicial follow-up.
2. The decision to open an external investigation shall be taken by the Director-General, acting on his own initiative or following a request from a Member State concerned or any institution, body, office or agency of the Union.
3. While the Director-General is considering whether or not to open an internal investigation following a request as referred to in paragraph 2, and/or while the Office is conducting an internal investigation, the institutions, bodies, offices or agencies concerned shall not open a parallel investigation into the same facts, unless agreed otherwise with the Office.
4. Within two months of receipt by the Office of a request as referred to in paragraph 2, a decision whether or not to open an investigation shall be taken. It shall be communicated without delay to the Member State, institution, body, office or agency which made the request. Reasons shall be given for a decision not to open an investigation. If, on the expiry of that period of two months, the Office has not taken any decision, the Office shall be deemed to have decided not to open an investigation.
Where an official, other servant, member of an institution or body, head of office or agency, or staff member, acting in accordance with Article 22a of the Staff Regulations, provides information to the Office relating to a suspected fraud or irregularity, the Office shall inform that person of the decision whether or not to open an investigation in relation to the facts in question.
5. If the Director-General decides not to open an investigation, he or she may without delay send any relevant information, as appropriate, to the **competent authorities of the Member State concerned** for appropriate **action to be taken in accordance with Union and national law** or to the institution, body, office or agency concerned for appropriate action to be taken in accordance with the rules applicable to that institution, body, office or agency. The Office shall agree with that institution, body, office or agency, if appropriate, on suitable measures to protect the confidentiality of the source of that information and shall, if necessary, ask to be informed of the action taken.

6. If the Director-General decides not to open an external investigation, he may without delay send any relevant information to the competent authorities of the Member State concerned for action to be taken where appropriate, in accordance with its national rules. Where necessary, the Office shall also inform the institution, body, office or agency concerned.

a) Competent authorities

- Food Agency **1**
- Customs Administration
- Tax Administration
- Budget Control
- Structural Funds Authorities

See above → Art. 3 OLAF Regulation "Competent authorities". **2**

b) National rules

Administrative law/Hallintolaki **3** **Chapter 6 Investigating the matter and hearing the party involved** **Section 31**[413] **et seq.** **Obligation to clarify** The authority must take care of sufficient and appropriate investigation of the case by obtaining the necessary information and reports to resolve the case. The interested party must present an explanation of the grounds for his claim. The party involved must also contribute to the investigation of the case he initiated.
Law on Proceedings in Administrative Matters **4** **Chapter 6 Case handling and investigation** **Section 35**[414] **Court process management** The administrative court must take care of conducting the trial.

[413] 6 luku
Asian selvittäminen ja asianosaisen kuuleminen
31 §
Selvittämisvelvollisuus
Viranomaisen on huolehdittava asian riittävästä ja asianmukaisesta selvittämisestä hankkimalla asian ratkaisemiseksi tarpeelliset tiedot sekä selvitykset.
Asianosaisen on esitettävä selvitystä vaatimuksensa perusteista. Asianosaisen on muutoinkin myötävaikutettava vireille panemansa asian selvittämiseen.

[414] 6 luku
Asian käsittely ja selvittäminen
35 §
Tuomioistuimen prosessinjohto
Hallintotuomioistuimen on huolehdittava oikeudenkäynnin johtamisesta.

Section 36[415] **Processing methods**
The matter is dealt with in the administrative court based on the written complaint, the appealed decision and other trial material.
An oral preparation, oral hearing, viewing or inspection can also be organised in the case.

Section 37[416] **Finding out**
The administrative court must ensure that the matter is resolved. If necessary, the administrative court must indicate to the party concerned or the authority that made the decision what additional explanation should be presented in the case.

The administrative court must obtain an investigation on its own initiative to the extent that the fairness, justice and quality of the case require it.

The interested party and the authority that made the decision must present an explanation of the justifications for their claims truthfully. They must contribute to the investigation of the case as required by its legal nature. The authority must take into account public and private interests equally in the proceedings.

5

Customs Act / Tullilaki
Chapter 3 Powers to carry out customs procedure
Section 7[417] **Purpose of use of powers**
The powers provided for in this chapter can only be used when their use is necessary to carry out a customs procedure, unless otherwise stipulated below.

[415] 36 §
Käsittelytavat
Asia käsitellään hallintotuomioistuimessa kirjallisesti valituksen, valituksen kohteena olevan päätöksen ja muun oikeudenkäyntiaineiston perusteella.
Asiassa voidaan järjestää myös suullinen valmistelu, suullinen käsittely, katselmus tai tarkastus.
[416] 37 §
Asian selvittäminen
Hallintotuomioistuimen on huolehdittava siitä, että asia tulee selvitetyksi. Hallintotuomioistuimen on tarvittaessa osoitettava asianosaiselle tai päätöksen tehneelle viranomaiselle, mitä lisäselvitystä asiassa tulee esittää.
Hallintotuomioistuimen on hankittava oma-aloitteisesti selvitystä siinä laajuudessa kuin käsittelyn tasapuolisuus, oikeudenmukaisuus ja asian laatu sitä vaativat.
Asianosaisen ja päätöksen tehneen viranomaisen on esitettävä selvitystä vaatimustensa perusteluista totuudenmukaisesti. Niiden on myötävaikutettava asian selvittämiseen sen oikeudellisen luonteen edellyttämällä tavalla. Viranomaisen on oikeudenkäynnissä otettava huomioon tasapuolisesti yleiset ja yksityiset edut.
[417] 3 luku
Toimivaltuudet tullitoimenpiteen suorittamiseksi
7 §
Toimivaltuuksien käyttötarkoitus
Tässä luvussa säädettyjä toimivaltuuksia voidaan käyttää vain, kun niiden käyttäminen on tarpeen tullitoimenpiteen suorittamiseksi, jollei jäljempänä toisin säädetä.

Act on Taxation Procedure/Laki verotusmenettelystä E.g. **Section 14**[418] **Tax audit** At the request of the Tax Administration, during the tax year or later, the taxpayer must present his accounting, records, as well as everything related to business activities or other income-generating activities, as well as other materials and assets that may be necessary for his taxation or when handling appeals regarding his taxation, for inspection in Finland. (11.6.2010/520) The tax payer must be notified in advance of the start date and location of the tax audit, unless there is a special reason for another procedure. (9/9/2016/772) A tax audit report must be drawn up on the performed tax audit, unless there are special reasons. A representative of another authority can assist as an expert in the tax audit. (13.11.2020/782) The procedure to be followed in the tax audit, as well as the material and assets to be presented, are regulated in more detail by a government decree. (9/9/2016/772)	**6**
See for further provisions: Act on business income taxation/Laki elinkeinotulon verottamisesta Value Added Tax Act/Arvonlisäverolaki Excise Tax Act/Valmisteverotuslaki The Act on Public Procurement and License Agreements/Laki julkisista hankinnoista ja käyttöoikeussopimuksista Law on Customs Administration 21/12/2012/960/ Laki Tullin hallinnosta	**7**

[Article 6 Access to information in databases prior to the opening of an investigation – omitted]

[418] 14 §
Verotarkastus
Verovelvollisen on Verohallinnon kehotuksesta verovuoden aikana tai myöhemmin esitettävä Suomessa tarkastettavaksi kirjanpitonsa, muistiinpanonsa samoin kuin kaikki se elinkeinotoimintaan tai muuhun tulonhankkimistoimintaan liittyvä sekä muu aineisto ja omaisuus, joka saattaa olla tarpeen hänen verotuksessaan tai hänen verotustaan koskevaa muutoksenhakua käsiteltäessä. (11.6.2010/520)
Verotarkastuksen aloittamisajankohdasta ja tarkastuspaikasta on ilmoitettava verovelvolliselle etukäteen, jollei erityisestä syystä ole aihetta muuhun menettelyyn. (9.9.2016/772)
Suoritetusta verotarkastuksesta on laadittava verotarkastuskertomus, jollei erityisistä syistä muuta johdu.
Toisen viranomaisen edustaja voi avustaa asiantuntijana verotarkastuksessa. (13.11.2020/782)
Verotarkastuksessa noudatettavasta menettelystä sekä esitettävästä aineistosta ja omaisuudesta säädetään tarkemmin valtioneuvoston asetuksella. (9.9.2016/772)

4. Article 7 Investigations procedure

1. The Director-General shall direct the conduct of investigations on the basis, where appropriate, of written instructions. Investigations shall be conducted under his or her direction by the staff of the Office designated by him or her. The Director-General shall not personally carry out concrete investigative acts.
2. The staff of the Office shall carry out their tasks on production of a written authorisation showing their identity and their capacity. The Director-General shall issue such authorisation indicating the subject matter and the purpose of the investigation, the legal bases for conducting the investigation and the investigative powers stemming from those bases.
3. The competent authorities of Member States shall give the necessary assistance to enable the staff of the Office to fulfil their tasks in accordance with this Regulation effectively and without undue delay. When providing such assistance, the competent authorities of Member States shall **act in accordance with any national procedural rules applicable to them**.
3a. At the request of the Office, which shall be explained in writing, in relation to matters under investigation, the relevant competent authorities of the Member States shall**, under the same conditions as those that apply to the national competent authorities**, provide the Office with the following:
(a) information available in the centralised automated mechanisms referred to in Article 32a(3) of Directive (EU) 2015/849 of the European Parliament and of the Council (4);
(b) where strictly necessary for the purposes of the investigation, the record of transactions.
The request of the Office shall include a justification of the appropriateness and proportionality of the measure with regard to the nature and gravity of the matters under investigation. Such request shall refer only to information referred to in points (a) and (b) of the first subparagraph.
Member States shall notify to the Commission the relevant competent authorities for the purposes of points (a) and (b) of the first subparagraph.
4. Where an investigation combines external and internal elements, Articles 3 and 4 shall apply respectively.
5. Investigations shall be conducted continuously over a period which must be proportionate to the circumstances and complexity of the case.
6. Where investigations show that it might be appropriate to take precautionary administrative measures to protect the financial interests of the Union, the Office shall without delay inform the institution, body, office or agency concerned of the investigation in progress. The information supplied shall include the following:

(a) the identity of the official, other servant, member of an institution or body, head of office or agency, or staff member concerned and a summary of the facts in question;
(b) any information that could assist the institution, body, office or agency concerned in deciding on the appropriate precautionary administrative measures to be taken in order to protect the financial interests of the Union;
(c) any special measures of confidentiality recommended, in particular in cases entailing the use of investigative measures falling within the competence of a national judicial authority or, in the case of an external investigation, within the competence of a national authority, **in accordance with the national rules applicable to investigations**.
The institution, body, office or agency concerned may at any time consult the Office with a view to taking, in close cooperation with the Office, any appropriate precautionary measures, including measures for the safeguarding of evidence. The institution, body, office or agency concerned shall inform the Office without delay about any precautionary measures taken.
7. Where necessary, it shall be for the competent authorities of the Member States, at the Office's request, to take the **appropriate precautionary measures under their national law**, in particular measures for the safeguarding of evidence.
8. If an investigation cannot be closed within 12 months after it has been opened, the Director-General shall, at the expiry of that 12-month period and every six months thereafter, report to the Supervisory Committee, indicating the reasons and, where appropriate, the remedial measures envisaged with a view to speeding up the investigation.

The Director-General oversees investigations but does not conduct acts personally but more generally speaking organizes the structure of operations on the higest level. OLAF staff must have written authorisation detailing legal grounds and scope. Finish auhtorities must assist OLAF and provide data (e.g., financial records and transaction histories) under national rules. **1**

If financial risks arise, OLAF must inform EU bodies to take preventive actions. All investigations initiated must be proportionate, with progress reports if exceeding 12 months. Thus, the actions must respect national laws and procedural safeguards, ensuring proportionality and confidentiality where required. **2**

This will ensure structured and legal investigations as they require strict procedural adherence. OLAF needs justified requests as coordination with Finish authorities is essential as well as coordination with EU authorities to protect EU finances. **3**

The following table displays the most frequently cited provisions that relate to the referrals of the Union law text: **4**

a) References to national law

1 *Sources & national sections 1*

Para 3	**Administrative Act** **Chapter 6 Investigating the matter and hearing the party involved** **Section 31 et seq.** e.g.: **Section 34**[419] **Hearing of the party concerned** Before the case is settled, the interested party must be given an opportunity to state his opinion on the matter and to give his explanation of such requirements and explanations that may affect the settlement of the case. The case may be resolved without hearing the parties involved, if: 1) the claim is left unexamined or rejected immediately as unfounded; 2) the matter concerns admission to employment or voluntary training; 3) the matter concerns the granting of an advantage based on an assessment of the applicant's characteristics; 4) the hearing may jeopardize the realization of the purpose of the decision or the delay in handling the matter caused by the hearing causes considerable harm to people's health, public safety or the environment; or 5) a claim is accepted that does not concern the other party involved, or the hearing is otherwise obviously unnecessary. **Section 38 Review** See above → Investigative powers in the area of direct expenditure **Section 39 Inspection** See above → Investigative powers in the area of direct expenditure **Section 40 Oral evidence** See above → Investigative powers in the area of direct expenditure **Law on Proceedings in Administrative Matters** **Chapter 6 Case handling and investigation** **Section 35 et seq.**

[419] 34 § Asianosaisen kuuleminen Asianosaiselle on ennen asian ratkaisemista varattava tilaisuus lausua mielipiteensä asiasta sekä antaa selityksensä sellaisista vaatimuksista ja selvityksistä, jotka saattavat vaikuttaa asian ratkaisuun.
Asian saa ratkaista asianosaista kuulematta, jos:
1) vaatimus jätetään tutkimatta tai hylätään heti perusteettomana;
2) asia koskee palvelussuhteeseen tai vapaaehtoiseen koulutukseen ottamista;
3) asia koskee hakijan ominaisuuksien arviointiin perustuvan edun myöntämistä;
4) kuuleminen saattaa vaarantaa päätöksen tarkoituksen toteutumisen tai kuulemisesta aiheutuva asian käsittelyn viivästyminen aiheuttaa huomattavaa haittaa ihmisten terveydelle, yleiselle turvallisuudelle taikka ympäristölle; tai
5) hyväksytään vaatimus, joka ei koske toista asianosaista tai kuuleminen on muusta syystä ilmeisen tarpeetonta.

Para 3a (a) (b)	**Act on the financing of regional development and regional and structural policy projects of the European Union** **Section 55**[420] **The right of the administrative authority and the inspection authority to receive the personal data of the person participating in the European Social Fund project and the Just Transition Fund project** The administrative authority has the right to receive the personal data referred to in section 56, subsection 1 of the person participating in the European Social Fund project and the just transition fund project, for the monitoring of the regional and structural policy program of the European Union prescribed for it in articles 42 and 72 of the general regulation and in article 17 of the ESF regulation and article 12 of the JTF regulation, and to perform assessment tasks. The inspection authority has the right to inspect the data of the information system referred to in section 50, subsection 3, in order to perform its statutory tasks referred to in section 47, subsection 2. **Section 56**[421] Saving and preserving the personal data of the person participating in the European Social Fund project and the Just Transition Fund project

[420] 55 § Hallintoviranomaisen ja tarkastusviranomaisen oikeus saada Euroopan sosiaalirahaston hankkeeseen ja oikeudenmukaisen siirtymän rahaston hankkeeseen osallistuvan henkilön henkilötiedot
Hallintoviranomaisella on oikeus saada Euroopan sosiaalirahaston hankkeeseen ja oikeudenmukaisen siirtymän rahaston hankkeeseen osallistuvan henkilön 56 §:n 1 momentissa tarkoitetut henkilötiedot yleisasetuksen 42 ja 72 artiklassa sekä ESR-asetuksen 17 artiklassa ja JTF-asetuksen 12 artiklassa sille säädettyjen Euroopan unionin alue- ja rakennepolitiikan ohjelman seurantaa ja arviointia koskevien tehtävien hoitamiseksi.
Tarkastusviranomaisella on oikeus tarkastaa 50 §:n 3 momentissa tarkoitetun tietojärjestelmän tietoja 47 §:n 2 momentissa tarkoitettujen lakisääteisten tehtäviensä hoitamiseksi.

[421] 56 § Euroopan sosiaalirahaston hankkeeseen ja oikeudenmukaisen siirtymän rahaston hankkeeseen osallistuvan henkilön henkilötietojen tallentaminen ja säilyttäminen
Edellä 50 §:ssä tarkoitettuun tietojärjestelmään tallennetaan sen hankkeen hankekoodi, johon henkilö osallistuu, ja seuraavat Euroopan sosiaalirahaston hankkeeseen ja oikeudenmukaisen siirtymän rahaston hankkeeseen osallistuvan rekisteröitävän henkilötiedot:
1) henkilötunnus;
2) ikä;
3) sukupuoli;
4) nimet;
5) yhteystiedot;
6) tieto turvakiellosta;
7) koulutustasosta korkein suoritettu tutkinto;
8) hankkeessa suoritettu tutkinto tai muu ammattipätevyys;
9) tieto siitä, onko henkilö työtön, pitkäaikaistyötön vai työssä, työllistyykö hän yrittäjänä tai ammatinharjoittajana, onko hän koulutuksessa, onko hän ryhtynyt työnhakuun vai onko hän työelämän ulkopuolella;
10) päivämäärät, joina henkilö on aloittanut ja lopettanut hankkeessa.
Hankkeeseen osallistuvan rekisteröitävän henkilön henkilöllisyys on todennettava.
Rekisterinpitäjän on poistettava tässä pykälässä tarkoitetut tiedot viimeistään viiden vuoden kuluttua Euroopan unionin alue- ja rakennepolitiikan ohjelman sulkemisesta. Henkilötietoja ei kuitenkaan saa poistaa, jos tiedon säilyttäminen on välttämätöntä yleisasetukseen tai sitä täydentävään kansalliseen lakiin perustuvan tehtävän hoitamiseksi tai Euroopan unionin toimielimen suorittaman tai muun lakisääteisen tarkastuksen suorittamiseksi taikka vireillä on oikeudellinen menettely tai hankkeessa epäillään petosta.

In the information system referred to in Section 50 above, the project code of the project in which the person participates is stored, and the following personal data of the registrant participating in the European Social Fund project and the Just Transition Fund project:
1) personal identification number;
2) age;
3) gender;
4) names;
5) contact information;
6) information about the security ban;
7) the highest completed degree from the educational level;
8) degree or other professional qualification completed in the project;
9) information on whether the person is unemployed, long-term unemployed or employed, whether he is employed as an entrepreneur or professional, whether he is in training, whether he has started looking for a job or whether he is out of working life;
10) the dates on which the person started and finished the project.
The identity of the registrable person participating in the project must be verified.
The controller must delete the information referred to in this section no later than five years after the closure of the European Union's regional and structural policy program. Personal data may not be deleted, however, if the retention of the data is necessary to carry out a task based on the general regulation or the national law supplementing it, or to carry out an inspection by an institution of the European Union or another statutory inspection, or there is a pending legal procedure or there is a suspicion of fraud in the project.

Section 57[422] Obligations of the beneficiary and the right to process personal data in the European Social Fund project and the Just Transition Fund project
The grant recipient may process the personal data of the participating person stored in the information system referred to in Section 50, if it is necessary

[422] 57 § Tuen saajan velvollisuudet ja oikeus käsitellä henkilötietoja Euroopan sosiaalirahaston hankkeessa ja oikeudenmukaisen siirtymän rahaston hankkeessa
Tuen saaja saa käsitellä 50 §:ssä tarkoitettuun tietojärjestelmään tallennettuja osallistuvan henkilön henkilötietoja, jos se on tarpeen hankkeen toteuttamiseksi tukipäätöksen ehtojen mukaisesti.
Tuen saajan on huolehdittava siitä, että Euroopan sosiaalirahaston hankkeeseen ja oikeudenmukaisen siirtymän rahaston hankkeeseen osallistuvat henkilöt ilmoittavat 56 §:n 1 momentissa tarkoitetut henkilötietonsa 50 §:ssä tarkoitettuun tietojärjestelmään. Tuen saajan on myös hankkeeseen osallistuvan henkilön pyynnöstä avustettava tätä 56 §:n 1 momentissa tarkoitettujen henkilötietojen tallentamisessa. Tuen saaja ei saa ilmaista hankkeeseen osallistuvien henkilöiden henkilötietoja sivulliselle.

	for the implementation of the project in accordance with the terms of the grant decision. The beneficiary must ensure that the persons participating in the European Social Fund project and the Just Transition Fund project report their personal data referred to in section 56 subsection 1 to the information system referred to in section 50. The beneficiary must also, at the request of the person participating in the project, assist him in recording the personal data referred to in subsection 1 of section 56. The recipient of the support may not disclose the personal information of the persons participating in the project to outsiders. **Law on Proceedings in Administrative Matters** **Section 50**[423] **Right of access to information by the Administrative Court** The administrative court has the right, upon request, to receive from the authority free of charge all information and documents necessary to resolve the case, without being hindered by confidentiality regulations. The court can order the authority to present the necessary explanation. The order can be enforced by the threat of a fine.
Para 6 (c)	**Customs Law** **Section 8**[424] **Inspection of goods and documents** Customs has the right to inspect the goods, their manufacturing and storage as well as accounting materials and other business documents and to take samples of the goods Customs has the right to open a letter, package or other similar shipment only if opening is necessary to determine whether the shipment contains

[423] 50 § Hallintotuomioistuimen tiedonsaantioikeus Hallintotuomioistuimella on oikeus pyynnöstä saada maksutta viranomaiselta salassapitosäännösten estämättä kaikki asian ratkaisemiseksi välttämättömät tiedot ja asiakirjat. Tuomioistuin voi määrätä viranomaisen esittämään tarpeellisen selvityksen. Määräyksen tehosteeksi voidaan asettaa sakon uhka.

[424] 8 § Tavaran ja asiakirjojen tarkastaminen Tullilla on oikeus tarkastaa tavaraa, sen valmistusta ja varastointia sekä kirjanpitoaineistoa ja muita liikeasiakirjoja sekä ottaa tavarasta näytteitä.
Tullilla on oikeus avata kirje, paketti tai muu vastaava lähetys ainoastaan, jos avaaminen on välttämätöntä sen toteamiseksi, sisältääkö lähetys tulliselvitettävää tai tullivalvottavaa tavaraa. Lähetykseen sisältyvän luottamuksellisen viestin salaisuutta ei saa loukata.
Kirjeen, paketin tai muun vastaavan lähetyksen sisältöä ei saa tarkastaa laajemmin kuin on tarpeen avaamisen syyn vuoksi. Lähetyksen avaamisesta kerrotaan siihen tehtävillä merkinnöillä.
Tullimiehellä on oikeus päästä varastoihin sekä muihin tiloihin ja paikkoihin, ei kuitenkaan pysyväisluonteiseen asumiseen käytettäviin tiloihin, missä tavaraa valmistetaan, säilytetään, myydään tai muutoin käsitellään tai missä säilytetään kirjanpitoaineistoa ja muita liikeasiakirjoja, 1 momentissa tarkoitetun tarkastuksen suorittamiseksi tai näytteen ottamiseksi.
Kun tarkastus suoritetaan 4 momentissa tarkoitetuissa varastoissa, muissa tiloissa tai paikoissa on noudatettava, mitä hallintolain (434/2003) 39 §:ssä säädetään.
Tulli antaa tarkemmat määräykset avattuun lähetykseen tehtävistä merkinnöistä.

	goods subject to customs clearance or customs supervision. The confidentiality of the confidential message contained in the transmission must not be violated. The content of a letter, package or other similar shipment may not be inspected more extensively than is necessary for the reason for opening it. The opening of the consignment is indicated by the markings made on it. The customs officer has the right to enter warehouses and other premises and places, but not premises used for permanent residence, where goods are manufactured, stored, sold or otherwise processed or where accounting materials and other business documents are stored, in order to carry out the inspection referred to in subsection 1 or to take a sample. When the inspection is carried out in the warehouses referred to in subsection 4, in other premises or places, the provisions in Section 39 of the Administrative Act (434/2003) must be followed. Customs issues more detailed regulations on the markings to be made on an opened shipment.
Para 7	**Act on the Market Organisation of Agricultural Products** **Chapter 12** **Administrative coercive measures and penal provisions** **Section 85 et seq.** **Customs Law** **Chapter 3 Powers to carry out customs procedure** **e.g. Section 20[425] Taking possession of objects and substances that endanger public order and safety** In addition to what is stipulated in this or other law, the customs officer, in connection with his duties based on the law, has the right to temporarily take possession of firearms, explosives, dangerous objects referred to in Section 9 of the Public Order Act (612/2003) and objects and substances suitable for harming others referred to in Section 10 of the said Act., who can be reasonably suspected of posing an immediate danger to public order and safety based on his age, intoxication, state of mind or other circumstances.

[425] 20 § Yleistä järjestystä ja turvallisuutta vaarantavien esineiden ja aineiden haltuunotto
Tässä tai muussa laissa säädetyn lisäksi tullimiehellä on lakiin perustuvan tehtävänsä yhteydessä oikeus ottaa tilapäisesti haltuun ampuma-aseet, räjähdysaineet, järjestyslain (612/2003) 9 §:ssä tarkoitetut vaaralliset esineet ja mainitun lain 10 §:ssä tarkoitetut toisen vahingoittamiseen soveltuvat esineet ja aineet siltä, jonka voidaan perustellusti epäillä ikänsä, päihtymyksensä, mielentilansa tai muiden olosuhteiden perusteella aiheuttavan välitöntä vaaraa yleiselle järjestykselle ja turvallisuudelle.
Koko esineen sijasta saadaan ottaa haltuun sellainen esineeseen kuuluva tai siihen liittyvä osa, jonka poistamisella vaaran aiheuttaminen voidaan estää.

Instead of the entire object, a part belonging to or related to the object can be taken over, the removal of which can prevent the creation of a hazard.

Chapter 4 Use of force

Section 22[426] **Use of force**

A customs officer working in customs crime prevention or customs control duties has the right to use such necessary means of force, which can be considered defensible, when performing his duties:

1) to break the resistance;
2) to remove the person from the place;
3) to apprehend a person;
4) to prevent the escape of the person who has lost his liberty;
5) to remove the obstacle;
6) to prevent an immediately threatening crime or other dangerous act or event.

When evaluating the defensibleness of the means of force, the importance and urgency of the official task, the danger of resistance, the available resources and other factors affecting the overall assessment of the situation must be taken into account. The means of force must be used only to the extent and until it is necessarily necessary for the performance of official duties stipulated by law.

A customs officer working in customs crime prevention or customs control duties also has the right to emergency protection in the performance of his

[426] 22 § Voimakeinojen käyttö Tullirikostorjunta- tai tullivalvontatehtävissä työskentelevällä tullimiehellä on virkatehtävää suorittaessaan oikeus käyttää sellaisia tarpeellisia voimakeinoja, joita voidaan pitää puolustettavina:
1) vastarinnan murtamiseksi;
2) henkilön paikalta poistamiseksi;
3) henkilön kiinniottamiseksi;
4) vapautensa menettäneen pakenemisen estämiseksi;
5) esteen poistamiseksi;
6) välittömästi uhkaavan rikoksen tai muun vaarallisen teon tai tapahtuman estämiseksi.
Voimakeinojen puolustettavuutta arvioitaessa on otettava huomioon virkatehtävän tärkeys ja kiireellisyys, vastarinnan vaarallisuus, käytettävissä olevat voimavarat sekä muut tilanteen kokonaisarvosteluun vaikuttavat seikat. Voimakeinoja on käytettävä vain siinä määrin ja siihen saakka kuin se on välttämättä tarpeen laissa säädetyn virkatehtävän suorittamiseksi.
Tullirikostorjunta- tai tullivalvontatehtävissä työskentelevällä tullimiehellä on virantoimituksessa lisäksi oikeus hätävarjeluun siten kuin rikoslain 4 luvun 4 §:ssä säädetään. Tällaisessa hätävarjelussa tullimies toimii virkavastuulla. Arvioitaessa hätävarjelun puolustettavuutta on otettava huomioon tullimiehelle koulutuksensa ja kokemuksensa perusteella asetettavat vaatimukset.
Sillä, joka tullirikostorjunta- tai tullivalvontatehtävissä työskentelevän tullimiehen pyynnöstä tai hänen suostumuksellaan tilapäisesti avustaa tullimiestä tilanteessa, jossa on välttämätöntä turvautua sivullisen apuun voimakeinojen käytössä erittäin tärkeän ja kiireellisen tullirikostorjunnan tai tullivalvonnan virkatehtävän suorittamisessa, on oikeus tullimiehen ohjauksessa sellaisten välttämättömien voimakeinojen käyttämiseen, joihin tullimies toimivaltansa nojalla hänet valtuuttaa.
Voimakeinojen käytön liioittelusta säädetään rikoslain 4 luvun 6 §:n 3 momentissa ja 7 §:ssä sekä hätävarjelun liioittelusta rikoslain 4 luvun 4 §:n 2 momentissa ja 7 §:ssä.

	duties as stipulated in Chapter 4 Section 4 of the Criminal Code. In this kind of emergency protection, the customs officer acts with official responsibility. When assessing the defensible nature of emergency detention, the requirements set for the customs officer based on his training and experience must be taken into account. Anyone who, at the request of or with the consent of a customs officer working in customs crime prevention or customs control duties, temporarily assists a customs officer in a situation where it is necessary to rely on the help of an outsider in the use of force in the performance of a very important and urgent duty of customs crime prevention or customs control, has the right, under the guidance of the customs officer, to use such necessary means of force to which the customs officer by virtue of his authority authorise. Excessive use of force is regulated in Chapter 4, Section 6, subsection 3 and Section 7 of the Criminal Code, and excessive use of emergency protection is regulated in Chapter 4, Section 4, Section 2 and Section 7 of the Criminal Code.

Source: The authors.

b) References to national authorities

2
- Food Agency
- Customs Administration
- Tax Administration

3 For further authorities, see above → Institutions and Art. 3 OLAF Regulation.

5. Article 8 Duty to inform the Office

[…] 2. The institutions, bodies, offices and agencies and, unless **prevented by national law**, the **competent authorities of the Member States** shall, at the request of the Office or on their own initiative, transmit without delay to the Office any document or information they hold which relates to an ongoing investigation by the Office. […]
3. The institutions, bodies, offices and agencies and, unless **prevented by national law**, the **competent authorities of Member States** shall transmit without delay to the Office, at the request of the Office or on their own initiative, any other information, documents or data considered pertinent which they hold, relating to the fight against fraud, corruption and any other illegal activity affecting the financial interests of the Union.

A **report obligation** can at least be determined from the principle of sincere cooperation with Union bodies, cf. Art. 4 para 3 TEU. This principle applies in all areas of potential irregularities and frauds (for the typology of EU frauds see → the EU Fraud Commentary and see above → Art. 26 EPPO Regulation, where the material scope of the EPPO is determined). **1**

Additionally, Art. 12a in combination with Art. 8 para 2 and 3 OLAF Regulation 883/2013 obliges the AFCOS of the present Member State **to report to OLAF any of the requested material**. **2**

The obligations exist throughout the **different areas of irregularities** (tax revenue related, customs revenue related; tax expenditure related i.e. structural funds area, direct grants etc.) and are therefore enshrined in different national laws. The competent authorities of the Member States are either the same that can conduct external investigations (in cases of resistance, *Sigma Orionis*[427]) or those that must be informed by the Director General if he/she decides not open a case according to Art. 5 para 5 OLAF Regulation No 883/2013 as amended 2020/2223. **3**

In the area of customs irregularities and customs fraud the Customs Crime Prevention Act applies: **4**

[427] See Art 3 OLAF Regulation above in this Chapter.

5 **Chapter 4 Obligation to remain silent and right to remain silent**
Section 1[428] **Obligation of confidentiality**
An official who is a member of the customs staff may not reveal information about the identity of the person who confidentially provided information or acted as a fake buyer or undercover person, if revealing the information would endanger the safety of the person who provided information in confidence or who acted as a fake buyer or undercover person or his relatives. The obligation of non-disclosure is also valid if the disclosure of identity information would endanger ongoing or future data acquisition.
The same obligation of confidentiality applies to those who, on the basis of an assignment agreement or in an employment relationship with Customs, have become aware of information kept confidential by Customs. The obligation to remain silent is also valid after the end of the assignment agreement or service relationship at the Customs.
In addition, the duty of confidentiality is regulated by the Act on the Openness of Government Activities. (29.4.2016/310)

Section 2[429] **Providing information without the obligation of confidentiality**
The obligation of non-disclosure of a customs official or other person referred to in section 1, subsection 2 does not prevent the provision of information to an authority or an entity performing a public function, which, due to its mandated function, needs to obtain information about a matter that would otherwise be kept secret.
The duty of confidentiality laid down in section 1 subsection 2 above does not prevent the disclosure of such information, the disclosure of which there is a compelling reason in an individual case to prevent an event dangerous to life or health, a crime against freedom or significant damage to the environment, property or wealth, or to ensure the security of the state.

[428] 1 § Vaitiolovelvollisuus Tullin henkilöstöön kuuluva virkamies ei saa ilmaista luottamuksellisesti tietoja antaneen taikka valeostajana tai peitehenkilönä toimineen henkilöllisyyttä koskevaa tietoa, jos tiedon ilmaiseminen vaarantaisi luottamuksellisesti tietoja antaneen tai valeostajana tai peitehenkilönä toimineen tai hänen läheistensä turvallisuuden. Vaitiolovelvollisuus on voimassa myös, jos henkilöllisyyttä koskevan tiedon ilmaiseminen vaarantaisi käynnissä jo olevan tai tulevan tiedonhankinnan.
Sama vaitiolovelvollisuus on sillä, joka on toimeksiantosopimuksen perusteella tai työsopimussuhteessa Tulliin saanut tietoonsa Tullin salassa pidettävää tietoa. Vaitiolovelvollisuus on voimassa myös toimeksiantosopimuksen tai palvelussuhteen Tullissa päätyttyä.
Lisäksi vaitiolovelvollisuudesta säädetään viranomaisten toiminnan julkisuudesta annetussa laissa. (29.4.2016/310)
[429] 2 § Tietojen antaminen vaitiolovelvollisuuden estämättä Tullin henkilöstöön kuuluvan virkamiehen tai muun 1 §:n 2 momentissa tarkoitetun henkilön vaitiolovelvollisuus ei estä tiedon antamista viranomaiselle tai julkista tehtävää hoitavalle yhteisölle, jolla säädetyn tehtävänsä vuoksi on tarve saada tieto muuten salassa pidettävästä seikasta.
Edellä 1 §:n 2 momentissa säädetty vaitiolovelvollisuus ei estä ilmaisemasta sellaisia tietoja, joiden ilmaisemiseen on yksittäistapauksessa painava syy hengelle tai terveydelle vaarallisen tapahtuman, vapauteen kohdistuvan rikoksen tai huomattavan ympäristö-, omaisuus- tai varallisuusvahingon estämiseksi taikka valtion turvallisuuden varmistamiseksi.

Section 3[430] **The right to remain silent**
A member of the Customs staff is not obliged to reveal information about the identity of the person who confidentially provided the information during his employment, nor any tactical or technical methods that are kept secret.
The obligation to keep the information and methods referred to in subsection 1 secret in certain cases is regulated in section 1 subsection 1 of this chapter and in section 24 subsection 1 section 5 of the Act on the Publicity of Official Activities.

Section 4[431] **Obligation to disclose in court proceedings**
The court may order the disclosure of the information referred to in section 1, subsection 1 or section 3, subsection 1, if failure to disclose could violate the right of the party to properly defend himself or otherwise properly enforce his right in the trial. In addition, a condition for the order is that the prosecutor prosecutes a crime for which the severest punishment is at least six years in prison, or for attempting or participating in such a crime. Even then, the identity of a person who has provided information in confidence, or who has acted as a fake buyer or in an undercover activity, may not be ordered to be revealed if it would obviously cause a serious danger to his safety or that of his loved ones.

[430] 3 § Vaitiolo-oikeus Tullin henkilöstöön kuuluva ei ole velvollinen ilmaisemaan hänelle hänen palvelussuhteensa aikana luottamuksellisesti tietoja antaneen henkilöllisyyttä koskevaa tietoa eikä salassa pidettäviä taktisia tai teknisiä menetelmiä.
Velvollisuudesta pitää 1 momentissa tarkoitetut tiedot ja menetelmät salassa tietyissä tapauksissa säädetään tämän luvun 1 §:n 1 momentissa ja viranomaisten toiminnan julkisuudesta annetun lain 24 §:n 1 momentin 5 kohdassa.
[431] 4 § Ilmaisuvelvollisuus oikeudenkäynnissä Tuomioistuin voi määrätä ilmaistavaksi 1 §:n 1 momentissa tai 3 §:n 1 momentissa tarkoitetun tiedon, jos ilmoittamatta jättäminen voisi loukata asianosaisen oikeutta puolustautua asianmukaisesti tai muuten asianmukaisesti valvoa oikeuttaan oikeudenkäynnissä. Edellytyksenä määräämiselle on lisäksi, että syyttäjä ajaa syytettä rikoksesta, josta säädetty ankarin rangaistus on vähintään kuusi vuotta vankeutta, taikka sellaisen rikoksen yrityksestä tai osallisuudesta siihen. Luottamuksellisesti tietoja antaneen henkilön taikka valeostajana tai peitetoiminnassa toimineen henkilöllisyyttä ei tällöinkään saa määrätä ilmaistavaksi, jos siitä ilmeisesti aiheutuisi vakavaa vaaraa hänen tai hänen läheistensä turvallisuudelle.

Section 5[432] **Disclosure obligation when investigating a crime**

A member of the customs staff, regardless of his duty or right to remain silent, is obliged to disclose the information referred to in section 1, subsection 1 or section 3, subsection 1, the disclosure of which is necessary to assess the conditions for the initiation of a preliminary investigation, when the person who provided the information in confidence is in that capacity or a fake buyer or cover person is involved justified reason to assume that a crime has been committed in the task.

A member of the customs staff is obliged to disclose the information referred to in subsection 1 also to obtain an explanation in a case where a preliminary investigation has been initiated, if there is reasonable reason to suspect that the person who confidentially provided information in that capacity or a fake buyer or an undercover person in that capacity has committed a crime.

If a member of the Customs staff refuses to disclose the information referred to in subsections 1 or 2, the court may, at the request of the official entitled to arrest, order that the information must be given to the requestor, if there is no legal basis for the refusal. The court can also, at the request of the interested party, order that a member of the Customs staff must provide information confidentially about the identity of the person who provided the information to the Customs, if the disclosure is necessary in order to protect the right to prosecute the interested party referred to in Chapter 1 Section 14 of the Act on Trial in Criminal Matters. When dealing with the matter referred to in this subsection, the provisions of chapter 7, section 9 of the Pretrial Investigations Act on the questioning of witnesses in court are followed.

[432] 5 § Ilmaisuvelvollisuus rikosta selvitettäessä Tullin henkilöstöön kuuluva on vaitiolovelvollisuudestaan tai -oikeudestaan huolimatta velvollinen ilmaisemaan 1 §:n 1 momentissa tai 3 §:n 1 momentissa tarkoitetun sellaisen tiedon, jonka ilmaiseminen on välttämätöntä esitutkinnan aloittamisen edellytysten arvioimiseksi, kun luottamuksellisesti tietoja antaneen on siinä ominaisuudessa taikka valeostajan tai peitehenkilön on siinä tehtävässä perusteltua syytä olettaa syyllistyneen rikokseen.

Tullin henkilöstöön kuuluva on velvollinen ilmaisemaan 1 momentissa tarkoitetun tiedon myös selvityksen saamiseksi asiassa, jossa esitutkinta on aloitettu, jos on perusteltua syytä epäillä, että luottamuksellisesti tietoja antanut siinä ominaisuudessa taikka valeostaja tai peitehenkilö siinä tehtävässä on syyllistynyt rikokseen.

Jos Tullin henkilöstöön kuuluva kieltäytyy ilmaisemasta 1 tai 2 momentissa tarkoitettua tietoa, tuomioistuin voi pidättämiseen oikeutetun virkamiehen vaatimuksesta määrätä, että tieto on annettava vaatimuksen esittäjälle, jos kieltäytymiselle ei ole laillista perustetta. Tuomioistuin voi samoin asianomistajan vaatimuksesta määrätä, että Tullin henkilöstöön kuuluvan on annettava tieto luottamuksellisesti tietoja Tullille antaneen henkilöllisyydestä, jos ilmaiseminen on välttämätöntä oikeudenkäynnistä rikosasioissa annetun lain 1 luvun 14 §:ssä tarkoitetun asianomistajan syyteoikeuden turvaamiseksi. Tässä momentissa tarkoitettua asiaa käsiteltäessä noudatetaan esitutkintalain 7 luvun 9 §:n säännöksiä todistajankuulustelusta tuomioistuimessa.

Harkitessaan 3 momentissa tarkoitetun määräyksen antamista tuomioistuimen on kiinnitettävä huomiota siihen, voiko ilmaisuvelvollisuus aiheuttaa vaaraa valtion turvallisuudelle tai jonkun hengelle tai terveydelle taikka vaarantaa käynnissä olevan tiedonhankinnan, ja miten perusteltua ilmoittaminen toisaalta on ottaen huomioon rikosepäilyn laatu ja asianomistajan oikeus asianmukaisesti valvoa oikeuttaan oikeudenkäynnissä.

Jos 3 momentissa tarkoitettu asia koskee valeostoa, peitetoimintaa tai tietolähteen ohjattua käyttöä, asia käsitellään Helsingin käräjäoikeudessa. Muu ilmaisuvelvollisuutta koskeva asia käsitellään siinä käräjäoikeudessa, jossa se käy sopivasti päinsä. Tiedon ilmaisemista koskevan pyynnön esittäjän ja ilmaisemisesta kieltäytyneen henkilön on oltava läsnä asiaa käsiteltäessä. Asiaa käsiteltäessä käräjäoikeus on päätösvaltainen myös, kun siinä on yksin puheenjohtaja.

When considering issuing the order referred to in subsection 3, the court must pay attention to whether the obligation to disclose may cause a danger to the security of the state or someone's life or health, or endanger the ongoing acquisition of information, and how justified the notification is, on the one hand, taking into account the nature of the criminal suspicion and the right of the person concerned to properly exercise his right in the trial.
If the matter referred to in subsection 3 concerns a fake purchase, covert activity or controlled use of an information source, the matter will be heard in the Helsinki district court. Other matters related to the duty of disclosure will be dealt with in the district court where it is appropriately dealt with. The person making the request to disclose the information and the person who refused to disclose must be present when the matter is being processed. When dealing with the matter, the district court has decision-making power even when it is chaired alone.

Taking into account the cited provisions and the analysis of Art. 3 OLAF Regulation, in Finland, "prevented by national law" is fulfilled when disclosing information would be endangered e.g.: **6**

- safety of informants, undercover agents, or relatives.
- ongoing or future investigations.
- state security or cause serious harm.
- right to a fair trial, unless disclosure is court-ordered.

II. References to National law in the OLAF Regulation (Art. 9–17 OLAF Regulation)

1. Article 9 (Procedural guarantees)

[…] 3. As soon as an investigation reveals that an official, other servant, member of an institution or body, head of office or agency, or staff member may be a person concerned, that official, other servant, member of an institution or body, head of office or agency, or staff member shall be informed to that effect, provided that this does not prejudice the conduct of the investigation or of any investigative proceedings **falling within the remit of a national judicial authority.**
4. […] In duly justified cases where necessary to preserve the confidentiality of the investigation or an ongoing or future criminal investigation by the EPPO or a national judicial authority, the Director-General may, where appropriate after consulting the EPPO or **the national judicial authority concerned**, decide to defer the fulfilment of the obligation to invite the person concerned to comment. […]

1 Articles 9, 9a, and 9b of the OLAF Regulation set out **procedural safeguards** for individuals (economic operators, a person concerned) involved in OLAF investigations, ensuring their rights are protected. These provisions align with **EU law principles**, such as fairness and the right to a defense, and **balance investigative efficiency** with fundamental rights. Lawyers can use these safeguards to scrutinize OLAF's measures, particularly by invoking the right to remain silent, the right to information, and the right to be heard.[433]

2 *Telos* of these provisions is to enhance the legitimacy and fairness of OLAF investigations while preserving their effectiveness. In procedural rights contexts, the relationship between Union and national law is clarified through rulings like *Foto-Frost* (exclusive EU competence for reviewing EU acts)[434], *Commission v. Consob* (strengthening procedural safeguards)[435], and *Orkem* (self-incrimination rights)[436], which underscore the need to harmonise rights with investigatory practices at both levels.

a) Art. 9 para 3 – remit of a national judicial authority

3 The remit of a national judicial authority is displayed by its foundation, the legal scope and the the provisions concerning its scope. National judicial authorities are authorities that can decide and judge a subject matter and even, if following the rules and acting

[433] Ligeti 2017, pp. 9–16, 27.
[434] ECJ, C-314/85.Judgment of the Court of 22 October 1987*, Foto-Frost v Hauptzollamt Lübeck-Ost,* ECLI:EU:C:1987:452.
[435] Failure to cooperate in the context of an investigation, Judgment of the Court (Grand Chamber) 2 February 2021, *European Commission vs. Consob*, ECLI:EU:C:2021:84.
[436] See ECJ, C-374/87.Judgment of the Court of 18 October 1989. *Orkem v Commission of the European Communities*. Competition concerning Commission's investigative powers and rights of the defence.

according to the law, decide on matters to follow-up the case. Judicial authorities that can conduct investigations on their own are limited. Foremost the courts acting only following an accusation or a file brought by the prosecution offices, offices powered to conduct administrative fine proceedings and other proceedings leading to a sanctioning procedure.

b) Art. 9 para 4 – national judicial authorities

In criminal matters the judicial authorities include thus the criminal courts (*käräjäoikeus*, district courts) and the prosecution offices. The second instance is provided for by the six Courts of Appeal and finally the Supreme Court is the highest judicial authority in matters falling within the jurisdiction of courts in civil and criminal proceedings, with the exception of matters decided by the Constitutional Court and the Supreme Administrative Court. The sanctions might be carried out by the Criminal Sanctions Agency. **4**

In administrative matters the Regional administrative courts, the higher administrative court and the Supreme Administrative Court are competent to judge on cases. The National Administrative Office for Enforcement collects money and ensures for example the reburesement. **5**

Finally, the Supreme Court primarily conducts proceedings on extraordinary remedies. **6**

2. Article 10 (Confidentiality and data protection)

[…] 3. The institutions, bodies, offices or agencies concerned shall ensure that the confidentiality of the investigations conducted by the Office is respected, together with the legitimate rights of the persons concerned, and, where judicial proceedings have been initiated, that **all national rules applicable to such proceedings** have been adhered to. […]

a) National rules applicable to judicial proceedings in the MS

National rules applicable to judicial proceedings in Finland are regulated in various Acts: **1**

- The Law on the state budget 13.5.1988/423, see → Chapter 2, Section 12b para 3 related to accounting units, Chapter 4, Section 24g
- The Act on Public Administration Information Management (906/2019) might be applicable.

b) Specifications

2 For further rules see above → Art. 3 OLAF Regulation ("Protection of Information").

3. Article 11 (Investigation report and action to be taken following investigations)

[…] 2. In drawing up the reports and recommendations referred to in paragraph 1, account shall be taken of the relevant provisions of Union law and, in so far as it is applicable, **of the national law of the Member State concerned**.
Reports drawn up on the basis of the first subparagraph, together with all evidence in support and annexed thereto, shall constitute admissible evidence:
(a) in judicial proceedings of a non-criminal nature before national courts and in administrative proceedings in the Member States;
(b) in **criminal proceedings of the Member State** in which their use proves necessary in the **same way and under the same conditions** as administrative reports drawn up by **national administrative inspectors** and shall be subject to the **same evaluation rules as those applicable to administrative reports drawn up by national administrative inspectors** and shall have the same evidentiary value as such reports;
(c) in judicial proceedings before the CJEU and in administrative proceedings in the institutions, bodies, offices and agencies.
Member States shall notify to the Office **any rules of national law relevant** for the purposes of point (b) of the second subparagraph.
With regard to point (b) of the second subparagraph, Member States shall, upon request of the Office, send to the Office the **final decision of the national courts** once the **relevant judicial proceedings** have been finally **determined** and the final court decision has become **public**.
The power of the CJEU and national courts and competent bodies **in administrative and criminal proceedings to freely assess the evidential value** of the reports drawn up by the Office shall not be affected by this Regulation. […]
3. Reports and recommendations drawn up following an external investigation and any relevant related documents shall be sent to the **competent authorities of the Member States** concerned in accordance with the rules relating to external investigations and, if necessary, to the institution, body, office or agency concerned. The competent authorities of the Member State concerned and, if applicable, the institution, body, office or agency shall take such action as the results of the external investigation warrant and shall report thereon to the Office within a time limit laid down in the recommendations accompanying the report and, in addition, at the request of the Office. Member States may notify to the Office the relevant national authorities competent to deal with such reports, recommendations and documents.

a) References to national law

The references to national law in Art. 11 OLAF Regulation cannot be overlooked. **1**

Sources & national sections 2 **2**

Para 2	The relevant national law might be enshrined within these Acts: - Law on proceedings in administrative matters/*Laki ikeudenkäynnistä hallintoasioissa* - Administrative Act/*Hallintolaki* - Customs Act 29.4.2016/304/*Tullilaki* - Law on Customs Administration 21/12/2012/960/*Laki Tullin hallinnosta* - Value Added Tax Act/*Arvonlisäverolaki* - The Act on Public Procurement and License Agreements/*Laki julkisista hankinnoista ja käyttöoikeussopimuksista* This enumeration is not exhaustive.
Para 2 (a)	The judicial proceedings of a non-criminal nature before national courts might be the tax or the customs trials and decisions in the area of the administrative administration. E.g. the Act on Trial in Administrative Matters, the Administrative Act and the specialised administrative Acts, such as the Tax and the Customs Code including the Union Regulation might apply. See e.g. section 40 of the Administrative Act above.
Para 2 (b)	Already a report of the Council of the European Union from 2012 said that: "5.1.4. Participation of OLAF officials in a criminal investigation [scil. is possible]. The Finnish authorities have affirmed that OLAF representatives may be heard during the pre-trial and the main hearing of a criminal case."

Source: The authors.

b) National authority, para 3

The enforcement of tax liabilities is regulated within the Act on Tax Administration: **3**

4 **Chapter 5 Legal enforcement of taxpayers and other use of speaking power**
Section 24[437] Tax payers' judicial enforcement unit and its duties

The Tax Administration has a legal enforcement unit for Taxpayers. The unit exercises the authority of tax payers to speak as a party in matters concerning taxation as stipulated in this law and elsewhere in the law.
The duty of the tax receivers' legal supervision unit is to supervise the right of the state, municipality, parish, the National Pension Institute, the forest management association and the forest center in taxation and appeals regarding taxation, as well as in other matters referred to in the Administrative Act or the Act on Litigation in Administrative Matters (808/2019) when the unit considers that:
1) it is necessary for the application of the law in other similar cases or for the sake of the uniformity of taxation or legal practice;
2) the matter is economically significant; or
3) legal enforcement of tax recipients otherwise requires it.

[437] 5 luku Veronsaajien oikeudenvalvonta ja muu puhevallan käyttö
24 § Veronsaajien oikeudenvalvontayksikkö ja sen tehtävät
Verohallinnossa on Veronsaajien oikeudenvalvontayksikkö. Yksikkö käyttää veronsaajien puhevaltaa verotusta koskevassa asiassa asianosaisena siten kuin tässä laissa ja muualla laissa säädetään.
Veronsaajien oikeudenvalvontayksikön tehtävänä on valvoa valtion, kunnan, seurakunnan, Kansaneläkelaitoksen, metsänhoitoyhdistyksen ja metsäkeskuksen oikeutta verotuksessa ja verotusta koskevassa muutoksenhaussa samoin kuin hallintolaissa tai oikeudenkäynnistä hallintoasioissa annetussa laissa (808/2019) tarkoitetussa muussa asiassa silloin, kun yksikkö katsoo, että:
1) se on lain soveltamisen kannalta muissa samanlaisissa tapauksissa taikka verotus- tai oikeuskäytännön yhtenäisyyden vuoksi tarpeen;
2) asia on taloudellisesti merkittävä; tai
3) veronsaajien oikeudenvalvonta muutoin sitä edellyttää.

4. Article 12 (Exchange of information between the Office and the competent authorities of the Member States)

a) Art. 12 para 1 OLAF Regulation (competent authorities & appropriate action in accordance with their national law) 336
b) Art. 12 para 2 OLAF Regulation (judicial authorities of the Member State concerned)..... 336
c) Art. 12 para 3 OLAF Regulation (Information to the Office by competent authorities of the Member State concerned)..... 336
d) Art. 12 para 4 OLAF Regulation (Providing evidence in court proceedings before national courts and tribunals in conformity with national law)..... 336

3. The competent authorities of the Member State concerned shall, unless prevented by **national law**, inform the Office within one month of the action taken on the basis of the information transmitted to them under this Article."

4. The Office may provide evidence in proceedings before national courts and tribunals in conformity with **national law** and the Staff Regulations.

1. Without prejudice to Articles 10 and 11 of this Regulation and to the provisions of Regulation (Euratom, EC) No 2185/96, the Office may transmit to the competent authorities of the Member States concerned information obtained in the course of external investigations in due time to enable them to take appropriate action **in accordance with their national law**. It may also transmit such information to the institution, body, office or agency concerned.

2. Without prejudice to Articles 10 and 11, the Director-General shall transmit to the **judicial authorities of the Member State concerned** information obtained by the Office, in the course of internal investigations, concerning facts which fall within the **jurisdiction of a national judicial authority**. […]

3. The **competent authorities of the Member State concerned** shall, unless **prevented by national law**, inform the Office without delay, and in any event within 12 months of receipt of the information transmitted to them in accordance with this Article, of the action taken on the basis of that information.

4. The Office may **provide evidence** in proceedings before national courts and tribunals **in conformity with national law** and the Staff Regulations. […]

a) Art. 12 para 1 OLAF Regulation (competent authorities & appropriate action in accordance with their national law)

1 Competent authorities

See above → Organisation of the Criminal Justice System in Finland.

2 Appropriate action acc. to national law

- National follow-up acc. to the Administrative Act
- National follow-up acc. to the special administrative laws e.g. Customs Act and Tax Procedure Act

b) Art. 12 para 2 OLAF Regulation (judicial authorities of the Member State concerned)

3 Which are these national authorities?

See the table above → Organisation of the Criminal Justice System in Finland.

c) Art. 12 para 3 OLAF Regulation (Information to the Office by competent authorities of the Member State concerned)

4 These are the authorities, which were presented under a) and b) above. They are obliged to fulfil the time-limit by virtue of Art. 12 para 3 OLAF Regulation.

5 Prevention by national law

The right to withhold information (for a certain time) may result from provisions, which ensure the secrecy of an action under national law.

d) Art. 12 para 4 OLAF Regulation (Providing evidence in court proceedings before national courts and tribunals in conformity with national law)

6

Criminal Procedure Act

Chapter 5 Prosecution

Section 4[438]

The prosecutor must submit to the court the written evidence, the objects used as evidence, the preliminary investigation report and other documents necessary for handling the case in the manner determined by the court in connection with the subpoena application or immediately after the indictment is filed. (12.6.2015/733)

[438] 4 § Syyttäjän on toimitettava tuomioistuimelle kirjalliset todisteet, todisteena käytettävät esineet, esitutkintapöytäkirja ja muut asian käsittelemistä varten tarpeelliset asiakirjat tuomioistuimen määräämällä tavalla haastehakemuksen yhteydessä tai viipymättä syytteen nostamisen jälkeen. (12.6.2015/733)

Administrative Act 7

Section 40[439] **Oral evidence**

For a special reason, a witness can be heard on the basis of an insurance policy in an administrative case, as well as the parties involved orally. The interested parties, who are directly affected by the decision made in the case, must be given the opportunity to be present when hearing the witness or the interested party. The parties involved have the right to ask questions to the hearing party and express their opinion on the hearing party's story.

Official assistance to use oral evidence is provided by the administrative court where the hearing of the witness or party can take place most appropriately. In the judicial administration matter before the court, the hearing is delivered by the relevant court.

The provisions of the Act on Trial in Administrative Matters apply to the witness's disability and the witness's right to refuse to testify. (27.11.2020/854)

The following **administrative process-related law** provides a structured process for when and how oral hearings should be organized, balancing the need for hearings with the efficiency of resolving cases. It sets conditions for when the court may not hold a hearing and ensures that hearings are held only when necessary to clarify important aspects of a case. 8

[439] 40 § (26.6.2015/801) Suullinen todistelu Erityisestä syystä hallintoasiassa voidaan kuulla todistajaa vakuutuksen nojalla sekä suullisesti asianosaista. Asianosaisille, joita asiassa tehtävä päätös välittömästi koskee, on varattava tilaisuus olla läsnä kuultaessa todistajaa tai asianosaista. Asianosaisilla on oikeus esittää kuultavalle kysymyksiä sekä lausua käsityksensä kuultavan kertomuksesta. Virka-apua suullisten todistuskeinojen käyttämiseksi antaa se hallinto-oikeus, jossa todistajan tai asianosaisen kuuleminen voi tapahtua soveliaimmin. Tuomioistuimen käsiteltävässä oikeushallintoasiassa kuulemisen toimittaa asianomainen tuomioistuin.
Todistajan esteellisyyteen sekä todistajan oikeuteen kieltäytyä todistamasta sovelletaan, mitä oikeudenkäynnistä hallintoasioissa annetussa laissa säädetään. (27.11.2020/854)

9

Law On Proceedings in Administrative Matters

Chapter 6 Case handling and investigation

Section 35 et seq.

Chapter 7 Oral processing

Section 57[440] et seq. Organisation of oral proceedings

The administrative court must organize an oral hearing if the court deems it necessary or if a private party demands it. In the oral hearing, the parties involved, the authority that made the decision, witnesses and experts can be heard, and other explanations can be received.

The court may, despite the party's request, not hold an oral hearing if:

1) the party status of the person who requested oral proceedings is based on membership of a welfare area, municipality or other community; (29.6.2021/639)

2) in order to resolve the case, a sufficient explanation of the relevant facts has already been obtained, on the basis of which the case can be resolved without the court having reasonable doubt about the facts;

3) the facts can be clarified in another way;

4) an oral hearing has already been organized in the same case in the administrative court; or

5) the organisation of an oral hearing is otherwise obviously unnecessary, taking into account the quality and importance of the case for the party concerned and the requirements of a fair trial.

The Supreme Administrative Court may, despite the party's request, not organize an oral hearing even if the matter is an appeal against the decision of the Administrative Court and the organization of an oral hearing is not necessary to resolve the matter.

[440] 7 luku Suullinen käsittely 57 § Suullisen käsittelyn järjestäminen
Hallintotuomioistuimen on järjestettävä suullinen käsittely, jos tuomioistuin pitää sitä tarpeellisena tai yksityinen asianosainen sitä vaatii. Suullisessa käsittelyssä voidaan kuulla asianosaista, päätöksen tehnyttä viranomaista, todistajia ja asiantuntijoita sekä ottaa vastaan muuta selvitystä.
Tuomioistuin voi asianosaisen vaatimuksesta huolimatta jättää suullisen käsittelyn järjestämättä, jos:
1) suullista käsittelyä vaatineen asianosaisasema perustuu hyvinvointialueen, kunnan tai muun yhteisön jäsenyyteen; (29.6.2021/639)
2) asian ratkaisemiseksi merkityksellisistä tosiseikoista on jo saatu riittävä selvitys, jonka perusteella asia voidaan ratkaista ilman, että tuomioistuimelle jää varteenotettavaa epäilystä tosiseikoista;
3) tosiseikat voidaan selvittää muulla tavoin;
4) suullinen käsittely on jo järjestetty samassa asiassa hallintotuomioistuimessa; tai
5) suullisen käsittelyn järjestäminen on muuten ilmeisen tarpeetonta, kun otetaan huomioon asian laatu ja merkitys asianosaiselle sekä oikeudenmukaisen oikeudenkäynnin vaatimukset.
Korkein hallinto-oikeus voi asianosaisen vaatimuksesta huolimatta jättää suullisen käsittelyn järjestämättä myös, jos asiassa on kyse muutoksenhausta hallintotuomioistuimen päätökseen eikä suullisen käsittelyn järjestäminen ole tarpeen asian selvittämiseksi.
Suullista käsittelyä vaativan on ilmoitettava, minkä vuoksi sen järjestäminen on tarpeen ja mitä selvitystä hän esittäisi suullisessa käsittelyssä.
Jos asiassa vedotaan asiantuntijalausuntoon tai yksityisluonteiseen kirjalliseen todistajankertomukseen, suullinen käsittely asiantuntijan tai todistajan kuulemiseksi järjestetään vain, jos se on tarpeen asian selvittämiseksi.

The person requesting an oral hearing must state why it is necessary to organize it and what explanation he would present at the oral hearing.
If an expert statement or a private written witness report is relied on in the case, an oral hearing to hear the expert or witness will only be organized if it is necessary to clarify the matter.

5. Article 12a (Anti-fraud coordination services)

1. Each Member State shall, for the purposes of this Regulation, designate a service (the 'anti-fraud coordination service') to facilitate effective cooperation and exchange of information, including information of an operational nature, with the Office. Where appropriate, **in accordance with national law**, the anti-fraud coordination service may be regarded as a competent authority for the purposes of this Regulation. […]

a) General remarks

aa. Definition and History

1 Cooperation, Coordination and Facilitation are buzz words in anti-fraud literature.[441] Anti-fraud coordination services are known worldwide and exist in many international organizations and cooperate with nation states.[442] In the EU the **term "AFCOS"** has a very special meaning as it means the Anti-fraud coordination services created on behalf of the European Anti-fraud Office for the facilitation of interactions with the national Member States of the EU (recitals below).[443] The obligation to designate these services runs and derives from primary Union law. Art. 325 TFEU (ex-Art. 280 TEC) requests the Union and the Member States to fight fraud (together).[444] The history of these services, adapted to the financial and budgetary law sector and set-up in the Member States' in-ternal justice and financial systems dates to the early 2000s.[445] Historically, the coordinating bodies emerged primarily in the new Member States that were awaiting accession. The European Parliament has already in 2010 called for the AFCOS to be set up as independent bodies in the MS.

2 Today one could not be further from this idea than ever, since the AFCOS are mostly subordinated deep in the structure of a Financial or Treasury Department/Ministry, Financial Inspections Services of the Treasury Department/Ministry, the Department of Commerce, or the Ministry/Department of the Interior. The simplicity of the co-ordination from within a ministry and the size of the administrative apparatus certainly speak in favour of this, but the interconnectedness is also problematic from the point of view of efficiency (states with political goodwill coordinate very easily and others are politically manoeuvrable):

---

[441] Kuhl 2019, pp. 135 (160 et seq.); Wells 2014; Spink 2019; Saporta and Maraney 2022, FCPA 2012; ECA 2022; Jack Malan 2022, pp. 135–139; focusing on the customs area Johan Van der Paal and Nurk 2019; de Vries 2022, pp. 401–463; House of Lords 2012–13, pp. 32 et seq.

[442]. Bartsiotas and Achamkulangare 2016; See World Customs Organization, http://www.wcoomd.org/en/about-us/partners/international_organizations.aspx; see UNDOC, https://www.unodc.org/unodc/en/corruption/COSP/session9-resolutions.html, docusing on the designation of anti-corruption bodies. Accessed 31 December 2024.

[443] Kuhl 2019, p. 164.

[444] See European Commission (OLAF) 2022a.

[445] Quirke 2015, pp. 236 et seq.

> **"Friday 24 April 2009 Protection of the Communities' financial interests and the fight against fraud – Annual Report 2007 P6_TA(2009)0315 European Parliament resolution of 24 April 2009 on the protection of the Communities' financial interests and the fight against fraud – Annual Report 2007 (2008/2242(INI)) 2010/C 184 E/14 The European Parliament,** **3**
>
> 68. points out that the Anti-Fraud Coordination Units (AFCOS) set up for OLAF in the Member States that joined the European Union after 2004 are very important sources of information and contact points for OLAF; points out, however, **that the functional added value of these offices (in particular in terms of reporting irregularities to the Commission) is minimal as long as they are not independent from national administrations**; therefore calls on the Commission to submit a proposal to Parliament's competent committee on how the work of these offices could be made more useful and considers it necessary to improve cooperation with the candidate countries"[446]

At least there is legal and technical oversight of the areas of administration in most states and nowadays the AFCOS are implemented at the highest level.[447] **4**

However, the existing Member States are also aware of weaknesses in the fight against fraud. Only since 2010 and in the last decade has more attention been paid to these coordination points. They have become a sine qua non in the EU's fight against fraud and they are becoming more and more the "eyes and ears" of OLAF in the Member States. They only have their own investigative skills, which would make them an "extended arm" of OLAF in the member states, if at all, e.g. in Bulgaria or Italy. On the other hand, in Germany and France, they are more active in the background and do not appear too clearly. Activity reports may also have to be requested by the Commission, i.e. the responsible departments of OLAF. **5**

[446] See OJ, 8.7.2010, CE 184/72 Freitag, 24. April 2009 Schutz der finanziellen Interessen der Gemeinschaften und Betrugsbekämpfung – Jahresbericht 2007 P6_TA(2009)0315 Entschließung des Europäischen Parlaments vom 24. April 2009 zu dem Schutz der finanziellen Interessen der Gemeinschaften und der Betrugsbekämpfung – Jahresbericht 2007 (2008/2242(INI)) 2010/C 184 E/14 Das Europäische Parlament, "68. weist darauf hin, dass die Stellen zur Koordinierung der Betrugsbekämpfung (AFCOS), die für OLAF in den Mitgliedstaaten eingerichtet wurden, die der Europäischen Union nach 2004 beigetreten sind, für OLAF sehr wichtige Informationsquellen und Kontaktpunkte sind; verweist jedoch darauf, dass der funktionale Mehrwert dieser Büros (insbesondere hinsichtlich der Meldung von Unregelmäßigkeiten an die Kommission) minimal ist, solange sie nicht von den nationalen Verwaltungen unabhängig sind; fordert die Kommission daher auf, dem zuständigen Ausschuss des Parlaments einen Vorschlag dahingehend vorzulegen, wie die Arbeit dieser Büros nutzbringender gestaltet werden könnte, und hält es für notwendig, die Zusammenarbeit mit den Kandidatenländern zu verbessern; [...]."

[447] Byrne 2019, p. 13.

bb. Legislative developments

6 The Commission has evaluated the **impact of the AFCOS** in the past decade.[448] Recent changes at the beginning of the 2020s have enlarged the competences of the AFCOS. These are now even allowed to cooperate with each other and not only with OLAF in Luxembourg alone, which was the case prior to the **amendments of the Regulation (EU) 2020/2223**.

7 The recent changes describe the role of the AFCOS in the recitals. Thus, by reading them the task and role of these bodies becomes vivid:

8

(23) The Office is able, under Regulation (EU, Euratom) No 883/2013, to enter into administrative arrangements with **competent authorities of Member States**, such as anti-fraud coordination services, and institutions, bodies, offices and agencies, in order to specify the arrangements for their cooperation under that Regulation, in particular **concerning the transmission of information, the conduct of investigations and any follow-up action**.
(30) Due to the large diversity of national institutional frameworks, Member States should, on the basis of the principle of sincere cooperation, **have the possibility to notify to the Office the authorities that are competent to take actions upon recommendations of the Office**, as well as the authorities that need to be informed, such as for financial, statistical or monitoring purposes, for the performance of their relevant duties. Such authorities **may include national anti-fraud coordination services**. In accordance with the settled case-law of the CJEU, the Office recommendations included in its reports have no binding legal effects on such authorities of Member States or on institutions, bodies, offices and agencies.
(37) The anti-fraud coordination services of Member States were introduced by Regulation (EU, Euratom) No 883/2013 to facilitate an effective cooperation and exchange of information, including information of an operational nature, between the Office and Member States. The Commission evaluation report concluded that they have contributed positively to the work of the Office. The Commission evaluation report also identified the **need to further clarify the role of those anti-fraud coordination services** in order to ensure that the Office is provided with the necessary assistance to ensure that its investigations are effective, while leaving the organisation and powers of the anti-fraud coordination services to each Member State. In that regard, the anti-fraud coordination services should be able to provide or coordinate the

[448] EU Commission 2013, pp. 3, 12, 72.
The Commission document was accompanied by a Report (called ICF Report 2017), which reesulted from an external study: European Commission (OLAF) 2017b.

necessary assistance to the Office **to carry out its tasks effectively, before, during or at the end of an external or internal investigation**.
(40) It should be possible for the anti-fraud coordination services in the context of coordination activities to provide assistance to the Office, as well as for the anti-fraud coordination services **to cooperate among themselves**, in order to further reinforce the available mechanisms for cooperation in the fight against fraud.

cc. Visualisation of old (prior to 2020) vs. new (since 2020) cooperation and role of the AFCOS

9

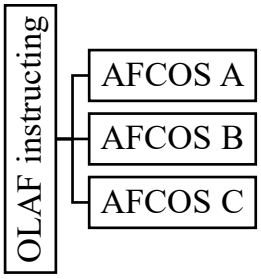


Figure 14: Visualisation of the old cooperation by virtue of Regulation No. 883/2013

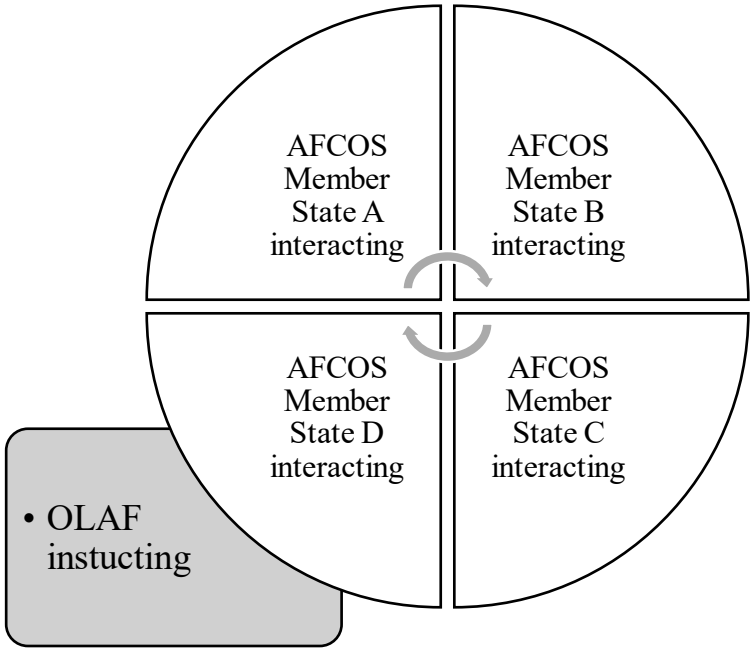


Figure 15: Visualisation of the new cooperation by virtue of Regulation No. 883/2013 (as amended 2020/2223)

b) A closer look at the relevant AFCOS in the present Member State

The Government Financial Controller in the Ministry of Finance is the competent AFCOS in Finland. **10**

[Article 12b–12d omitted]

6. Article 12e (The Office's support to the EPPO)

1. In the course of an investigation by the EPPO, and at the request of the EPPO in accordance with Article 101(3) of Regulation (EU) 2017/1939, the Office shall, in accordance with its mandate, support or complement the EPPO's activity, in particular by:
(a) providing information, analyses (including forensic analyses), expertise and operational support;
(b) facilitating coordination of specific actions of **the competent national administrative authorities** and bodies of the Union; […]

1 See above → under Organisation of the Criminal Justice System in Finland, Administrative Authorities.

2 The Tax Administration, which can cooperate with OLAF in external investigations might be a useful source of information and can be such a competent national administerative authority, which might under Art. 12e OLAF Regulation help the EPPO via OLAF.

3 See e.g. the Tax Administration Act:

4

Section 28[449] **Procedure in a criminal case**
The Tax Administration has the right, on behalf of all tax payers, with respect to the taxes and payments stipulated to be borne by the Tax Administration, to report a tax crime or other tax-related crime to the preliminary investigation authority for investigation and, represented by an agent appointed by it, to exercise the right to speak in a criminal case and in a case concerning compensation for damages resulting from a crime. Crime reports regarding car tax, fuel payment for private yachts, taxes falling within the scope of the Excise Tax Act (182/2010) and value added tax on the importation of goods are submitted to Customs and simultaneously reported to the police. (11.8.2017/528) In addition, the Tax Administration has the right to notify the preliminary investigation authority of the matter regarding the accounting crime it has detected for the purpose of the investigation.

5 The coordination and facilitation must be in accordance with the Act on the Processing of Personal Data in Criminal Matters.

[449] 28 § Menettely rikosasiassa Verohallinnolla on oikeus kaikkien veronsaajien puolesta Verohallinnon kannettavaksi säädettyjen verojen ja maksujen osalta ilmoittaa verorikosta tai muuta verotukseen liittyvää rikosta koskeva asia esitutkintaviranomaiselle tutkintaa varten ja määräämänsä asiamiehen edustamana käyttää puhevaltaa rikosasiassa sekä rikoksesta johtuvaa vahingonkorvausta koskevassa asiassa. Autoveroa, yksityisestä huviveneestä suoritettavaa polttoainemaksua, valmisteverotuslain (182/2010) soveltamisalaan kuuluvia veroja ja tavaran maahantuonnin arvonlisäveroa koskevat rikosilmoitukset tehdään Tullille ja annetaan samanaikaisesti tiedoksi poliisille. (11.8.2017/528)
Verohallinnolla on lisäksi oikeus ilmoittaa esitutkintaviranomaiselle tutkintaa varten havaitsemansa kirjanpitorikosta koskeva asia.

Next, the Law on Joint Investigation Teams 30.12.2002/1313 (*Laki yhteisistä tutkintaryhmistä 30.12.2002/1313*) might apply and facilitate investigations. **6**

Section 1[450] **Establishing a joint investigation team**
The competent preliminary investigation authority can, together with the competent authority of a foreign state, enter into an agreement on the establishment of a joint investigation team (investigative team) to carry out the preliminary investigation of the crime. Before concluding the agreement referred to in subsection 1, the competent preliminary investigation authority must notify the competent prosecutor of the intention to establish an investigation team. A similar notification must also be made to Eurojust's Finnish national member if the investigation team's activities are related to Eurojust's jurisdiction or tasks. A competent prosecutor can register as a member of the investigation team. The request for the establishment of an investigation team must be treated as a request for legal aid.

Section 2[451] **Composition of the investigative team**
The investigative team consists of the competent authorities of the countries that established it. The investigation team also includes the competent Finnish prosecutor who has registered with the investigation team. According to what is separately stipulated in the contract, the investigation team may also include other persons. The composition of the investigation team must be determined in the agreement on the establishment of the investigation team.
If the investigation team concerns Finland and European Union funding is granted for the investigation team, the Finnish national member of Eurojust must be invited to the investigation team. The national member acts in the investigation team as Finland's national prosecuting authority and has the authority referred to in § 10 of the Act on the Public Prosecutor's Office (32/2019).

[450] 1 § (11.4.2014/304) Yhteisen tutkintaryhmän perustaminen Toimivaltainen esitutkintaviranomainen voi yhdessä vieraan valtion toimivaltaisen viranomaisen kanssa tehdä sopimuksen yhteisen tutkintaryhmän (tutkintaryhmä) perustamisesta rikoksen esitutkinnan toimittamiseksi.
Ennen 1 momentissa tarkoitetun sopimuksen tekemistä toimivaltaisen esitutkintaviranomaisen on ilmoitettava toimivaltaiselle syyttäjälle aikomuksesta perustaa tutkintaryhmä. Vastaava ilmoitus tulee tehdä myös Eurojustin Suomen kansalliselle jäsenelle, jos tutkintaryhmän toiminta liittyy Eurojustin toimivaltaan tai tehtäviin. Toimivaltainen syyttäjä voi ilmoittautua tutkintaryhmän jäseneksi.
Tutkintaryhmän perustamista koskevaa pyyntöä on käsiteltävä oikeusapupyyntönä.
[451] 2 § (4.12.2019/1234) Tutkintaryhmän kokoonpano
Tutkintaryhmä koostuu sen perustaneiden valtioiden toimivaltaisista viranomaisista. Tutkintaryhmään kuuluu myös tutkintaryhmään ilmoittautunut Suomen toimivaltainen syyttäjä. Sen mukaan kuin sopimuksessa erikseen määrätään, tutkintaryhmään voi kuulua myös muita henkilöitä. Tutkintaryhmän kokoonpanosta on määrättävä tutkintaryhmän perustamista koskevassa sopimuksessa.
Jos tutkintaryhmä koskee Suomea ja tutkintaryhmää varten myönnetään Euroopan unionin rahoitusta, tutkintaryhmään on kutsuttava Eurojustin Suomen kansallinen jäsen. Kansallinen jäsen toimii tutkintaryhmässä Suomen kansallisena syyttäjäviranomaisena ja hänellä on Syyttäjälaitoksesta annetun lain (32/2019) 10 §:ssä tarkoitettu toimivalta.

[Article 12f–g omitted]

7. Article 13 (Cooperation of the Office with Eurojust and Europol)

1. […] Where this may support and strengthen coordination and cooperation between **national investigating and prosecuting authorities,** or where the Office has forwarded to the **competent authorities of the Member States** information giving grounds for suspecting the existence of fraud, corruption or any other illegal activity affecting the financial interests of the Union in the form of serious crime, it shall transmit relevant information to Eurojust, within the mandate of Eurojust. […]

1 See above → under Organisation of the Criminal Justice System in Finland, Criminal Investigating and Prosecution Authorities. OLAF can support and strengthen coordination and cooperation between national investigating and prosecuting authorities. This means that OLAF is encouraged to foster better collaboration between Member States' authorities (such as police, customs, and public prosecutors) when there is a need to address illegal activities that impact EU funds.

2 For the competent authorities see above → Art. 3 OLAF Regulation e). If Finnish authorities receive e.g. information from OLAF regarding potential fraud or corruption affecting EU financial interests, they are expected to act according to their own legal procedures (see above → Sources of law).

3 If the crime is serious and crosses borders, the information may be shared with Eurojust to facilitate coordination with other Member States' authorities. Finnish prosecutors, law enforcement agencies (e.g., Finnish Police, Customs), and other competent authorities will need to work with Eurojust if the case requires cross-border action or involves multiple jurisdictions.

[Article 14–16 omitted]

8. Article 17 (Director-General)

4. The Director-General shall report regularly, and at least annually, to the European Parliament, to the Council, to the Commission and to the Court of Auditors on the findings of investigations carried out by the Office, the action taken and the problems encountered, whilst respecting the confidentiality of the investigations, the legitimate rights of the persons concerned and of informants, and, where appropriate**, national law applicable to judicial proceedings**. Those reports shall also include an assessment of the actions taken by the **competent authorities of Member States** and the institutions, bodies, offices and agencies, following reports and recommendations drawn up by the Office.
7. The Director-General shall put in place an internal advisory and control procedure, including a legality check, relating, inter alia, to the respect of procedural guarantees and fundamental rights of the persons concerned and **of the national law of the Member States concerned**, with particular reference to Article 11(2). The legality check shall be carried out by Office staff who are experts in law and investigative procedures. Their opinion shall be annexed to the final investigation report.

a) National law applicable to judicial proceedings

- Administrative Act **1**
- Law on Proceedings in Administrative Matters
- Customs Act
- Taxation Procedure Code
- Criminal Procedure Act

b) Internal advisory and control procedure: Legality check involving national law

OLAF, its **staff and seconded national experts** must ensure that its investigative activities comply with national laws when operating within EU Member States. This internal check involves verifying that OLAF's measures such as inspections, access to premises, and document reviews align with the legal and procedural requirements of Finland if the investigation takes place here. In order to fulfil this task and achieve this new aim the person handling the tasl must initiate a **legal compatibility check**. In practice, OLAF consults its legal service or relevant national legal experts to ensure that its actions do not contravene national laws as the Supervisory Committee has seen room for better quality standards in this regard. **2**

The coordination with the national authorities, which were mentioned above (→ Institutions) is essential as OLAF works closely with them and any AFCOS to facilitate compliance and avoid legal conflicts. If any adjustments are necessary, the potential **3**

inconsistencies with national law should be avoided or at least identified, and eventually OLAF adapts its investigative approach to maintain legality and effectiveness, whereby OLAF's internal rules for the check, which are not publicated must be complied with (e.g. the so-called **country mini-profiles**). An example for the provisions, which can apply for a legality check concerning an investigation in Finland, becomes vivid by reading e.g. the Law on Proceedings in Administrative Matters:

4

Chapter 1 - General provisions
Chapter 2 - Appeal from an administrative decision
Section 6 - Appealability of the administrative decision
Section 7 - Right of appeal from an administrative decision
Section 8 - Appeals from an administrative decision
Section 9 - Appeal against the decision of a municipal authority, welfare area and welfare association authority, Åland provincial authority and ecclesiastical authority (29 June 2021/639)
Section 10 - Competent administrative court
Section 11 - Handling the case together in the administrative court
Section 12 - Basic complaint
[…]

Chapter 6 - Case processing and investigation
Section 35 - Court process management
Section 36 - Methods of processing
Section 37 - Investigation of the matter
Section 38 - Obligation to submit a report
Section 39 - The right to present an explanation
Section 40 - Supplementing the complaint and other pleadings
Section 41 - Presentation of new requirements
Section 42 - Statement of the authority that made the decision
Section 43 - Consultation of other authorities and experts
Section 44 - Hearing of the interested party
Section 45 - Deadline for the report
Section 46 - Limitation of the settlement
Section 47 - Oral preparation
Section 48 - Examination
Section 49 - Inspection
Section 50 - The administrative court's right to access information
Section 51 - Presentation of document and object
Section 52 - Interpretation and translation
Section 53 - Legal impediment

Section 54 - Securing order in court proceedings
Section 55 - Estimate of the processing time of the case
Section 56 - Application of the Threatened Fines Act

Chapter 7 - Oral processing
Section 57 - Organization of oral proceedings
Section 58 - Decision on organizing an oral hearing
Section 59 - Limitation of oral proceedings
Section 60 - Course of oral proceedings
Section 61 - Naming a witness
Section 62 - Summoning of the parties to the trial
Section 63 - Summoning of others to be heard
Section 64 - Content of the invitation
Section 65 - Other regulations regarding invitations
Section 66 - Disqualification of a witness
Section 67 - Personal consultation
Section 68 - Hearing of the indigent
Section 69 - Witness' right to remain silent
Section 70 - The witness's obligation to refuse to testify
Section 71 - The effect of the duty of confidentiality stipulated in another law on the hearing of a witness
Section 72 - Reasoning for the refusal of a witness
Section 73 - Consultation using a technical information transmission method
Section 74 - Minutes of oral proceedings
Section 75 - Recording
Section 76 - Reimbursement of proof costs
Section 77 - Reimbursement of other costs
Section 78 - Other provisions on hearing witnesses and experts

Chapter 8 - Decision-making by the Administrative Court […]

[Article 18–21]

Bibliography

Bartsiotas G A, Achamkulangare G (2016) Fraud Prevention, Detection and Response in United Nations System Organisations. UN Publications Office, New York.

de Bellis M (2021) Multi-level Administration, Inspections and Fundamental Rights: Is Judicial Protection Full and Effective? German Law Journal 22:416–440.

Bohlander M (2009) Principles of German Criminal Law, Hart Publishing, Oxford and Portland, Oregon.

Bovend'Eerdt K (2018) The Applicable Law in OLAF's On-The-Spot Inspections. European Law Blog. online: https://europeanlawblog.eu/2018/06/28/the-applicable-law-in-olafs-on-the-spot-inspections/. Accessed 31 December 2024.

Bovend'Eerdt K (2024) The Protection of Fundamental Rights in OLAF Composite Enforcement Procedures. Springer, Cham, Wiesbaden.

Brüner F H (OLAF) (2009) OLAF Manual Operational Procedures. EU Publications Office, Brüssel.

Byrne D (2019) Role of Member State auditors in fraud prevention and detection, Presenation, p 13. online: https://web.archive.org/web/20190603113353/https://ec.europa.eu/regional_policy/sources/docgener/informat/expert_training/2019/module6_role_ms_auditor.pdf. Accessed 31 December 2024.

Carrera S, Mitsilegas V, Stefan M (2021) Criminal Justice, Fundamental Rights and the Rule of Law in the Digital Age. Centre for European Policy Studies (CEPS), Brussels. online: https://www.ceps.eu/wp-content/uploads/2021/05/Criminal-Justice-Fundamental-Rights-and-the-Rule-of-law-in-the-Digital-Age.pdf. Accessed 31 December 2024.

Child S, Spencer S, Simester A P, Spencer J R, Stark F, Virgo G J (2022) Simester and Sullivan's Criminal Law, Theory and Doctrine. 8th edition. Bloomsburgy Publishing, London.

Claes A L, Franssen V (2022) Enforcements of Policies Against Illicit Trade in Tobacco Procducts in Belgium. In: Vervaele J A E, Tosza S (eds) Combatting Illicit Trade in Tobacco Products, In Search of Optimal Enforcement. Springer, Berlin, Heidelberg, pp 117–225.

Court of Justice of the European Union (2021) Field of Application of the Charter of Fundamental Rights of the European Union. Fact Sheet. online: https://curia.europa.eu/jcms/upload/docs/application/pdf/2018-05/fiche_thematique_-_charte_-_en.pdf. Accessed 31 December 2024.

ECA (2022) Cohesion and NextGenerationEU: concord or clash?, Journal N°1 2022, https://www.eca.europa.eu/Lists/ECADocuments/JOURNAL22_01/JOURNAL22_01.pdf.

ECBA 2023, EPPO Working Group Proposal to the College of the EPPO on best practice for promoting the right to interpretation and translation in criminal proceedings conducted by the EPPO https://bit.ly/3ZxAaZD. Accessed 31 December 2024.

ECJ (2024) Research note, Impact of ongoing criminal proceedings on the conduct of disciplinary proceedings, https://curia.europa.eu/jcms/upload/docs/application/pdf/2022-09/ndr_2020_001_neutralisee_en.pdf. Accessed 31 December 2024.

EPPO (2022) Annual Report 2022. online: https://www.eppo.europa.eu/sites/default/files/2023-02/EPPO_2022_Annual_Report_EN_WEB.pdf. Accessed 31 December 2024.

EPPO (2024) Annual Report 2023. online: https://www.eppo.europa.eu/sites/default/files/2024-03/EPPO_Annual_Report_2023.pdf. Accessed 31 December 2024.

EPPO (2025) Annual Report 2024. online: https://www.eppo.europa.eu/assets/annual-report-2024/pdfs/statistics-member-state/Finland.pdf. Accessed 1 March 2025.

Eser A (1987) Justification and Excuse A Key Issue in the Concept of Crime. Rechtfertigung und Entschuldigung: Ein Schlüsselproblem des Verbrechensbegriffs. online: https://freidok.uni-freiburg.de/files/3906/wqQz1u-7EppCcAMC/Eser_Justification_and_excuse_2.pdf. Accessed 31 December 2024, pp 17–65.

Farkas Á, Dannecker G, Jacsó J (2019) Criminal Law Aspects of the Protection of the Financial Interests of the European Union with particular emphasis on the national legislation on tax fraud, corruption, money laundering and criminal compliance with reference to cybercrime. Wolters Kluwer, Budapest.

FCPA (2012) A Resource Guide to the FCPA U.S. Foreign Corrupt Practices Act.

Freundlich P, Helenius D and Miettinen S (2020) The Public Prosecutor's Office, Enhanced Cooperation and Finland. In: Ligeti K, Guiffrida F, João Antunes (eds) The

European Public Prosecutor's Office at Launch. Wolters Kluwer, CEDAM, pp 163–170.

Herrnfeld H H, Burchard C, Brodowski D (2021) European Public Prosecutor's Office: Regulation (EU) 2017/1939 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO'), Article-by-Article Commentary. Nomos/Hart/Beck, Baden-Baden.

Herrnfeld H H, Esser R (2022) Europäische Staatsanwaltschaft Handbuch. Nomos, Baden-Baden.

House of Lords (2013) The Fight Against Fraud on the EU's Finances 12th Report of Session 2012–13, London.

Jyränki A (1991) Taking Democracy Seriously. The problem of the control of the constitutionality of legislation. In M Sakslin (ed) The Finnish Constitution in Transition Helsinki, pp 6–30.

Klement P (2021) Reporting of Crime Mechanisms and the Interaction Between the EPPO and OLAF as Key Future Challenges. eucrim, pp 51–52.

Kuhl L (2019) Cooperation between administrative authorities in transnational muli-agency investigations in the EU: Still a long road ahead to Mutual Recognition. In: Ligeti K, Franssen V (eds) Challenges in the Field of economic and financial Crime in Europe and the US. Hart Publishing, Oregon, pp 135–188.

Lahti R (2019) Alternative Investigation and Sanctioning Systems for Corporate and Corporate-Related Crime in Finland'. Revue Internationale de Droit Pénal (RIDP) 2019, 90:1:131–145.

Lahti R (2021) The Establishment of the European Prosecutor's Office (2016). In: Lahti R (ed) Towards an Efficient, Just and Humane Criminal Justice. Finnish Lawyers' Association. online: https://edition.fi/lakimiesyhdistys/catalog/view/121/68/223-3 and https://edition.fi/lakimiesyhdistys/catalog/book/121. Accessed 31 December 2024. pp 371–380.

Lahti R (2022) The Origin and Development of Quasi-criminal Enforcement Mechanisms in Europe: Nordic Perspective'. In: Franssen V, Harding C (eds) Criminal and Quasi-criminal Enforcement Mechanisms in Europe. Origins, Concepts, Future. Hart Publishing, Bloomsbury, pp 11–24.

Ligeti K, Constantinides C, Đurđević Z, Bonacic M (2022) EPPO Handbook 2022. online: https://canestrinilex.com/assets/Uploads/pdf/973cbd9c7d/EULAW-D3.1-TrainingTool-FINAL.pdf. Accessed 31 December 2024.

Malan J, Bosch Chen I (2021) Study, Impact of Organised Crime on the EU's Financial Interests. online: https://www.europarl.europa.eu/RegData/etudes/STUD/2021/697019/IPOL_STU(2021)697019_EN.pdf. Accessed 31 December 2024.

Malan J, Bosch I C (2022) Possible Solutions for Missing Trader Intra-Community Fraud. Brussels. online: https://www.europarl.europa.eu/RegData/etudes/STUD/2022/731902/IPOL_STU(2022)731902_EN.pdf. Accessed 31 December 2024.

Malan J, Bosch I C, Guasp Teschendorff M, Nacer E (2022) Identifying Patterns of Fraud with EU Funds under Shared Management – Similarities and Differences between Member States. EU Publications Office, Brussels.

OECD (2019) Fraud and Corruption in European Structural and Investment Funds. A Spotlight on common schemes and preventive actions. OECD Publishing, Paris.

OLAF (2019) Press Release No 3/2019. Fighting crime in real time: OLAF and Belgium customs lead international cyber patrol to stop online traffickers.

van der Paal J, Nurk A, de Vlieger D (2019) Protection of EU financial interest on customs and VAT: Cooperation of national tax and customs authorities to prevent fraud, PE 636.470.

Peršak N (2018) EU Criminal Law and Its Legitimation: In Search for a Substantive Principle of Criminalisation. European Journal of Crime, Criminal Law and Crim inal Justice, 26:20–39.

Quirke J (2015) EU fraud and new member states – a success story. In: Vande Walle G, van Erp J, Huisman W (eds) The Routledge Handbook of White-Collar and Corporate Crime in Europe. Taylor & Francis, London, pp 232–246.

Safferling C (2008) Vorsatz und Schuld: subjektive Täterelemente im deutschen und englischen Strafrecht [Intent and guilt: subjective offender elements in German and English criminal law]. Mohr Siebeck, Tübingen.

Salzano L (2022) The Secretiveness over the OLAF Report on Frontex Investigations: Rule of Law Fading into Arbitrariness? VerfBlog, 2022/9/09. DOI:10.17176/20220909-110344-0. Accessed 31 December 2024.

Saporta, Maraney (2022) Practical Fraud Prevention: Fraud and AML Analytics for Fintech and eCommerce, Using SQL and Python, O'Reiley Media Inc, U.S.

Scheinin M (1996) Incorporation and Implementation of Human Rights in Finland. In: Scheinin M (ed) International Human Rights Norms in the Nordic and Baltic Countries, Martinus Nijhoff Publishers, pp 257–294.

Skinns L (2019) Police Powers and Citizens' Rights Discretionary Decision-Making in Police Detention. Routledge, Taylor & Francis, Oxon.

Spink J W (2020) Food Fraud Prevention Introduction, Implementation, and Management. Springer, Berlin, Heidelberg.

Stasi A (2021) General Principles of Thai Criminal Law. Springer Singapore, Singapore.

de Vries A J (2022) Enforcement of Policies against illicit trade in tobacco products in the Netherlands. In: Vervaele J A E, Tosza S (eds) Combatting Illicit Trade in Tobacco Products In Search of Optimal Enforcement. Springer, Heidelberg, Berlin, pp 401–463.

Wahl T (2020) OLAF Supports Detection of Money Laundering Scheme in Romania and Belgium. eucrim, Press Release, 27 July 2020. https://eucrim.eu/news/olaf-supports-detection-money-laundering-scheme-romania-and-belgium/. Accessed 31 December 2024.

Walen A, Weisser B (2022) Causation and responsibility for Outcomes. In: Heinze A, Duff A, Roberts J, Ambos K, Weigend T (eds) Core Concepts in Criminal Law and Criminal Justice: Volume 2. CUP, Cambridge, pp 57–94.

Wells J T (2014) Principles of Fraud Examination. 4th edn, Wiley, Hoboken.

Working group's report (2019) Euroopan syyttäjänviraston (EPPO) perustamista koskevaa asetusta täydentävä lainsäädäntö [Legislation supplementing the Regulation establishing the European Public Prosecutor's Office (EPPO)]. online: http://urn.fi/URN:ISBN:978-952-259-768-7. Accessed 31 December 2024.

General Literature for OLAF

Äimä K (2011) Veroprosessioikeus. talentum, Helsinki.

de Bellis M (2021) Multi-level Administration, Inspections and Fundamental Rights: Is Judicial Protection Full and Effective? German Law Journal 22:416–440.

Brüner F H (2001) Das Europäische Amt für Betrugsbekämpfung (OLAF) und seine Aufgaben bei der Erweiterung der Europäischen Union. In: Henke R (ed) Erweiterung der europäischen Union: Zusammenarbeit von Wirtschaft und Verwaltung. Köln, pp 17–26.

Brüner F H (2008) OLAF-Reform II – Kosmetischer Eingriff oder Großer Wurf? EuR 6:859–872.

Brüner F H (OLAF) (2009) OLAF Manual Operational Procedures. EU Publications Office, Brussels.

Carrera S, Mitsilegas V and Stefan M (2021) Criminal Justice, Fundamental Rights and the Rule of Law in the Digital Age. Centre for European Policy Studies (CEPS) Brussels. online: https://www.ceps.eu/wp-content/uploads/2021/05/Criminal-Justice-Fundamental-Rights-and-the-Rule-of-law-in-the-Digital-Age.pdf. Accessed 31 December 2024.

Council of the European Union (2012) Evaluation Report on the Fifth Round of Mutual Evaluations "Financial Crime And Financial Investigations". Report on Finland, Brussels.

European Commission (DG regional Policy) (2009) Information Note on Fraud Indicators for ERDF, ESF. online: https://ec.europa.eu/regional_policy/en/information/publications/cocof-guidancedocuments/2009/information-note-on-fraud-indicators-for-erdf-esf-and-cf. Accessed 31 December 2024.

European Commission (OLAF) (2011) Compendium of Anonymised Cases – Structural Actions. EU Publications Office, Brussels. online: https://www.italy-albania-montenegro.eu/sites/default/files/2023-01/05_OLAF_Compendium_of_anonymised_cases_2011.pdf. Accessed 31 December 2024.

European Commission (OLAF) (2013) Commission Staff Working Document Evaluation of the application of Regulation (EU, EURATOM) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and

Council Regulation (Euratom) No 1074/1999 Accompanying the document Commission report to the European Parliament and the Council. Brussels.

EU Commission (2014) (DG Policy, U 2) Handbook, The role of Member States' auditors in fraud prevention and detection for EU Structural and Investment Funds Experience and practice in the Member States. EU Publications Office, Brussels.

European Commission (OLAF) (2016) Guidelines on Digital Forensic Procedures for OLAF Staff. 15 February 2016. online: https://anti-fraud.ec.europa.eu/system/files/2021-07/guidelines_en_bb84583638.pdf. Accessed 31 December 2024.

European Commission (OLAF) (2017a) Fraud in Public Procurement A collection of Red Flags and Best Practices. Ref. Ares(2017)6254403 – 20/12/2017. online: https://shorturl.at/ertAV. Accessed 31 December 2024.

European Commission (OLAF) (2017b) Evaluation of the application of Regulation No 883/2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF), Final report. Publications Office, Brussels. online: https://data.europa.eu/doi/10.2784/281658. Accessed 31 December 2024.

European Commission (OLAF) (2018) Digest of rulings of the Court of Justice of the European Union with relevance to OLAF. EU Publications Office, Brussels.

European Commission (OLAF) (2021) Guidelines on Investigation Procedures for OLAF Staff, 6.10.2021. online: https://anti-fraud.ec.europa.eu/system/files/2021-10/gip_2021_en.pdf. Accessed 31 December 2024.

European Commission (OLAF) (2022a) Commission Staff Working Document, Measures adopted by the Member States to protect the EU's financial interests in 2021, Implementation of Art 325 TFEU, Accompanying the document, Report from the Commission to the Council, and the European Parliament. 33rd Annual Report on the protection of the European Union's financial interests and the fight against fraud – 2021. SWD(2022) 304 final. EU Publications Office, Brussels.

European Commission (OLAF) (2022b) Detection of forged documents in the field of structural actions. A practical guide for managing authorities elabourated by a group of Member States' experts coordinated by OLAF's unit D2 – Fraud Prevention.

European Court of Auditors (2019) Delivering performance in Cohesion, Briefing Paper. EU Publications Office, Luxembourg. online: https://www.eca.europa.eu/

Lists/ECADocuments/BRP_Performance_orientation_in_Cohesion/BRP_Performance_orientation_in_Cohesion_EN.pdf. Accessed 31 December 2024.

European Parliament (2022) (2019–2024) P9_TA(2022)0300 Protection of the European Union's financial interests – combating fraud – annual report 2020, European Parliament resolution of 7 July 2022 on the protection of the European Union's financial interests – combating fraud – annual report 2020 (2021/2234(INI), EU Publications Office, Brussels.

Gellert L (2009) Gerichtliche Verwertbarkeit von Protokollen und Missionsberichten des OLAF, AW-Prax, pp 85–88.

Ligeti K (2017) The protection of the procedural rights of persons concerned by OLAF administrative investigations and the admissibility of OLAF Final Reports as criminal evidence. European Parliament. EU Publications Office, Luxembourg.

Luchtman M, Vervaele J (2017) Report Investigatory powers and procedural safeguards: Improving OLAF's legislative framework through a comparison with other EU law enforcement authorities (ECN/ESMA/ECB). Utrecht University/RENFORCE, Utrecht.

Malan J, Bosch Chen I (2022) Possible Solutions for Missing Trader Intra-Community Fraud, Brussels. online: https://www.europarl.europa.eu/RegData/etudes/STUD/2022/731902/IPOL_STU(2022)731902_EN.pdf. Accessed 31 December 2024.

OECD (2019) Fraud and Corruption in European Structural and Investment Funds. A Spotlight on common schemes and preventive actions. OECD Publishing, Paris.

OLAF (2021) Guidelines on Data Protection for Investigative Activities. Ref(Ares) 2021, 7266396 – 25/11/2021.

OLAF (2022) The OLAF Report 2021. Publications Office of the European Union, Luxembourg.

Salzano L (2022) The Secretiveness over the OLAF Report on Frontex Investi gations: Rule of Law Fading into Arbitrariness? VerfBlog 2022/9/09. DOI: 10.17176/20220909-110344-0. Accessed 31 December 2024.

Unger B, Joras F, Lucia R (2021) Combating Fiscal Fraud and Empowering Regulators, Bringing Tax Money Back Into the COFFERS. OUP, Oxford.

Wouters J (2020) OLAF. In: Wouters J, Nowak M, Chane A-L, Hachez N (eds) The European Union and Human Rights: Law and Policy. OUP, Oxford, pp 132 et seq.

Further Reading

Cornils K, Frände D, Matikkala J (2006) Das finnische Strafgesetz. Rikoslaki. Strafflag. Übersetzung und Einführung. Max-Planck-Insitut für ausländisches und internationales Strafrecht. Sammlung ausländischer Strafgesetzbücher. Band C 116. Berlin.

European Commission (OLAF) (2022) Statistical evaluation of irregularities reported for 2021: own resources, agriculture, cohesion and fisheries policies, pre-accession and direct expenditure, Accompanying the document. 33rd Annual Report on the protection of the European Union's financial interests and the fight against fraud – 2021. SWD(2022) 307 final. EU Publications Office, Brussels.

European Commission (OLAF) (2022) Report from the Commission to the Council and the European Parliament, 33rd Annual Report on the protection of the European Union's financial interests and the fight against fraud – 2021. COM(2022) 482 final. EU Publications Office, Brussels.

Finnish Lawyers' Association / Suomalainen Lakimiesyhdistys (2021) Towards an Efficient, Just and Humane Criminal Justice. Nordic Essays on Criminal Law, Criminology and Criminal Policy 1972–2020. Publications of the Series D, No 8, Helsinki. online: https://edition.fi/lakimiesyhdistys/catalog/view/121/68/223-3 and https://edition.fi/lakimiesyhdistys/catalog/book/121. Accessed 31 December 2024.

Frände D (2015) EPPO and jurisdiction: a Finnish perspective. In: Asp P (ed) The European Public Prosecutor's Office – Legal and Criminal Policy Perspectives. Jure Bokhandel, Stockholm.

Lahti R (2019) Alternative Investigation and Sanctioning Systems for Corporate and Corporate-Related Crime in Finland. Revue Internationale de Droit Pénal RIDP 90:131–145.

Lahti R (2019) Zur Kriminal- und Strafrechtspolitik des 21. Jahrhunderts. Der Blickwinkel eines nordischen Wohlfahrtsstaates und dessen Strafgesetzreformen: Finnland. Strafrechtswissenschaft und Strafrechtspolitik. De Gruyter, Berlin.

Lahti R, Nuotio K (1992) Criminal Law Theory in Transition. Finnish and Comparative Perspectives // Strafrechtstheorie im Umbruch. Finnische und vergleichende Perspektiven. Finnish Lawyers' Publishing Company, Helsinki.

Utriainen T (2015) Finland. International Encyclopaedia of Laws. Wolters Kluwer, Alphen aan den Rijn.

Index

access to bank account information 309
accusatorial principle 50
Act on Extradition between Finland and Other Nordic Countries 52
Act on the Publicity of Court Proceedings in General Courts 52
Administrative Procedure Code 297
AFCOS 9, 23, 35, 241, 242, 252, 268, 325, 340, 341, 342, 343
analogue society 242
Annual Report 55, 65, 341
anti-fraud architecture 241
area of structural funds and internal policies 268
audits 33, 68, 137, 266, 268, 274
authorization of an EDP 170
bribery 61, 94, 210
buzz words 340
checks 32, 242, 248, 249, 250, 251, 256, 267, 280, 281, 309
coercive measures 49
– in criminal proceedings (reform 1989) 49
Coercive Measures Act 147
competence and jurisdiction 70, 242
conformity with national procedural rules 252
consensual proceedings 51
constitutional reform 50
Criminal Investigation Act 53
criminal investigation authority 147
cross-border measures of coercion 53
Detention 152, 219, 225, 261
digital evidence 242
direct expenditure 272, 289, 290, 318
Economic Operator 244, 245, 251, 297
ECtHR 23, 33, 48, 50
effectiveness of investigations 242
establishment of EPPO and Finland 51
EU IBOAs 132
European Chief Prosecutor 23, 54, 74, 116, 118, 151
European Delegated Prosecutor 2, 24, 52, 53, 54, 58, 59, 60, 73, 74, 75, 114, 116, 118, 119, 130, 131, 167, 168, 170, 210, 213, 219
Federal Agency for the Safety of the Food Chain
FASFC 24
Finnish procedural law 47
first instance judgement 31
fraud offence 61, 101
General Data Protection Regulation 190, 193
Government Bill 184/2020 144
human rights 50
immunity provisions 151
indictment 119, 127, 128, 133, 146, 336
Internal Rules on Procedure 73
investigative measures 43, 62, 123, 131, 132, 133, 139, 149, 180, 213, 236, 317
investigative tools 168
invoices 249, 289
Material competence 74
Ministry of Economic Affairs and Employment 143
Ministry of Justice 143
Ministry of Social Affairs and Health 143
Ministry of the Interior 143
national homologue investigators 242

ne bis in idem principle 50
notification 40, 43, 54, 66, 67, 71, 72, 116, 127, 146, 147, 148, 164, 171, 223, 232, 254, 258, 262, 272, 276, 280, 287, 293, 299, 329, 345
PIF offences 59, 68, 77, 105, 119, 132, 149, 178
plea bargaining 51
preliminary investigation 145
preliminary investigation authority 145
pre-trial investigation 49
Pre-Trial Investigation Act 144
principle of investigation 265
principle of legality 61, 234
privilege against self-incrimination 47, 50
prohibition of double jeopardy 50
prosecutor general 49
Protocol No. 7 of the Treaty on the Functioning of the European Union (TFEU) 165
regional offices 34, 73
resist 252
revenue 61, 68, 108, 242, 252, 256, 260, 267, 325
right of access to data stored in EPPO's case management system 54
shadow economy 143
structural funds 242, 268, 273, 280, 290, 302, 325
telecommunications interception 49
Territorial and personal competences 74
Traficom 143
transfer of information 68, 75, 288
transfer of personal data from the national authority to the EPPO 53
types of fraud 108
Union bodies 69, 325
Verification of information 73
Working Agreements 69

This **Finnish EPPO/OLAF volume** provides comprehensive information for the EPPO/OLAF sector, including case law, legal sources, and relevant organizations. It also summarises the national legislation relating to Finnish EPPO investigations, with a focus on the criminal investigation procedure. The last section deals with investigative missions in connection with OLAF investigations in Finland. Prof Dr Raimo Lahti has acted as the publication's national expert.

While written in English, the volume includes footnotes that reproduce the original Finnish legislation. Easily navigable with the help of visual symbols, it is designed as a quick reference tool for academics, students, practitioners and other interested readers.

Logos Verlag Berlin

ISBN 978-3-8325-5901-4