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THE EUROPEAN UNION**

**Brussels, 30 March 2012**

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**EVALUATION REPORT ON THE**  
**FIFTH ROUND OF MUTUAL EVALUATIONS**  
**"FINANCIAL CRIME AND FINANCIAL INVESTIGATIONS"**

**REPORT ON FINLAND**

DECLASSIFIED

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## 1. INTRODUCTION

At the meeting of the Multidisciplinary Group on Organised Crime (MDG)<sup>1</sup> on 26 February 2008, the Presidency proposed three possible topics for the fifth round of mutual evaluations<sup>2</sup>, two of which received substantial support. At the MDG meeting on 6 May 2008, the majority of delegations were in favour of selecting financial crime and financial investigations. On 17 June 2008, the Group decided that the subject of the fifth round was to be "financial crime and financial investigations". The scope of the evaluation covers numerous legal acts relevant to countering financial crime. However, it was also agreed that the evaluation should go beyond simply examining the transposition of relevant EU legislation and take a wider look at the subject matter<sup>3</sup>, seeking to establish an overall picture of a given national system. On 1 December 2008 a detailed questionnaire was adopted by the MDG<sup>4</sup>.

The importance of the evaluation was emphasised by the Czech Presidency when the judicial reaction to the financial crisis was being discussed<sup>5</sup>. The significance of the exercise was once again underlined by the Council when establishing the EU's priorities for the fight against organised crime based on OCTA 2009 and ROCTA<sup>6</sup>.

Topics relating to the evaluation, in particular the improvement of the operational framework for confiscating and seizing the proceeds of crime, were mentioned by the Commission in its Communication on an area of freedom, security and justice serving the citizen<sup>7</sup>.

Experts with substantial practical knowledge in the field of financial crime and financial investigation were nominated by Member States pursuant to a written request to delegations made by the Chairman of the MDG.

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<sup>1</sup> Since 1 July 2010 the responsibilities for this process have been transferred to the Working Party on General Affairs and Evaluations (GENVAL).

<sup>2</sup> 6546/08 CRIMORG 34.

<sup>3</sup> 10540/08 CRIMORG 89.

<sup>4</sup> 16710/08 CRIMORG 210.

<sup>5</sup> 9767/09 JAI 293 ECOFIN 360.

<sup>6</sup> 8301/2/09 REV 3 CRIMORG 54.

<sup>7</sup> 11060/09 JAI 404.

At its meeting on 17 March 2009 the MDG discussed and approved the revised sequence for the mutual evaluation visits<sup>8</sup>. Finland was the fifteenth Member State to be evaluated during this round of evaluations.

The experts charged with undertaking this evaluation were Ms Vania Nestorova (Prosecutor, Supreme Cassation Prosecutor's Office, Sofia/Bulgaria), Ms Marina Kranz-Singer (Chief Detective Inspector, Criminal Police Office of the State of Hesse, Wiesbaden/Germany) and Ms Teresa Almeida (Public prosecutor, *Departamento de Investigação e Acção Penal de Lisboa*, Lisbon/Portugal). Two observers were also present: Ms Ioana van Nieuwkerk (Legal officer, Eurojust, The Hague/Netherlands) and Mr Rafaël Rondelez (Criminal Finances and Technology Unit, Europol, The Hague/Netherlands) together with Ms Milena Petkova and Mr Peter Nath from the General Secretariat of the Council. Neither DG Home of the European Commission nor OLAF have been participating in this on-site visit.

This report was prepared by the expert team with the assistance of the Council Secretariat, based on findings arising from the evaluation visit that took place between 2 and 6 May 2011, and on Finland's detailed replies to the evaluation questionnaire

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<sup>8</sup> 5046/1/09 REV 1 CRIMORG 1.

## 2. NATIONAL SYSTEM AND CRIMINAL POLICY

### 2.1. Specialized units

#### 2.1.1. Investigative authorities

##### 2.1.1.1. Police, Customs, Border Guard (PCB) Co-operation

One of the specific features of Finnish law enforcement is the so-called Police, Customs, Border Guard (PCB) Co-operation. Owing to the size of the country, its limited resources, the information gaps between the different law enforcement agencies and the constant changes in society, Finland has created very close co-operation mechanisms between the three law enforcement services, the most significant practice of which is the joint PCB criminal intelligence and analysis function with the national PCB centre located in the National Bureau of Investigation in Vantaa and local teams in Turku, Joensuu, Oulu, Rovaniemi as well as the port of Helsinki and Helsinki-Vantaa Airport.

##### 2.1.1.2. National Police Board

Police powers are founded on the Police Act<sup>9</sup>, the Pre-trial Investigation Act<sup>10</sup>, the Coercive Measures Act<sup>11</sup> and some specialised acts such as the Public Order Act.

The most important powers in combating financial criminality which the police (and also other pre trial investigation authorities) may use independently include arrest and detention, search, seizure and sequestration. The police have the right to obtain confidential information from authorities and organisations (such as bank and account details) and to obtain information from private individuals unless providing or using such information as evidence is prohibited or restricted by law. The police may themselves decide to organise undercover activities and test purchases and to carry out surveillance and technical surveillance.

The **National Police Board**, which comes under the Ministry of the Interior, directs and guides operational police activities in Finland. Working directly under the National Police Board are the local police departments, the national police units, the Police College of Finland and the Police

<sup>9</sup> Police Act, 7.4.1995/493, *Poliisilaki*.

<sup>10</sup> Pre-trial Investigation Act, 30.4.1987/449, *Esitutkintalaki*

<sup>11</sup> Coercive Measures Act, 30.4.1987/450, *Pakkokeinolaki*



Technical Centre. The National Police Board is responsible for performance guidance for those units. The mission of the National Police Board is to plan, develop, direct and monitor police activities and support activities. In addition, the National Police Board is responsible for performance guidance for the police units and decides on joint operations between them.

Finland has 24 police departments, of which 17 in all have financial crime investigation units and/or teams.

The financial crime investigation units of Police Departments have formed four geographical networks: the southern, western, eastern and northern co-operation networks. The police departments operating in the network areas, under the guidance of their police chiefs, have reached agreement with other police departments in the area on joint action in investigating and combating financial crime.

In 2010, 499 police posts in all were allotted in Finland for the investigation of financial crime. The standard composition of the investigation units includes the head of the unit, plus chief investigators, investigators, secretaries and financial inspectors (forensic accountants). Every financial crime unit also has staff specialising in monitoring prohibitions on doing business, tracing the proceeds of crime, and intelligence and surveillance work. The units are mainly responsible for the investigation of financial crime in their own geographical area.

The Unit for Assessment of Economic Crimes began its work in 2005 in the Helsinki region. Since 2010 its operations have been extended nationwide, and the Unit's activities were continued as a project under the National Police Board. The Unit does not carry out actual investigations of financial crime, but it provides a variety of support services for those investigating and combating financial crime. As of 2012 the Unit is part of National Bureau of Investigation.

#### *2.1.1.3. National Bureau of Investigation*

In addition, the **National Bureau of Investigation (NBI)** carries out financial crime investigations.. The NBI is a national police unit operating throughout the Finnish territory. Its main duties are to fight against international and organised crime, produce specialist services in combating crime, produce up-to-date and reliable situational awareness on crime with a special emphasis on

organised crime, lead the target selection process in serious crime cases and to develop methods for combating crime.

In 2011 there were 158 financial crime investigators in the NBI of which 59 in the Financial Crime Department in the NBI HQ in Vantaa.

#### Financial Intelligence Unit (FIU)

The Finnish FIU is seated **in the anti-money-laundering branch of the Criminal Intelligence Division of the National Bureau of Investigation**. It is divided into a Financial Intelligence Unit and a unit for Financial Crime Intelligence and Asset Tracing. At the time of the visit the number of personnel employed by FIU was 24 officials.

Apart from the inclusion in multilateral networks such as the FATF, the Egmont Group, Interpol, Europol, EU co-operation and FIU.Net the international co-operation is governed by 19 bilateral MoUs.

The FIU has the right to freeze bank transactions for up to five working days.

The experts were informed during the on-site visit that an agreement on a new Money Laundering Register had been reached (similar to the existing ones in NL and DK). The new register has been in operational use from the beginning of 2012.

#### Asset Recovery Office (ARO)

The **Finnish Asset Recovery Office** that has been established under Council Decision [2007/845/JHA](#) is **located in the financial crime intelligence office in the anti-money-laundering branch of the Criminal Intelligence Division of the National Bureau of Investigation**. The CARIN contact point is in the same office. Matters relating to the Decision are centralised in that unit. The main function of the office is to send and receive messages about ARO intelligence.

The Finnish ARO began using the SIENA information exchange system as an Advanced User in the spring of 2011, on the ARO-to-ARO principle. The request for a connection was made at the beginning of March 2011, just prior to the on-site visit, and staff was trained during that month.

A total of eight police staff are specialized in this field; the contact details of four of them are in the ARO Matrix. One contact person from the Tax Administration and one from the enforcement authority also work in the group.

In 2010 only one request for information was received by the ARO from another Member State; during the same year, the Finnish ARO has sent five requests for information.

The Finnish ARO is not involved in the freezing of assets before conviction. It does not have access to judicial databases on freezing and confiscation. However, the unit has access to the police Criminal Complaints Register which contains the orders on preliminary seizure and on the applications for seizure and confiscation.

## **2.1.2. Asset Recovery Office (ARO) and other similar bodies**

### *2.1.2.1. Asset Recovery Office (ARO)*

The Asset Recovery Office is a unit within the National Bureau of Investigation. Its functioning has been laid down in chapter 2.1.1.3.2.

The bodies in the following paragraphs are also performing functions in tracing proceeds from crime.

### *2.1.2.2. Pre-trial investigation authorities*

Every **pre-trial investigation authority** carrying out criminal investigations **has an obligation to trace the proceeds of crime**, on the basis of Section 5 of the Pre-trial Investigations Act, a task that is in the focus of the Proceeds of Crime Teams referred to in paragraph 2.1.2.4.

### *2.1.2.3. Enforcement authorities*

Regarding asset recovery, the implementation in Finland of a **payment obligation imposed by a ruling delivered by a court** is unambiguously **a matter for the enforcement authority**. This task is performed by Finland's 22 district enforcement offices<sup>12</sup>. Neither is it of significance whether the

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<sup>12</sup> The Finish authorities have informed that as of spring 2011 six special collection areas were organised to focus on special collection which includes also e.g. proceeds of crime.

payment obligation imposed by the court is based on civil or criminal proceedings, nor whether the debt is owed to the State or to a private party. The enforcement authorities are also responsible for the collection of payments under public law such as taxes.

On the other hand, if it is a question of the confiscation of certain property by the state (confiscation penalty), implementation is not a matter for the enforcement authorities<sup>13</sup>.

Under Chapter 3 of the Act on Coercive Measures the implementation of freezing or seizure of assets is a matter for the enforcement authorities<sup>14</sup>.

#### *2.1.2.4. Groups tracing the proceeds of crime*

As well as the above, **joint regional groups** have been set up **to trace the proceeds of crime** consisting of officials from the Tax Administration, enforcement authorities and police, who carry out financial investigation tasks.

In addition to the ARO unit there are 17 regional groups tracking the proceeds of crime, with a total of 38 representatives of the police, 20 from the Tax Administration and 19 from the enforcement administration.

Finland has two trained police "money tracker dogs", which are used with great success to sniff out cash.

#### *2.1.2.5. The division of powers between the pre-trial investigation authorities and the enforcement authorities*

The pre-trial investigation authority is responsible for tracing the proceeds of crime and for applying for protective measures by the court. Implementation of the court's decision on protective measures, and competence to implement binding confiscation orders and decisions on compensation for criminal damage is laid down in the Act on the Enforcement of Fines and in the Enforcement Code. According to those provisions, the enforcement authorities implement financial protective

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<sup>13</sup> Cf. Section 38 of the Act on the Enforcement of Fines.

<sup>14</sup> Chapter 3, Section 8 of the Act on Coercive Measures.

measures ordered by the court, and final judgments concerning financial confiscation penalties and compensation for criminal damage. The law enforcement authorities implement confiscation orders relating to objects.

According to the provisions, the enforcement authority is responsible for administering property which is the subject of protective measures and property which has been confiscated by the pre-trial investigation authorities up until the time of enforcement of the judgment. According to the Enforcement Code the enforcement authority may sell property during the procedure if it may easily be spoiled, is likely to deteriorate quickly or is especially expensive to keep. The same right is granted to local police chiefs by Chapter 4 Section 10 of the Coercive Measures Act, and to Customs by Section 35 of the Customs Act.

#### *2.1.2.6. Powers of pre-trial authorities*

The police are responsible for the exchange of information in accordance with Decision 2007/845/JHA. Under Section 5 of the Pre-trial Investigation Act, the pre-trial investigation authority is obliged to trace the proceeds of crime when investigating a case. Thus every authority involved in the pre-trial investigation is obliged to trace the proceeds of crime during the investigation and the means which are available in the pre-trial investigation are also available for tracing the proceeds of crime. In Finland the pre-trial investigation authorities are the Police, Customs and Border Guard. The investigation authority's own officers appointed as chief investigators are responsible for leading the pre-trial investigation. A prosecutor leads the pre-trial investigation when a police officer is under investigation for a suspected crime.

A pre-trial investigation authority may itself decide, so as to prevent or solve crime, to make enquiries about information covered by bank, company, insurance or tax confidentiality and to use such information for the purposes mentioned above, and thus also for tracing the proceeds of crime.

A pre-trial investigation authority may question parties concerned or witnesses in order to trace the proceeds of crime. Persons may also be questioned as witnesses who do not have any knowledge of the crime itself but who may have knowledge of the financial circumstances of persons who are suspected of the crime or may have benefited from it. If such a witness refuses to give evidence or to report any circumstances without a legal basis, in accordance with the Pre-trial Investigation Act he may be questioned in court and the court may force him to testify as his refusal to do so has no basis in law.

The pre-trial investigation authority may carry out a house search, or a personal search or inspection in order to trace the proceeds of crime. The authority may independently use the temporary protective measures or orders for the seizure or freezing of assets laid down in Chapter 3 of the Coercive Measures Act in order to ensure that the proceeds of crime are recovered. In order to keep the temporary protective measure in force, the pre-trial investigation authority has to make an application to the court within a week from the time when the temporary protective measure is ordered.

The court may, at the request of the chief investigator, rule that the order for the freezing or seizure of assets should remain in force for four months at a time. The coercive measures may continue for several four month periods, if requested by the chief investigator and approved by the court.

The pre-trial investigation authority may independently decide on the seizure of objects in accordance with Chapter 4 of the Coercive Measures Act, for four months at a time if necessary, unless an application is made to the court for it to be annulled. The court may annul the decision or uphold the seizure. The seizure may continue for four months, on the decision of the court.

The prosecution authorities have the same powers as regards coercive measures as the pre-trial investigation authorities during the pre-trial investigation, the consideration of charges and the proceedings.

### **2.1.3. Judicial authorities**

#### *2.1.3.1. Prosecution services*

The **Finnish Prosecution Service** consists of 13 local prosecution offices and the Office of the Prosecutor General, which acts as the central authority. In 2011, there are 36 prosecutors in the local prosecution offices who have financial crime as their main occupation. The Office of the Prosecutor General has one State Prosecutor responsible for cases of financial crime.

In the Office of the Prosecutor General, cases of financial crime are in fact handled by two State Prosecutors in the Prosecution Unit. Their workload equates to one man-year for cases of financial crime.

Only in Helsinki the prosecutors handling financial crime have their own section with 13 financial crime prosecutors. The other prosecution offices have different organisational models.

Prosecutors' tasks are independently to carry out the prosecution tasks allocated to them by their superiors in financial crime cases, during the pre-trial investigation and the examination of the charges and at all stages of the judicial process, also in the Supreme Court. Appeals and defences at the Supreme Court by financial crimes prosecutors go through the State Prosecutor.

Between 2006 and 2010, prosecutors with financial crime as their main occupation handled approximately 300 to 500 of the most demanding criminal cases. Approximately 1000 cases of financial crime are allocated to other prosecutors every year.

Prosecutors are empowered independently to consider the charges in cases under consideration. Only the Prosecutor General has the right to take over a case which is being handled by a subordinate prosecutor so as to make a decision himself, or to order a subordinate prosecutor to proceed with charges in a case.

The Prosecutor General, Deputy Prosecutor General and State Prosecutor are empowered to handle criminal cases anywhere in the country. The powers of the district prosecutors are limited to those criminal cases where the district courts in the area of operation of that prosecution office has jurisdiction. At the time of the on-site visit Finland's Parliament had approved an act on the Prosecution Service that was about to come into force in the autumn of 2011. According to Section 7 of the act, the powers of local prosecutors are in future also to cover the whole country. One of the objectives of this change is to reinforce the handling of cases of financial crime.

#### *2.1.3.2. Judges involved in the pre-trial phase*

The evaluation team was informed that in Finland **judges** do not participate in the pre-trial investigation.

#### *2.1.3.3. Courts*

In Finland the Ministry of Justice directs the operations of the **courts**. The courts are general courts and administrative courts. The general courts are the district courts, the courts of appeal and the Supreme Court. The decision of a district court may be appealed against in a court of appeal. The

decision of a court of appeal may be appealed against in the Supreme Court. The courts do not have sections specialising particularly in cases of financial crime but in the Helsinki District Court there are four departments out of eight which are *inter alia* dealing with elements of economic and financial crime.

The competent court in criminal cases is provided for in Chapter 4 of the Criminal Procedure Act (689/1997).

The courts exercise their jurisdiction; in other words, they decide what is right in the individual case. The courts are independent: they are bound only by the law in force. No outside power may interfere in their decisions. The independence of the courts is guaranteed by the constitution.

#### 2.1.3.4. *Enforcement authorities*

The enforcement authority comes under the administrative section of the Ministry of Justice and in Finland is a specialised State authority. There is a two-fold system: it consists of the **National Administrative Office for Enforcement** and of its subordinate district enforcement offices, of which there are 22 in Finland.

The National Administrative Office for Enforcement is responsible for the overall management, direction and supervision of enforcement work. Actual implementation and for example the collection of claims are taken care of by enforcement officers working in the district enforcement offices under their own responsibility. District enforcement officers and their subordinates work as enforcement officers. In practice all enforcement officials work with both civil law and under criminal law claims. Their tasks are not allocated to different units for enforcement on the basis of the origin of the claim.

Specialised enforcement is currently being extended to cover the whole country. Until now there have been two enforcement offices in Finland with full time specialised collection sections. In 2011 this function is being extended to every enforcement office. Finnish enforcement offices have been divided into six specialised enforcement areas, in which enforcement officers take care of special collection cases as their main activity.



The Enforcement Code regulates the enforcement authorities and their powers.

#### 2.1.3.5. Bankruptcy Ombudsman

Attached to the Ministry of Justice, the Bankruptcy Ombudsman is an independent authority that principally supervises the administration of bankruptcy estates in Finland. However, combating financial crime is one of the main priorities of the Ombudsman.

The administrators (who are private sector lawyers in the Finnish system) of bankruptcy estates have the duty to provide information to the Ombudsman at request and also without request. The Ombudsman has the right to inspect all documents and records belonging to the bankruptcy estate and relating to the bankrupt debtor. Regardless of the rules of confidentiality, the Ombudsman has the same right as the bankruptcy estate or the debtor himself to receive, free of charge, all information relating to the financial status of the debtor or the estate, as well as information on the bank accounts and payment transfers etc. of the debtor or the estate. The Ombudsman has the right to participate in meetings of creditors of the bankruptcy estates. The Ombudsman has the right to receive assistance by the police and other authorities.

The administrators who are under the supervision of the Ombudsman have duties that are solely aimed at combating financial crime. The administrators who are usually attorneys have the duty to report all negligence and wrongdoings of the bankrupt debtor to the Ombudsman who has the right and resources to carry out a special audit of the accounts and activities of the debtor. In every bankruptcy the administrator draws up a document, the debtor description, that must include information on the ownership and group relationships of the debtor, the main reasons for the bankruptcy and observations on the pre-bankruptcy activities of the debtor. Administrators are considered to have the duty to report to the police observations on acts of accounting offences and offences by a debtor (as described in the Penal Code).

The Ombudsman may appoint an auditor to carry out a special audit of the administration, accounts and activities of the debtor. The initiative for the special audit may come for example from the administrator, a creditor or the police.

The Bankruptcy Ombudsman is responsible for the Public Receivership which is a method of scrutinising the pre-bankruptcy activities of the debtor. The costs of the Public Receivership are covered from public funds whenever the assets of the bankruptcy estate run out. Combating insolvency-related financial crime is a central objective of the Public Receivership.

## 2.1.4. Under the administration of the Ministry of Finance

### 2.1.4.1. Customs

Finnish Customs (*Tulli*) is an agency subordinate to the Ministry of Finance. According to the relevant statute, Customs is responsible for the customs supervision of imported and exported goods and international transport and for other customs matters, and also for customs and excise duties where they are separately imposed. Customs is also responsible for compiling statistics on foreign trade and for compiling other statistics connected with its area of activity, and for overseas trade services, and also carries out other activities appropriate to the agency as instructed by statute or by decision of the Council of State.

The Finnish Customs has long history in crime preventing work. Previously, this work was done in the enforcement units of Customs district. At the beginning of 2011, the law enforcement work was gathered under one umbrella as **Customs Criminal Service** was created.

The fight against crime at Customs is now organised as a national procedural organisation, with four nationwide components: combating serious crime, combating financial crime, criminal intelligence and expert services.

The component for combating financial crime brings together the financial crime investigation unit and the financial crime intelligence unit. The tasks of this component are to coordinate and direct financial crime investigation and intelligence for national Customs, to detect particularly serious financial crime, and to carry out the related pre-trial investigation tasks.

Customs Criminal Service consists of 330 persons. They all work in the area of crime prevention. Approximately 250 of them work in combating financial crime and 50 of them combating business-related crime (as their main area of activity).

As one of the pre-trial investigation authorities, Customs carries out pre-trial investigations of customs crimes. In investigating such cases, the provisions of the Customs Act are observed in addition to the separate provisions on pre-trial investigation and coercive measures.

According to Section 3 of the Customs Act, customs crime means any crime covered by the provisions of the Customs Act or other acts where supervision of compliance or implementation are tasks of Finnish Customs, or the infringement of any rules or regulations laid down by virtue of those acts, as well as Chapter 46 of the Criminal Code on unlawful dealing in imported goods, such as the receiving offences referred to in Chapter 32 Section 1(2) of the Criminal Code and other such infringements of the rules which concern the import or export of property.

When carrying out pre-trial investigations for the customs authority, customs officials have the same right to launch investigative action and to use coercive measures as police officers in pre-trial investigations by the police authority (Chapter 43 Customs Act).

#### 2.1.4.2. Tax Administration

The tasks of the **Tax Administration** in supervising taxation include detecting and combating the grey economy in particular. Combating the grey economy uses approximately 30 % of tax inspection resources every year (approximately 800 tax inspections annually). Supervising the related criminal cases takes approximately 20 man-years each year.

The jurisdiction of the Tax Administration covers the whole country. The Tax Administration has the right to report cases concerning tax crime and other crime related to taxation to the pre-trial investigation authorities for investigation, and to plead in criminal cases and in resulting cases relating to damages.

Other than tax crimes proper, other crimes connected to taxation are typically crimes relating to the collection or supervision of taxes. They include for example offences by debtors in relation to the collection of tax. A crime report may also be made on criminal action related to compliance with fiscal obligations which is detected in connection with tax supervision. Such cases might for example include the falsification of various documents related to taxation or the provision of false information to the registers kept by the Tax Administration, where the act does not fulfil all the essential elements of tax fraud as regards the giving of false information.

The Tax Administration also has the right to report to the pre-trial investigation authorities for investigation any case involving the detection of an accounting offence, but the Tax Administration is not a party concerned in the accounting offence, and can therefore not use its right to intervene in the pre-trial investigation or in the criminal trial.

The above relates to the reporting of crime. In addition to reporting crime, the Tax Administration has the right to provide information on its own initiative without being prevented by obligations of confidentiality in certain situations. Those situations are mostly the making of various sorts of report to the national or local authorities or bodies with public duties, in order to fulfil tasks relating to the supervision obligation laid down by law or statute in various circumstances. Reports may be made for example to the occupational safety authorities, in their supervision of a farmer's obligation to report and responsibility for complying with the law when employing foreign workers; to the police, on matters relating to supervision of a prohibition on doing business; or to the Money Laundering Clearing House, on suspicious business dealings.

A grey economy information unit started operating in the Tax Administration in 2011. Its function is to promote the fight against grey economy by producing and disseminating information about grey economy and its control. Information Unit also prepare compliance reports concerning organizations to other countries.

#### **2.1.5. Financial Supervisory Authority**

The **Financial Supervisory Authority (FIVA)** operates in conjunction with the Bank of Finland but is an independent decision-making authority. Consideration by the government of matters concerning FIVA falls within the competence of the Ministry of Finance. The overall expediency and efficiency of the Authority is supervised by the Parliamentary Supervisory Council. The board of FIVA lays down its objectives and lines of action and supervises their implementation. Supervised entities pay tax-like supervision fees and FIVA also charges processing fees. FIVA's structure is composed of institutional supervision, prudential supervision, market supervision and business supervision, as well as management and support services. FIVA's operations and tasks are laid down in the Act on the Financial Supervisory Authority.

The activities of FIVA are aimed at promoting financial stability by the smooth operation of credit, insurance and pension institutions and other supervised entities. The objective is also to safeguard the interests of the insured and maintain confidence in the financial markets. Other tasks include fostering compliance with good practice in, and public awareness of, financial markets.

FIVA does not have any special units or individuals dealing with cases of financial crime as their main occupation. The various sections of FIVA supervise compliance with the law and if necessary look into suspected abuses. The tasks of the market supervision section expressly include the investigation of abuses in the securities market. For more minor abuses FIVA is able to impose administrative penalties. If suspicions of abuse arise where there are grounds to suspect crime, FIVA sends a request for investigation to the police authorities (a few every year). These have chiefly involved suspected securities market offences (abuse of inside information, rate manipulation and reporting offences). The actual investigation of crimes is a matter for the police. If necessary FIVA works in co-operation with the police authorities.

The appropriate supervision section is responsible for work to clarify suspicions of abuse and to investigate events. When it is decided, on the basis of the investigation by the supervision section that an administrative hearing procedure should be launched or an investigation requested, a proposal is sent to the secretariat of the Board, which assesses the judicial prerequisites for imposing a sanction or requesting an investigation. The Director General decides on requests for investigation after the case has been addressed by FIVA's management group. The Board of FIVA decides on administrative sanctions in accordance with the Act on the Financial Supervisory Authority.

The working group which prepared the reformed Securities Markets Act proposed that the Act on the Financial Supervisory Authority should include explicit provisions on co-operation between authorities in preventing and combating financial crime. The working group's draft act stated that FIVA would work in co-operation with the Money Laundering Clearing House, the police, the Grey Economy Information Unit, the Tax Administration and other authorities concerned in preventing and combating financial crime. In addition, it stated that FIVA would be obliged to request an investigation if it suspected that financial services or financial systems were being used, or that there was an intention to use them, for the purposes of financial crime.

FIVA'S powers are based on the Act on the Financial Supervisory Authority. That Act states that FIVA's tasks are first and foremost to ensure that financial market participants comply with the laws and regulations applicable to them (for example the provisions on the prevention and detection of money laundering and the financing of terrorism). In addition, FIVA monitors the issuance of, and

trading in, financial instruments. Another of FIVA'S tasks laid down by law is to participate in national co-operation between authorities and in combating criminal misuse of the financial system and to perform its other statutory duties. According to the Securities Markets Act, FIVA is to enforce compliance with the act in question, which contains provisions on market abuse amongst others. The tasks listed above are regarded as also including the making of requests for investigations to the police authorities.

## **2.1.6. Under the administration of the Ministry of Social Affairs and Health**

### *2.1.6.1. Occupational safety and health department*

Under the direction of the Ministry of Social Affairs and Health, its occupational health and safety department supervises occupational health and safety, working throughout the country in conjunction with the five Regional State Administrative Agencies. An order by the Ministry of Social Affairs and Health has laid down that combating financial crime throughout the country, particularly with regard to implementing supervision under the Act on contractors' liability, shall be a task of the Regional State Administrative Agency for Southern Finland. In all there are 12 inspectors dealing with contractors, but occupational safety inspectors working in other areas of responsibility also have supporting tasks in combating financial crime insofar as their tasks include monitoring compliance with the minimum requirements for employment laid down in employment law. In addition, inspectors specialising in particular in the monitoring of foreign labour work in areas of occupational safety.

There are no formal qualification requirements for occupational health and safety tasks, except for managers. Occupational safety and health inspectors generally have a basic vocational diploma or polytechnic degree, and some also have a university degree. In addition, in practice almost all inspectors have attended the Occupational Health and Safety Administration's own inspectors' course, which provides a sound introduction to work as an inspector. Some inspectors also have a variety of earlier work experience.

The task of contractors' inspectors is to enforce the Act on the Contractor's Obligations and Liability when Work is Contracted Out. The task of occupational safety and health inspectors is to ensure compliance with the minimum requirements for employment laid down in employment law. The "foreigners" inspectors supervise the use of foreign labour and ensure compliance with the minimum employment requirements for employees.

The occupational health and safety authorities work independently. The occupational safety and health inspectors prepare cases independently, but the final power of decision in all cases remains with the director of the occupational health and safety department.

The occupational health and safety authorities operate throughout the country. The occupational health and safety department can only take up occupational health and safety cases in its own administrative area. As mentioned above, the Regional State Administrative Agency for Southern Finland exceptionally has sole jurisdiction for all cases involving enforcement of the Act on contractors' liability throughout the country.

## **2.1.7. Under the administration of the Ministry of the Environment**

### *2.1.7.1. Environmental protection*

#### Composition and location in the internal structure

The areas of responsibility of the Ministry of the Environment include environmental protection and nature conservation, combating environmental damage, as well as tasks relating to land use, building and housing. Agencies in the Ministry's area of work are the Housing Finance and Development Centre, the Finnish Environment Institute, the State housing fund and the Oil Pollution Fund.

In 2010 the Centres for Economic Development, Transport and the Environment were established, bringing together some tasks of the earlier employment and economic centres, regional environmental centres, road districts, provincial departments for transport and education, and the maritime administration. Some of their other tasks were transferred to the Regional State Administrative Agencies which were set up at the same time.

#### The Environmental Crime Monitoring Group

As a consequence of Interpol General Assembly Resolution No AGN/65/RES/25, adopted in October 1996, a national working group linked to the National Bureau of Investigation was founded on 1 October 1997, with tasks including the monitoring of environmental crime and developing co-operation between different supervisory authorities. The group also provides advice and assistance in the execution of requests for mutual judicial assistance addressed to Finland. Every

year the working group reports on the situation regarding environmental crime in Finland. The group has members from the National Police Board (their member acts as chairman), the National Bureau of Investigation, the Ministry of the Environment, the National Board of Customs, the Office of the Prosecutor General and the Border Guard Department of the Ministry of the Interior. The group issued its first report on 1 July 1998.

#### Mission and powers

The Ministry of the Environment guides the public administration tasks of the Regional State Administrative Agencies, the Centres for Economic Development, Transport and the Environment, the Safety and Chemicals Agency and *Metsähallitus* (the forest administration) in its own area of operation. The Finnish Environment Institute is the national centre for environmental data in Finland. The data stored in its information systems are used for environmental monitoring, modelling, forecasting and impact analysis. It cooperates closely with research institutes, universities, environmental experts and businesses, both in Finland and internationally. Within the Centres for Economic Development, Transport and the Environment, the environment component provides guidance on monitoring of the state of the environment, environmental protection, nature conservation, land use and building, and the use and management of water resources. The Centres also promote and support the municipalities in the environmental protection area. The Regional State Administrative Agencies take decisions on permits under the Environmental Protection Act and the Water Act. In addition the Agencies promote the implementation of basic rights and legal protection, access to basic services, environmental protection, environmental sustainability, public safety and a safe and healthy living and working environment in the regions.

The environmental administration covers the whole country. There are 15 Centres for Economic Development, Transport and the Environment. There are six Regional State Administrative Agencies in mainland Finland. As regards environmental protection authorities in the municipalities, environmental protection is monitored and promoted in co-operation with the other local authorities. Charges are brought in criminal cases in co-operation with the police.



## 2.1.8. Level of expertise and Training

### 2.1.8.1. National Police Board

The Police College is responsible for basic police training in relation to the investigation of financial crime in Finland. Staff investigating financial crime also has the opportunity to take part in international training, including the courses organised by CEPOL.

The National Police Board is prepared to organise further training and themed training on financial crime as necessary. The Unit for Assessment of Economic Crimes (see above) is responsible for topical training. For example, every year a national financial crime seminar is organised, at which topical issues to do with combating and investigating financial crime, including legislation and crime phenomena, are discussed. The target groups for the seminar are financial crime investigators and authorities combating financial crime.

Regional training is mainly the responsibility of the financial crime investigation networks and the related police departments. Regional training is organised according to need and resources available.

The National Bureau of Investigation is also responsible for financial inspectors (auditors) topical training.

In addition the National Bureau of Investigation provides training in general legal assistance and targeted training in financial crime matters such as the freezing of assets and safeguarding of recovered crime proceeds.

#### Basic police training (officer and sergeant training)

Section 8 paragraph 3 of the Act on police training (68/2005) states that the Police College of Finland is to select its examination students in accordance with the selection principles confirmed by the supreme command of the police. According to those principles (set out in decision SM-2009-2282 of 25 June 2009), an individual appointed to a police post who has passed the basic Diploma in Police Studies and worked as a policeman after passing that examination in a full-time police

post for at least seven years, or who has passed the Sergeant's Examination and has worked as a policeman for at least three years after passing that examination may apply to take the Bachelor in Police Command.

The Bachelor in Police Command taken at the Police College is a polytechnic degree. According to a decision from 2003, the Bachelor in Police Command is taken in two parts. A certificate of completed studies is awarded to those who have passed Part A of the Bachelor in Police Command. That part is worth 126 credit points. Part B is thus worth 54 credit points.

In the decision of the Council of State amending the decision on the administration of the police (282/2005), Section 16 on the qualifications required was amended so that chief inspectors and detective chief inspectors were required to pass Part A of the Bachelor in Police Command or to have a university degree and intimate knowledge of this area of activity. For this reason, those who have passed Part A of the Bachelor in Police Command are granted a certificate meeting those requirements.

After taking the Bachelor in Police Command it is possible to apply for university studies at partner universities, either without "bridging" courses or through further education courses. Bridging courses may arise when a student's earlier achievements are not in themselves sufficient for study to be continued directly at university.

The Bachelor in Police Command is a "general" examination, preparing for work anywhere, including as a chief investigating officer.

The Sergeant's Examination is a supervisory training qualification. Those who have completed the Diploma in Police Studies and worked in the police for at least two years may apply for the training programme. It is worth 45 credit points. Those who have passed the examination are eligible to apply for posts as sergeants and detective sergeants.

People with university degrees (primarily in law, administration or economics) also work in the police as officers and especially as chief investigators.

Inspection of accounts

Policemen and -women who have university degrees in management accountancy work in the investigation of financial crime as criminal inspectors. Some of the economists also work as chief investigators.

Training in combating financial crime 2011

Training in combating financial crime is one of the further training programmes arranged by the Police College, with the aim of developing the professional skills of the police. Responsibility for organising training days on money laundering and the proceeds of crime has been transferred entirely to the Police College, but the National Bureau of Investigation is still very involved.

Training in combating financial crime was reorganised in 2010; amongst other things, the learning aims and whole subject area of the courses were reassessed. The training programme for the financial crime investigation courses for 2011 has evolved as regards the target groups, the learning aims, the extent and duration of the courses, the subject area covered, the performance required, assessment and learning material.

Twenty-four students are selected for the financial crime investigation course. The training days for financial chief investigators are an exception, with between 30 and 50 participants. At least 18 of the students should be working in the police administration. The other students represent groups with an interest in this field (for example customs, or the taxation or prosecution authorities).

The basic course in financial crime investigation

The course is aimed at staff that is working in financial crime investigation or in support roles for that area, who have at least one year's experience in the investigation of financial crime or who have otherwise acquired an equivalent level of knowledge, and representatives of other bodies with an interest in this field.

Those who have successfully completed the basic course in financial crime investigation have the basic knowledge necessary for the investigation of financial crime. They are able independently to investigate or to take part in the investigation of ordinary financial crimes, and to work in co-operation with other authorities and to seek the necessary expert help for cases of financial crime under investigation. The duration of the course is 140 hours over 20 days.

The tax crime course

The course is aimed at staff that is working in financial crime investigation or in support roles for that area, and representatives of other bodies with an interest in that field. Those who have successfully completed the course have the specialist knowledge required for the investigation of tax crimes. They are able independently to investigate tax offences and to work in co-operation with other organisations, and to seek the necessary expert help. The course lasts five days (35 hours).

The debtors' offence and accounting course

The course is aimed at staff that is working in financial crime investigation or in support roles for that area, and representatives of other bodies with an interest in that field. Students who have successfully completed the debtors' offence and accounting course have the basic knowledge needed to investigate crimes in the area of debt and accounting, and are familiar with the related specialised spheres that have to be taken into account in pre-trial investigations such as inheritance, bankruptcy, accounts and auditing. The students are able independently to investigate or to be involved in investigating debt and accounting crimes and to work in co-operation with other authorities and co-operation partners, and also to seek the necessary expert help for the criminal cases under investigation. The course lasts seven days (approximately 54 hours).

The course on money laundering and tracing the proceeds of crime

The course is aimed at staff that are working in financial or drug crime investigation and others involved in pre-trial investigations who need the specialised knowledge from the course in their work, and representatives of other bodies with an interest in that field. Students who have successfully completed the course on money laundering and tracing the proceeds of crime have up to date knowledge of money laundering and receiving offences and of the possibilities of extended crime proceeds. The course lasts three days (approximately 28 hours).

Training days for chief investigators in financial crime

The course is aimed at staff working in the investigation of financial crime with supervisory duties who have passed the basic course in the investigation of financial crime or have otherwise acquired an equivalent level of knowledge, and representatives of other bodies with an interest in the field.

The aim is to provide up-to-date knowledge of matters relating to the fight against financial crime. The course lasts two days.

Further training course on the investigation of financial crime

The course is aimed at staff who is working in the investigation of financial crime or in support roles for that area, who have passed the basic course in the investigation of financial crime or have otherwise acquired an equivalent level of knowledge, and representatives of other bodies with an interest in the field. Those who have successfully completed this course have up-to-date knowledge of matters relating to the fight against financial crime. The course lasts five days (approximately 25 hours).

2.1.8.2. *Customs*

The Customs School is also responsible for training in the investigation of financial crime. Training at Finnish Customs is divided into basic and further training courses and targeted courses. The further training courses go more deeply into the area of work and the knowledge and skills gained from the basic professional training and job experience. The targeted courses are directed at specific groups of individuals or tasks. Typical examples include courses arranged for customer service and liaison staff, crime prevention and investigation staff, and those working in inspection. The training programme is drawn up in co-operation with the National Board of Customs, Customs national units (including Customs Criminal Service and Customs Laboratory) and experts from the customs districts, so as to respond as effectively as possible to needs for new skills and staff development needs resulting from changes in the working environment.

Customs has many different training courses in combating crime where the course content entirely or partly addresses matters relating to the investigation of financial crime, or which are related in other ways to combating financial crime. These courses are, for example, the course in combating financial crime, the course in combating customs crime, the course for customs crime investigators, the chief investor course and the course in electronic collection of evidence.

The course in combating financial crime is a special further course for those working in combating crime which goes into greater depth and supports practical work. The training also supports co-operation between the inspectorate, particularly quality assurance and crime-fighting staff. The

overall process of combating financial crime is supported by individual training. Between 12 and 15 participants take the course at a time.

Contents: The themes of the course modules are:

- Introduction to combating financial crime
- Customs procedures in combating financial crime
- Accounting from the viewpoint of combating financial crime
- Principles of company and tax law from the viewpoint of investigating financial crime
- The pre-trial investigation of financial crimes
- Tracing the proceeds of crime and international co-operation in combating financial crime

Section 5 of the Council of State's statute on the Customs stipulates specific qualifications for the Customs' work on combating crime. According to the statute, the requirements for the director and commander responsible for combating crime are a university degree and intimate knowledge of the post's area of activity. The chief investigator is required to have a university degree or sufficient training as a chief investigator in view of his tasks and powers. Customs officers acting as supervisors in combating customs crime, and customs officers acting as supervisory staff in customs enforcement decisions in accordance with the provisions of Section 15 of the Customs Act 1466/1994 are required to have sufficient training in view of the extent of the powers relating to their tasks.

Because of the abovementioned qualification requirements, chief investigators working in combating financial crime often have university degrees (for example, higher degrees in law or business). Furthermore, they often have experience in working as an investigator and/or other customs tasks.

Moreover, Customs staff working in the area of combating crime (and those combating financial crime) receive compulsory training under the training programme on combating crime. In addition, separate training packages have been drawn up for staff involved in combating financial crime. Also, many officials involved in combating crime have taken the Diploma in Police Studies (in whole or in part) and have followed the police training in financial crime which is open to customs officers combating crime.

The following list illustrates the training courses in combating crime the training content of which or partly covers matters related to the investigation of financial crime, or which are related in other ways to the investigation of financial crime (for example ELTO = electronic collection of evidence):

- Course in combating financial crime (22 days)
- Course in combating customs crime (10 weeks intensive training and 9 weeks on-the-job training)
- Course in customs investigation (new, beginning in January 2011) (11 weeks)
- Chief investigator course (5 weeks)
- ELTO ( 1 x 4 days + 1 x 5 days)
- Training for ELTO staff outside the agency (several intensive training days over 18 months – approximately 2 days a month)
- Photography in support of an investigation (1 day)
- Training in co-operation in combating and controlling crime (3 days)
- Training in operational risk analysis for combating crime (2 weeks)
- CEN training by the WCO (1 day) in the computer entry of financial crime cases
- Using risk analysis information and the RITA system in combating crime (1 day)
- Combating internet crime (3 days).

In addition to the courses listed above, Customs officials have the opportunity to participate in seminars or training/briefing days and topical training opportunities on combating financial crime, organised by Customs itself or by other authorities with which it cooperates.

#### *2.1.8.3. Judicial authorities*

Prosecutors of financial crime are generally experienced prosecutors; in other words, they have at least ten years' experience of prosecution work.

All have law degrees and one year's practical experience in court. Some having training as an assistant prosecutor provided by the Prosecution Service. Some have experience of the work of the police, tax authorities or lawyers.

All prosecutors of financial crime have undergone training in financial crime provided by the Prosecution Service, Ministry of Justice or police, including courses in accounting offences, tax offences, debtors' offences, money laundering, the proceeds of crime, and international co-operation.

The purpose of the Prosecution Service's system of key prosecutors is to enable certain prosecutors to become more thoroughly familiar with clearly defined subject areas. By specialising, prosecutors are better able to meet the demanding and ever-growing need for special skills arising from international criminal cases. Key prosecutors working in the same subject area form key prosecutor teams.

Key prosecutors work on the more demanding cases in their subject area both as prosecutors and as providers of advice and training to other prosecutors. They are also used as experts in various working groups and in legislative work.

The Prosecution Service has seven separate groups of key prosecutors, whose work is led by the State Prosecutors. Five of the prosecutors specialising in financial crime form a key group whose members have specialised amongst other things in securities market crimes, organised crime, prohibitions on running a business, money-laundering offences, cases involving commercial confidentiality, tracing of the proceeds of crime and the use at trial of electronic material from the pre-trial investigation.

A group of four key prosecutors handles and provides advice on environmental crime and crime relating to natural resources. In addition, the Prosecution Service has ten prosecutors located in different prosecution offices, who handle environmental and natural resources crime in addition to their other tasks and keep in regular contact with the key prosecutors.

The Prosecution Service and the Ministry of Justice organise basic training in financial crime matters for other prosecutors, including courses in accounting offences, tax offences, debtors' offences and international co-operation.

#### *2.1.8.4. Courts*

According to Section 11 of the Act on Judicial Appointments (205/2000), a righteous Finnish citizen who has earned a master's degree in law and who by his or her previous activity in a court of



law or elsewhere has demonstrated the professional competence and the personal characteristics necessary for successful performance of the duties inherent in the position may be appointed to the judiciary.

The courts offer study periods and further training in the more demanding criminal cases, such as financial crimes. Since the beginning of 2010 the range of studies available relating to financial crime in the court administration has been increased.

#### *2.1.8.5. Enforcement authorities*

To date, enforcement officers being recruited as specialists have not been required to have any special training differing from that of normal enforcement officers. However, they have been required to have solid experience and skills in enforcement work before being recruited for special collection work. In addition, numerous training opportunities are organised every year for enforcement staff in different subject areas, which also reinforce the skills of enforcement officers working in special recovery.

Responsibility for the training given to enforcement staff rests at national level with the National Administrative Office for Enforcement and at local level with the district enforcement offices. Governed by the Enforcement Law 705/2007 (460 articles). Training at national level consists of enforcement courses and special training to enhance skills, for example training in accounting, business economics, data collection and collection from businesses, where the objective is to improve implementation particularly in situations connected with artificial company and wealth management arrangements. Local training focuses on harmonising application of the law and operating methods.

Training in enforcement is focused on enforcement work and concentrates on its execution. This is because substantive scrutiny of obligations is a matter for Finland's courts; the enforcement authorities are responsible for implementing the courts' decisions but not for the legal scrutiny of those decisions. Also, the investigation of crime does not fall within the powers of Finland's enforcement authorities. For that reason, specialised training, for example in financial crimes or their investigation, is not organised by the enforcement authorities. Claims arising from crimes, for example an obligation to pay compensation for damage caused by crime, do not have any special status within the enforcement system, but are for example to be paid with the same priority as claims based on debt relationships under private law. Also, from the point of view of enforcement, the type of crime on which the claim was based is not of relevance in enforcing the claim.

*2.1.8.6. Tax Administration*

Tax inspectors and case officers involved in combating the grey economy and financial crime generally have an educational background which includes a university degree, usually either in economics (tax inspectors) or law (case officers). Tax inspectors in the Tax Administration have completed basic and further courses in inspection work and many have taken part in further training offered either by their own administration or by other authorities. On arrival at the Tax Administration, case officers have a basic law degree and in addition they have normally had practical experience in the courts. Case officers (also called 'tax attorneys' as they are having a law degree) handling criminal cases take part in the Tax Administration's own training as well as actively participating in courses organised by other authorities in criminal and procedural law. The Tax Administration has also participated actively for a long time in combating the grey economy and other financial criminality and hence the Administration's expertise in dealing with such cases is at a high level.

The Tax Administration participates actively in training in combating financial crime organised by the National Police Board (basic and further courses in combating financial crime, tax crime, debt crime, accounting crimes, tracing the proceeds of crime, financial crime seminar and so on), in training offered by the Prosecution Service and the training intended for judges, insofar as the Tax Administration is granted places on those training courses, and in privately organised training in financial crime.

The Tax Administration itself organises events every year which focus on combating the grey economy and on co-operation between authorities. In addition, an attempt is made every year to organise a two-day special training session on special questions of financial criminal law for supervisors (and inspectors) dealing with criminal cases

*2.1.8.7. Financial Supervisory Authority*

FIVA'S experts mainly have higher degrees in either economics or law. FIVA has also had exchanges of experts with both the police and the prosecution authorities.

2.1.8.8. *Occupational safety and health*

Occupational safety and health inspectors are generally experienced inspectors who have more than ten years' experience of inspection duties. Contractors' liability inspectors are generally less experienced, but appropriate training and guidance is provided for them.

2.1.8.9. *Environmental protection*

The level of expertise required of and offered by the environmental administration depends on its rather broad range of tasks. Each of the sectors of nature conservation, environmental protection, building and land use require their own experts. The authorities which direct and coordinate operations have experts who almost without exception have higher university degrees and more than six years' experience, especially those handling supervisory tasks in the Centres for Economic Development, Transport and the Environment; in the Regional State Administrative Agencies, the staff who are responsible for administration and permits have law degrees. At municipal level, the officials who handle permits and senior officials act as environmental inspectors in their respective areas.

**2.2. Criminal Policy**

**2.2.1. The Definition of Financial Crime in Finland**

Finland has developed a working definition of financial crime: Therefore financial crime refers to any punishable act or failure to act committed in connection with the activity of a business, public administration or other organisation or using them, with the intention of gaining considerable direct or indirect financial advantage.

Financial crime also means other sorts of planned, punishable acts or failures to act intended to gain considerable financial advantage that is analogous to business activity.

Activity analogous to business activity means *inter alia* activity intended to gain considerable financial advantage, for example money laundering by an individual or fraudulent aid claims by farmers. Considerable financial advantage in that context means a sum in euro on the basis of which the type of crime in question would generally be qualified as gross.

Where the activity described above is made up of many constituent acts, financial crime is constituted by the entirety of the acts, not the individual acts.

According to this definition, failure to comply with financial or other obligations laid down by law (for example failing to pay tax or to comply with rules on safety at work) may also constitute financial crime.

Insofar as the criteria for financial crime set out above are met, financial crime includes offences listed in the Penal Code<sup>15</sup>:

The following offences amongst others are not regarded as financial crimes when committed by an individual unless they occur in conjunction with business activity and are committed with the intention of gaining considerable financial advantage:

- Hotel fraud
- Bank and credit card fraud (including means of payment offences)
- Insurance fraud
- Misappropriation of unemployment or social welfare benefits (including benefit fraud)
- Undisclosed employment (including tax fraud)
- Other fraud, embezzlement or misappropriation
- Data and communications offences (IT offences)
- Registration offences
- Offences by a debtor

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<sup>15</sup> Inter alia: Chapter 29 Criminal Code – Offences against public finances, Chapter 30 Criminal Code – Business offences and other corruption offences under the Criminal Code, Chapter 36 Criminal Code – Fraud and other dishonesty, Chapter 38 Criminal Code – Data and communications offences, Chapter 39 Criminal Code – Offences by a debtor, Chapter 46 Criminal Code – Regulation offences and smuggling, Chapter 47 Criminal Code – Employment offences, Chapter 48 Criminal Code – Environmental offences, Chapter 49 Criminal Code – Violation of certain incorporeal rights, Chapter 51 Criminal Code – Security market offences, offences connected with inappropriate business practices.

### 2.2.2. Government programme

In many of its government programmes, the Finnish government has laid down objectives relating to the grey economy and combating financial crime. In the most recent government programme on 22 June 2010 a commitment was made to implement **actions to combat the grey economy**. Since the visit of the evaluation team the Government has adopted the sixth Programme for combating financial crime and the grey economy for the years 2012 to 2015 including 22 actions designed to narrow the possibilities for and to combat against financial crime and grey economy.

### 2.2.3. The Council of State's decisions of principle - Action Plans to combat economic crime

In Finland controlling economic crime and the grey economy has been intensified by five successive Action Plans. The first such Action Plan was launched in 1996 by a decision of principle of the Council of State.

The Action Plans have described general areas on which to focus, concrete projects and measures to be used to seek to achieve the objectives set out in the Plans. The Action Plans have been horizontal, and responsibility for the related measures has been shared between various ministries and authorities depending on the area each measure covers. Some of the measures require all the authorities to work together. With the assistance of the Action Plans, an attempt has also been made to ensure that the Parliament grants the resources needed for those purposes for the authorities combating economic crime. Responsibility for following up implementation of the measures lies with the financial crime management group.

The objective of the **most recent and fifth Action Plan "Council of State's decision of principle for a government Action Plan to reduce economic crime and the grey economy 2010-2011"** is to reduce the grey economy and economic crime and to support healthy competition. This decision of principle by the Council of State is a continuation of its four earlier decisions of principle; it puts into effect the objective set out in the government programme of combating the grey economy and safeguarding the measures set out in the mid-term policy review of 24 February 2009 on the funding of public services and benefits. According to the review, the government will make further efforts to combat the grey economy and economic crime.

The Action Plan ensures the collection of taxes and other payments and the maintenance of public services and secures the financial basis for public services. Changes to be made in legislation will reduce the grey economy and the opportunities for criminal business activity to gain a competitive advantage at the expense of businesses that are acting honestly. During the period of the newest Action Plan for the years 2012 to 2015, the reformed acts on criminal investigations, coercive measures and the police will come into force, which, in affecting all criminal investigations, will also strengthen the investigation of financial crime. Certain powers of authorities will be scrutinised so as to increase their effectiveness. The action of the authorities, and particularly co-operation between authorities, will be improved. The programme creates the conditions for the maintenance of a joint overall picture of the financial crime situation. The process for handling financial crime will be reinforced, to implement criminal liability. The programme develops models for action by the authorities to prevent the grey economy and financial crime before it occurs, to bring it to an end and to recover the proceeds of crime at the earliest possible stage. The programme that is currently being implemented contains 18 measures, the implementation of which is being monitored by the Prevention of Financial Crime Management Group.

#### **2.2.4. Prevention of Financial Crime Management Group**

The Prevention of Financial Crime Management Group appointed by the Ministry of the Interior has prepared a government decision in principle on the 2010–2011 programme for combating financial crime and the grey economy.

The task of the Prevention of Financial Crime Management Group is to put the programme into effect and to monitor its implementation. The Group prepares proposals on the draft legislation and investigation plans contained in the programme to be included in the output targets of the different ministries. Where necessary the Group accepts submissions for the Internal Security Programme steering group. The Management Group also where necessary discusses matters requiring the coordination and rapid reaction of many different authorities' services.

The head of the Interior Ministry's police department acts as chairperson of the Group. Its members are the director of the Police Administration, the head of legislation at the Ministry of Justice, the administrative counsellor at the Ministry of Finance, the supervisory director at the Ministry of Social Affairs and Health, the head of legislation at the Ministry of Employment and the Economy,

the administrative counsellor at the Ministry of the Environment, the State Prosecutor at the Office of the Public Prosecutor, the Bankruptcy Ombudsman, the head of crime prevention at the Customs Administration, the deputy head of the National Bureau of Investigation, the deputy head of the Tax Administration, the director of the Patent and Registration Administration and the Interior Ministry's inspector of police.

The grey economy and financial crime have already been the subject of discussion in Finland in many studies by different ministries and authorities at least since 1983. Some recent studies are mentioned here.

The Finnish Parliament's review board launched a study in spring 2009, the aim of which was to evaluate the Finnish grey economy as a whole in euro terms and as a percentage of gross national product. It was also required to assess the loss of taxes and other statutory payments. By means of the study it was hoped in particular to throw light on international investment activity and the use of tax havens in tax evasion as well as the grey economy in relation to domestic, internal and foreign trade. The study, "Finland's internationalising grey economy" (Parliamentary Review Board Publication 1/2010) was published in July 2010.

The duration of criminal proceedings and in particular of proceedings regarding financial crime is discussed in the report of the working party set up by the Ministry of Justice and the Interior Ministry dated 13 December 2010, "Preventing protracted legal proceedings" (Ministry of Justice Reports and Opinions 87/2010 - see below).

A working party set up by the Ministry of Employment and the Economy prepared measures to counter financial crime and the grey economy in the construction, hotel and restaurant sectors. The working party's report, "Combating Financial Crime and the Grey Economy in the construction, hotel and restaurant sectors" (Ministry of Employment and the Economy Publications 17/2011) was published on 31 March 2011.

In the report of a working party made up of representatives of the police, the public prosecutor's office and the tax administration, set up by the senior management of the police, of 26 May 2010, "Co-operation between the Police, the Tax Administration and the Public Prosecutor", co-operation on financial crime matters is discussed with the aim in particular of improving the prevention of serious real-time financial crime (current and ongoing financial offences).

### 2.2.5. The duration of criminal proceedings as a particular crime policy issue

Issues relating to the duration of criminal proceedings have been examined in a number of studies since 2000. Several measures have been implemented on the basis of the studies, both to improve official practices and to develop legislation. The question was most recently discussed by the working party chaired by the Ministry of Justice, which delivered its report "Preventing protracted legal proceedings" (Ministry of Justice Reports and Opinions 87/2010) on 13 December 2010. The report contains a draft scheme for action by which problems relating to the length of legal proceedings might be reduced. The scheme proposed in the report was further developed by a second working party, which drew up a further refined scheme of measures. For the most part, the proposed measures are related precisely to the shortening of processing times in financial crime cases.

From the information received the experts acknowledged that there were indeed problems with the length of legal proceedings, in particular with criminal cases classified as financial crime. Processing times for pre-trial examination, consideration of charges and court proceedings are often strikingly long compared with other categories of crime.

Since 2000 Finland has received numerous condemnations expressly relating to lack of expeditiousness in legal proceedings. By the end of October 2010 Finland had been condemned in 54 cases in which the Court of Human Rights found that Finland had violated the 'reasonable time' requirement in legal proceedings. In the cases relating to lack of expeditiousness the Court of Human Rights confirmed a settlement in 46 cases and noted the unilateral declaration made by Finland in 21 cases.



## 2.2.6. Proceeds-oriented Policy

### 2.2.6.1. Pre-trial investigation authorities

Section 5 of the Pre-trial Investigation Act (ETL)<sup>16</sup> requires the pre-trial investigation authorities to look into and trace crime proceeds.

### 2.2.6.2. The Prosecution Service

Disposal of the proceeds of crime has been taking place for years as an established police objective and accordingly the Prosecution Service actually took a firm attitude to disposal of crime proceeds even before the subject was identified as a statutory objective of the office.

The police and other pre-trial investigation authorities must give the prosecutor prior notice in accordance with Section 15(1) of the Pre-trial Investigation Act particularly regarding types of criminal cases in which there is reason to suspect that considerable crime proceeds have been obtained. In the pre-trial investigation the recipients, the amount and the type of crime proceeds must be established for the prosecutor and for the main hearing of the case and also the possibilities for action by the authorities to confiscate the crime proceeds at the pre-trial stage. Correct examination of the crime proceeds requires a common point of view on the part of both the pre-trial investigation authorities and the prosecutor regarding the abovementioned aspects of crime proceeds and their corresponding confiscation.

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<sup>16</sup> ETL Section 5 stipulates:  
“In a pre-trial investigation the following shall be examined:  
1) the crime, the circumstances under which it was committed, damage caused by it and proceeds obtained from it, who were the parties concerned and other matters required for a decision on prosecution;  
2) the plaintiff's private-law claim, where he has asked the prosecutor to pursue his claim under Chapter 3, Section 9 of the Act concerning legal proceedings in criminal matters;  
3) the possibilities for returning property obtained by the crime and for enforcing confiscation imposed as a result of the crime or compensation to the plaintiff; and  
4) whether the plaintiff consents to the case being tried in a local court by the written procedure referred to in Chapter 5(a) of the Act concerning legal proceedings in criminal matters and whether the person suspected of the crime also intends to consent to this procedure.”

For the most part, the treatment of crime proceeds in the Finnish system is such that particular attention is paid in pre-trial investigation and the activity of the public prosecutor to claims for compensation by the crime victim or plaintiff. The pre-trial investigation authority looks at damage as a matter of course and the prosecutor pursues clear compensation claims by the plaintiff in the main hearing. Adjudication of full compensation prevents confiscation of crime proceeds in the same case. In the international context the priority given by Finnish legislation to the plaintiff's claims represents a real problem, as a result of which the pre-trial investigation authorities would have to consult with the prosecutor for the case before lodging requests for judicial assistance.

### **2.2.7. Official investigation policy to trace proceeds of crime**

Under Section 5 of the Pre-trial Investigation Act, tracing the proceeds of crime forms part of pre-trial investigation in criminal cases in which an individual may be sentenced to forfeit a sum of money obtained from crime, pay compensation to the plaintiff or return a criminally acquired item to its owner.

In accordance with Chapter 10, Section 2 of the Criminal Code, financial gains from crime must be confiscated. Such confiscation may be from the offender benefiting from the crime, an accessory to it, or any person on whose behalf or for whose benefit the crime was committed. Under the principle of mandatory prosecution and on presenting plausible reasons, the prosecutor has an official duty to demand that proceeds from a crime be confiscated from the recipient. The good faith of anyone who has received crime proceeds is not normally respected. Finnish rules on confiscation are based on the concept that no person should benefit from crime.

The prosecutor usually makes a request for the crime proceeds to be confiscated in the main hearing, but he may make it also as a separate case and even against a person who was in good faith at the time of receiving the crime proceeds.

### **2.2.8. Prioritisation of tracing, seizure and confiscation of assets**

Section 3 of the Police Act has provisions on the system of priority for management of tasks, which also relates to pre-trial investigation. Under this, depending on circumstances, cases for investigation may be subject to the priority system, in determining which account is taken inter alia of the severity of the crime and the interest attached to investigating it. Although the priority of crime investigation is not otherwise laid down in legislation, the police have treated the investigation of crime targeting property and the economy as important in programmes, output targets etc. Investigation of financial crime and in particular the grey economy is one of the key areas of police activity and combating this has repeatedly been included also in the government's national financial crime prevention programme.

In the Prosecution Service, examination and prosecution of acquisitive crime is the prosecutors' basic daily task. The time taken for examination is on average less than two months. The prosecutors refer the majority of acquisitive crimes to a written court procedure, based on the suspect's confession and consent to the written procedure.

### **2.2.9. Tracing, seizing and confiscation of assets as separate objective of criminal investigations**

Section 5 of the Pre-trial Investigation Act lays down that the tracing of proceeds obtained from crime, i.e. securing confiscation, private-law claims by the plaintiff and the return of a misappropriated item, is a specific objective and obligation of pre-trial investigation in order to reach a decision on prosecution in addition to establishment of the necessary facts. In practice, the possibilities for recovery of criminally obtained proceeds are always examined as part of the investigation into financial and property offences. There are police officers specialising in the tracing of crime proceeds, who also work in close co-operation with the enforcement and tax authorities. The pre-trial investigation authorities do not in any case have sufficient resources for tracing crime proceeds.

Prevention of financial crime is an important key area in the Customs' action plan. The Customs also independently runs a national financial crime prevention programme (Fifth Financial Crime Prevention Programme). Implementation of the financial crime prevention programme set up by the government is supervised by an inter-authority management group. Operational activities are coordinated by a national-level financial crime prevention operational supervisory group. Within the Customs an internal financial crime prevention steering group implements policies and measures agreed in the aforementioned supervisory groups.

Investigation of financial crime and, in particular, combating grey economy is one of the key priorities of Customs Criminal Service. The Customs officers, who have specialised in tracing of crime proceeds, work in close co-operation with the enforcement, police and tax authorities.

## 2.3. Conclusions

### 2.3.1. Investigative authorities

- The Finnish authorities entrusted with investigation powers (and with leading the investigations) are: Police, Customs and Border Guard. There is a very close co-operation between these investigative authorities who share competences according to their common legislation and deliver very effective work.
- The organisational structure is well developed and aimed at optimising resources and increasing efficiency in a coordinated fashion and on the basis of commonly agreed priorities.
- A convincing example in this respect is the operation of so-called “PCB co-operation” – co-operation structure between the Police, Customs and the Border Guard, aimed at combating trans-border crime in an appropriate, economic and flexible way, thus addressing the need for better coordination and clearly specified roles avoiding overlap, better use of criminal intelligence and analysis tools, improving the flow of information and coordinated joint actions. The most significant practice resulting from this co-operation is the establishment of the PCB Criminal Intelligence and analysis Centre under the umbrella of the National Bureau of Investigation. It was interesting to note that among the sources of intelligence the Prison and Probation Services authorities have been included as an active agent.
- Another example in terms of optimising the resources and increasing efficiency is the development of the 4 regional co-operation networks of financial crime units. This project was launched in the spring of 2010. The objective among others is the division of cases between units based on resources and situational awareness, thus making it possible to transfer a case in order to better employ the available resources; the creation of joint investigation teams inside the network, pooling of special resources (e.g. inspectors with M.Sc. in Economic and Business administrators) or special expertise depending on the case, etc.
- The time spent on the investigation of financial crimes in Finland is long. The average processing time in Finland over the past 10 years (from the moment the crime is reported to the police until the case is sent to the prosecutor) has ranged from 403 days to 509 days (during the period 2001-2010). The actual investigation time is shorter and the median investigation time for financial and economic offences over the past ten years has ranged from 223 days (in 2000) to 143 days (in 2009). The ECHR has on several occasions found Finland

having been in breach of the reasonable-time requirement in legal proceedings (mostly because of the long time spent on the criminal investigations of financial criminality)<sup>17</sup>. The Finnish authorities recognize the need to shorten the length of the criminal proceedings with a focus on reducing the time spent on investigations (the average time for the criminal proceedings in financial crimes is currently three years, with a plan to reduce it to two years).

- For all financial crime cases (based on an agreement between the National Police Board and the Office of the Prosecutor General), a protocol/plan of investigation is sent by the investigative authorities to the designated prosecutor (who could then ask for additional investigation procedures to be carried out). Investigation plans are not public, courts do not ask for disclosure of these plans.
- There is a legal obligation for the investigative authorities to trace the proceeds of crime as part of the pre-trial investigation. Still, there are no specialized units in tracing proceeds of crime neither within the police forces nor within the customs authorities. However, Customs has separate functions and specialised persons in this area. Currently the investigators themselves are carrying this function, but a need to specialize personnel has been identified. Efforts are being made to find the necessary resources in this respect.
- An obstacle encountered recently by Finland in the prosecution of tax fraud cases is related to the infringement of the *ne bis in idem* principle. Following the interpretation given in 2009 by the European Court of Human Rights in the Case of Sergey Zolotukhin vs. Russia and in 2010 by the Court of Justice of the EU in case C-261/09 Mantello, it is not possible to apply both penal and administrative sanctions to the same individual for the same facts. An increase in taxation applied as an administrative sanction cannot be followed by a criminal sanction for the same facts, which makes it impossible to prosecute tax fraudsters. While in some Member States there are safeguards in place that ensure the *ne bis in idem* principle is adhered to in relation to tax increase and criminal sanctions, this is not yet the case in Finland. Legislative solutions are currently sought in Finland (by a specially created working group) in order to avoid breaches of the *ne bis in idem* principle. For the moment, there is a mechanism in place where consultations between police and tax authorities/customs takes place as early as possible whenever there is a suspicion of a tax related offence. It is then decided whether to proceed with an administrative or criminal case.

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<sup>17</sup> On this issue the Finnish authorities noted that the ECHR considered as relevant the time of the investigation from the moment when the suspect becomes aware of the pre-trial investigation and of being a suspect in an investigation. In Finland this period, especially in more serious cases, was said to be most often considerably shorter than the period from when the case is first reported to the police to passing the case to consideration of prosecution.

2.3.1.1. *Police*

- The Police in Finland dispose of broad powers to lead criminal investigations. In general the criminal investigation is centred around the police discretion to decide on the investigative actions and coercive measures (e.g. preliminary confiscation) during the pre-trial investigations. The police for instance have the right to file directly an MLA request with the competent authorities of another country or to refer directly to the court a request for permission in relation to the imposition of coercive measures. When dealing with requests for mutual legal assistance, the police may consult the prosecutor in case evidence needs to be collected in a foreign country.
- The investigation is lead on the basis of investigative plan, considered an indispensable tool in running an effective investigation. It was reported that there is a well-developed mechanism of co-operation with the Prosecutor's office in relation to the setting up of the approaches in specific cases. The evaluators were informed that according to the agreement between the Prosecutors Office and the NPB in all financial crime case an investigative plan is required, which is consulted in advance among them. In general the Police enjoy discretion to decide on its actions during the investigation, but in practice it could be concluded that it is largely based on a broad co-operation with the assigned to the case prosecutor and it is very rarely where disagreements occur.
- The concept of investigative plan should be noted, as a valuable tool in increasing the efficiency of the investigations. The objective has been to develop a case-specific tool of the pre-trial investigation intended to facilitate, speed up and standardise the pre-trial investigation. In its current form the Investigative plan was developed in a joint project of the police and prosecutor's office, the so called flow-trough project of 2002-2004. Currently it constitutes a standardised electronic form. The National Bureau of Investigations (NBI) is leading and guiding all police forces in Finland. The police (and not the prosecutor) are the leader of pre-trial investigations and the most trusted organization in Finland, working closely with the prosecutors.
- Another working practice which was presented to the evaluation team in Finland is the utilisation of the so called target selection system, where instead of dealing with single offences, the whole criminal activity of the selected target is tackled in a comprehensive way. There is a well-developed procedure for target selection put in place and the record of its use is positive to note. The method has been used for 9 years, whereas over 300 targets have been

selected. Recently the number of targets in relation to aggravated tax-fraud, money laundering, etc. has been increasing. The FI authorities have assessed the target selection method as having proved effective tool in complex long-term cases.

- The NBI has a coordinating role, especially when competences are split between different districts in Finland. A very efficient mechanism is in place – there are four regional Networks for Financial Crime and Investigations in Finland (Southern, Northern, East and West Networks). Whenever there is a case where the same perpetrator(s) have committed crimes reported in different areas, the competent network decides which police department takes the lead. Information and cases as well as best practices are shared inside the networks.
- The networks are intended to speed up the beginning of pre-trial investigations, especially in criminal cases requiring immediate action. The networks have also an important role in dividing the cases between the units based on resources and situation awareness. Each network has assigned prosecutors, tax authorities and enforcement officers to it.
- Moreover, the NBI is responsible for prioritizing the work of investigators and for making a target selection of cases. There are three kinds of targets: regional (areas of responsibility of two police departments), national (impact upon several police departments and nation-wide implications) and international (the necessity to coordinate with two or more countries). The targets are proposed by the local and national units of investigators. NBI evaluates the proposals and organizes a meeting (with representatives from police, customs, prosecutors, intelligence units) in order to select the targets. The criteria for selection include the seriousness of the offences, dangerousness of crime, continuity of the crime, the need for coordination, eventual threats to authorities or plaintiff etc. Currently around 40% of the targets selected by NBI are related to financial criminality. The evaluation team established that there is no consultation with Europol in selecting the targets.
- With regard of the tasks to perform the number of staff employed in the FIU appeared to be quite low. As a consequence STRs that cannot be investigated by the FIU are therefore often transferred to local police units.
- Prior to the on-site visit an agreement on a new Money Laundering Register had been reached, an instrument that is considered a very useful tool for clearing money laundering.

2.3.1.2. *Customs*

- A very good model has been adopted by the Finnish customs in order to have access to data for the purpose of economic crime intelligence and investigations. Such model involves the signing of Memoranda of Understanding (MoUs) with the private sector. The private sector has got information on the traffic of goods that is running in their databases. The customs have many agreements to access these databases. There are also MoUs in place to obtain necessary information (for intelligence purposes) from airlines, cargo companies etc.
- There is a very close co-operation with the customs authorities of other EU Member States, as well as with Europol, Eurojust and OLAF. There is a particular interest to continuously observe the OCTA and the ROCTA. At the same time, there is an intention of the Finnish customs to contribute more to the Europol AWF SMOKE.
- The Eastern co-operation was deemed as very important for the customs authorities, as an estimated 25 % of the imported goods are transiting Finland on their way to Russia. Co-operation with the Russian customs authorities was described as good and close.
- One point on the agenda of the current Government Action Plan is related to the provisions of the 2005 EU Regulation on controls of cash entering or leaving the Community<sup>18</sup>. At the time of the on-site visit, Finland only had the obligation to declare cash on entering or leaving the EU. There is a plan to discuss whether national measures to control cash movements within the EU should be adopted in Finland (as it is the case in some Member States). If such measures were approved, Finland would then be empowered to establish by law special procedures for the declaration at the borders of capital movements within the EU for specific purposes.
- The Economic Crime Investigation Unit in the Customs does not have the power to conduct undercover operations.
- Apart from the Economic Crime Investigations Unit, there is an Economic Crime Intelligence Unit functioning in the Customs. This unit is composed of 12 custom specialized officers. It receives requests from co-operation parties to produce intelligence reports. The unit makes an evaluation of all enterprises, analyses data kept in different registers and takes part in all national and international operations.

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<sup>18</sup> Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community; OJ L 309, 25.11.2005, pp. 9-12.



- The Finnish authorities reported that they had difficulties in gathering information on counterfeited products cases (most of the goods come from China and transit Finland on their way to Russia).
- There are no specialized prosecutors for custom offences, but only specialized prosecutors for economic crimes.
- At the time of the on-site visit, discussions were underway for adopting a special template investigation plan for the customs<sup>19</sup>. A better operational plan would allow the custom authorities to have an umbrella view of the cases, set the timetables, better manage the intelligence, enhance the confiscation of proceeds from crime and, in the end, reduce the length of investigations.
- Customs Co-operation Agreements have been signed with other countries, including the multilateral agreement between the Nordic countries. Based on these agreements, data could be exchanged if it relates to tax crimes. Customs for instance have the right to file directly an MLA request with the competent authorities of another country or to refer directly to the court a request for permission in relation to the imposition of coercive measures.
- Several JITs and JATs (Joint Analysis Teams) with Estonia and other countries have been successfully set up and the customs authorities have participated in a number of these teams.
- The Finnish customs acknowledge that more co-operation with Eurojust was needed as this would support reducing the time spent on investigations, (especially when the co-operation with countries outside of the EU is required).

#### 2.3.1.3. *Environmental protection*

- There is comprehensive set of international environmental law, including the EU Directive 2008/99/EC on the protection of the environment through criminal law put in place. The effective enforcement of environmental law across EU is and still remains a challenge. Many of the shortcomings concern structural problems in the administrations, such as lack of knowledge and awareness, insufficient administrative capacities, etc.
- The violation of environmental law is often linked to maximizing the profit of the companies, whereas the low profile enforcement does not provide for the necessary deterrent effect of

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<sup>19</sup> The Finnish authorities informed after the on-site visit that a special template investigation plan for the customs had been adopted. It allows the custom authorities to have an umbrella view of the cases, set the timetables, better manage the intelligence, enhance the confiscation of proceeds from crime and, in the end, reduce the length of investigations.

effective sanctions. Thus in many cases these violations involve large financial interests and some of them can be even classified as actions of organized crime.

- During the visit, the evaluators were informed that the environmental crimes (dealt with by the environmental protection) have become topical on the agenda of the Ministry of environment. The effective counteracting of environmental crime, however, often faces a number of challenges. It was highlighted that there are no sufficient resources available with all competent authorities in order to provide a comprehensive response to environmental crimes and the level of coordination among them was noted as unsatisfactory.
- In Finland the majority of the supervising authorities for compliance with the environmental regulations are located in the municipalities and in addition they are independent from the central administration. In this regard, none of the competent ministries has provided guidance to the municipalities, aimed at streamlining the expertise in preventing and detecting environmental crime.
- There is no regular specialized training about the criminal relevance of some irregularities in the environmental area and neither a well-established mechanism for reporting to the police. All this results in a very low level of awareness and sensibilisation about environmental crime, which was assessed as highly regrettable during the meeting on this topic.
- In addition, the experts were informed that according to the national legislation there was no legal obligation to report to the police if the case is minor, whereas the lack of well developed expertise at local level makes it virtually impossible to detect the environmental crimes in time. According to section 94 of the Environmental Protection Act, the supervisory authority shall report impairment of the nature and other violations of the Environmental Protection Act to the police for pre-trial investigation. However, no notification need be made if the act can be considered minor in view of the circumstances and the public interest does not require charges to be brought. Similar provision is also included in several other environmental laws.
- In practice, a confiscation of the proceeds in environmental crime occurs very rarely, where the courts are considering the link with the crime generally as indirect and therefore fines are normally imposed. Moreover, in order the confiscation to take place, the police needs a detailed calculation of the proceeds, which however the administration is not in a position to provide. The need of more joint efforts in this area was recognised by the participants as impeding and urgent. The experts were also informed that a new governmental programme in this area addresses the awareness raising and training of the municipals environmental inspectors, which should be run as a joint programme with the police.

- The experts felt that the Finnish authorities should consider seriously the development of more coordinated common response to those issues, including both the optimising of the methods and tools used by the police combined with the necessary technical expertise available with the environmental sector administrative authorities. The possibility to develop a common working definition on minor case, coupled together with appropriate training of supervising authorities could be also beneficial. The smooth exchange of information on environmental cases through a well functioning system should be also addressed.

### 2.3.2. Judicial authorities

- There are 37 financial prosecutors in Finland.
- The prosecutors have direct access to the Police Operative Data Management System (PATJA). Once a pre-trial investigation is closed, the case information is transferred to the prosecutor. Around 80-90% of the cases sent to prosecutors are followed by an indictment.
- There are no specialised judges dealing with financial issues; sometimes this may create different reading of the evidence especially in the complicated cases, e.g. when the criminal activity is connected or mixed with legal trade activity and it is different to find the crime without special knowledge. A specialisation of judges in this area could improve the situation.

### 2.3.3. Criminal policy

- Finland has adopted and effectively applied a broad, holistic approach in fighting financial crime and conducting financial investigations.
- Throughout the on-site visit the evaluation team was presented with the various elements of the institutional construction in that respect, which could be characterised as a well organised and fine tuned system in its vertical and horizontal dimension, tailored specifically to the national particularities of the financial crime situation in Finland. The latter is represented by a very low proportion of the organised crime, whereas the tax offences and/or bookkeeping and debtors offences represent approximately 50% of the registered economic crimes in Finland.
- As a consequence a significant amount of resources is concentrated in fighting the Grey economy and tax evasion. In this respect the establishment of the Grey Economy Information

Unit as a permanent body by a statutory law of 1.1.2011 should be commended. The act provide for a legal definition of a grey economy, covering a broad range of mandatory legally required payments. The reports produced by the Unit – the Grey Economy Phenomenon reports (such as double invoicing connected to tax paradise companies, risk analysis of foundations, public subsidies, etc), compliance reports, the newly introduced possibility for compliance reports based on phenomenon surveys – should be regarded as valuable tools to prevent and counter-act economic crime. The Government Programme provides for the revision of the Money Laundering Law and the Criminal Code provisions related to money laundering. There is an intention to criminalize self-laundering when reviewing the legislation.

- The audits performed by the Tax administration should be also noted. In 2010 out of 3552 audits, 719 have been focused on the grey economy. In 2010 the Finnish tax administration has made 393 crime reports to the police mainly focused on the tax crimes and debtor crimes. 86 court decisions for such crimes have been pronounced. It was reported that normally all cases filed with the court get a positive court decision.
- An important element of the holistic approach of the Finish authorities to fight the grey economy, is the enforcement of the Act of Contractor's obligations and Liability when Work is Contracted (1233/2006), the Posted Workers Act (1146/1999), as well as the introduction of other tools, such as personal ID, when working on shared construction site, etc. On 31 March 2011 a working group appointed by the Ministry of Employment and the Economy accomplished its assignment and presented a report "Prevention of Economic Crime and non-observed economic activity in the construction, hospitality and catering industries". The report presents a number of measures aiming at enhancing the effectiveness of the legislation and the enforcement of the control mechanisms to that effect.

The FI authorities should be commended on their pro-active engagement in fighting the grey economy and the competent national authorities are encouraged to consider the proposals contained in the report of the above working group and to report on the measures that have been undertaken in the follow-up report to this Round of Evaluation.

- The strategic policy level in fighting financial crime is well developed.
- It was interesting to note that Finland has developed a working definition of financial crime that is a very important element for targeted action: Therefore financial crime refers to any punishable act or failure to act committed in connection with the activity of a business, public administration or other organisation or using them, with the intention of gaining considerable direct or indirect financial advantage.

- Specific Action Programmes to Combat Financial Crime have been regularly adopted and implemented since 1996. They envisage specific actions based on agreed priorities, with a clear indication of the deadlines for implementation and the responsible institutions. These Programmes build on each other, thus providing for continuity and sustainability in the pursuing the specific goals, whereas each programme has a specific focus, e.g. the current 2010- 2011 Programme aims at curtailing the grey economy and financial crime and to support healthy competition.

The evaluation team sees therefore the fact that the next 6<sup>th</sup> Action Programme is under development as a great opportunity to explore further these deficiencies and to provide for necessary measures, therein, as appropriate.

- It seems that the Finnish system is to a large extent nationally centred with a well placed and integrated structure, thus providing for a comprehensive framework to fight financial crime. The most recent deliverables from the implementation of the Action Programmes have been reported during the visit, such as the establishment of the Grey economy information Unit (effective since 1 January 2011), the introduction of a reverse charge mechanism for value-added tax in the construction sector since 1 April 2011, etc.
- The development of specific programmes is a proven working method and an ex-ample of good administration. However, given the new realities of criminality and its increasingly sophisticated and cross-border nature, as well as the geographical position of FI as a gate to Russia, it shall be recommendable that the EU policy dimension be better integrated into the FI policy making cycle, whereas the priorities of OCTA should be better translated into the national measures.
- The evaluation team was informed that in 2010 the Parliament's Audit Committee had delivered a report outlining among others certain challenges in fighting financial crime in Finland. Among others, the following specific points have been listed in the information provided during the visit:
  - Ensuring adequate resources for the authorities is vital
  - Information flow between the authorities must be improved
  - Greater efforts must be made to ensure that register data is up to date and reliable
  - Penalties for financial crime must be developed into more deterrents once
  - Examining the practice of applying the *ne bis in idem* principle

- The scope of administrative penalties needs to be expanded
- The excessive length of the financial criminal proceedings must be shortened
- There is a plan (government priority) to reduce the time spent on financial investigations.
- A commonly recognised challenge by all authorities that the evaluation team met was the excessive length of the criminal proceedings, which is particularly pertinent given the complex nature of the investigations of economic crime. The team was informed that there is a special working group established in the Ministry of Justice assigned with the task to suggest specific measures in that respect.

#### **2.3.4. Training**

- Across the board the investigative authorities in Finland appear to have a sound initial training that is supplemented by specialised training in matters relating to financial and economic crime. This applies to all services along the chain of investigation so that theoretically the result of an investigation is not hampered by a lack of institutional expertise;
- The experts were however, of the opinion that these courses cover the typical elements of financial investigations and that it was not clearly displayed whether these trainings would also comprise the methodology of investigating complex financial aspects of activities of organized groups or persons involved in corruption deals where e.g. legal activities have been blended with illegal ones.
- The experts did not note any specialized trainings for the investigation of frauds in connection with the financial funds of the EU.

### 3. INVESTIGATION AND PROSECUTION

#### 3.1. Information and databases available

##### 3.1.1. Databases and Registers

###### 3.1.1.1. Pre-trial investigation authorities

The pre-trial investigation authorities make use of many different databases, in which the data mentioned above can be found. Information on real estate, businesses, vehicles and boats is available directly online. Bank account information has to be asked for separately from each financial institution.

Some information systems are open to everyone free of charge (for example the Business Information System). However, most of the information systems charge a fee for their services, and for them users have customer agreements with the body maintaining the information system in question. For the commercial services, the bodies maintaining the registers are responsible for the factual content, technical realisation and customer base.

The following databases are used by the pre-trial investigation authorities in the investigation of financial crime:

- VRK, the Population Register - direct access
- ARK, the Vehicle Register - direct access
- Boat Register, information about small vessels and their owners - direct access
- YTJ, the Business Information System - public, direct access
- Consumer information register - direct access
- Trade Register - direct access
- Dun & Bradstreet - international business information - direct access

All information except for bank account information and information from Criminal Records is accessed directly. Bank account details are obtained by making a written request to the bank. Criminal records are obtained by making a written request to the Legal Register Centre. Obtaining or using the information does not require a warrant.

The pre-trial investigation authorities also use the following databases, which are not public:

- PATJA, the police and customs crime reporting system - direct access for the Police, Customs and Border Guard;
- EPRI, the police intelligence register - information about suspects, legal persons, transport facilities - access also for some Customs and Border Guard staff;
- TIEDIS, the customs intelligence register - information about suspects, legal persons, transport facilities - access also for the Police and Border Guard.

#### *3.1.1.2. The Prosecution Service*

According to Section 11 of the Act on Public Prosecutors (1997/199), public prosecutors have particularly extensive rights of access to information; under that provision they are able to receive all information directly from the registers and databases in question.

Prosecutors have direct access to the Population Register, Criminal Records, the Trade Register and the Business Information System.

#### *3.1.1.3. The enforcement authorities*

The enforcement authorities have the right to make enquiries in practice in all the registers held in Finland by the different authorities and private interests which may indicate the property of a debtor or the wealth he controls. The power to make enquiries in those registers is founded in Chapter 3 Section 66 of the Enforcement Code, which provides for the obligation of third parties to provide information to the enforcement authorities. Those enquiries do not require separate permission from any other authority.

When the enforcement authority is drawing up its preliminary account, information on the debtor's whereabouts and wealth recorded in the Population Information System and in the computer systems of the tax authorities, the employment authorities, the Social Insurance Institution and the Centre for Pensions is accessed using the technical link in the authority's computer system. In addition, scrutiny of the debtor's wealth in most deposit banks is carried out using the technical link.

The enforcement authorities are able to carry out their searches for the desired information on a debtor's property by means of direct links to the registers held by some authorities. Access to those



registers is obtained by using a personal password, after which the information in the register can be examined. The registers in question are the Land Information System, the Business Register and the Traffic Data System. However, enquires have to be made manually, for example to the boat and weapons registers, as well as some deposit banks.

#### *3.1.1.4. Bank accounts*

At the time of the on-site visit Finland had no centralised register facilitating to quickly identify and detect bank accounts.

#### *3.1.1.5. VRK, the Population Information System (including the real estate register)*

VRK contains personal details, family relationships, previous names, addresses, dates of moving, marriages, records of real estate and buildings including surface area, location, year of title deed, year of completion etc. There are many hundreds of entries.

Most Finnish public sector officials who need up-to-date information on a daily basis are able to obtain user rights for this register.

Every public sector authority makes an agreement with the Population Register Centre on the search procedure for its user rights.

#### *3.1.1.6. ARK, the Vehicle Register*

ARK contains technical records for the vehicle as well as information on possession, insurance and ownership. All motor vehicles in Finland are registered in the database.

Most public sector officials and/or legal persons operating in the public administration, who frequently need up-to-date information on matters relating to vehicles and their registration, may obtain user rights for the system. Citizens are able to buy individual records online.

Every public sector authority or party responsible for public administration makes an agreement with the register holder about the search procedure for its user rights.

#### *3.1.1.7. YTJ, the Business Information System*

The Business Information System is an internet-based information system jointly maintained by the National Board of Patents and Registration of Finland and the Finnish Tax Administration, which enables information to be reported in a single notification to both authorities. The Business Information System includes businesses and organisations entered in the following registers:

- the Trade Register
- the Register of Foundations
- the VAT Register
- the Prepayment Register
- the Employer Register or
- the Client Register of the Tax Administration (basic Tax Administration information)

Furthermore it contains businesses and organisations that have filed a start-up notification but have not yet been entered in the registers mentioned above.

The information system is a register open to all (on the internet) which combines information from the Tax Administration and the Trade Register, from which information on the founding of a company, its headquarters and its subsidiaries is freely available.

#### *3.1.1.8. Trade Register*

The Trade Register contains legal persons in Finland and is maintained by the National Board of Patents and Registration. It holds information about companies, organisations, foundations and associations.

All authorities may use the Trade Register's services.

The National Board of Patents and Registration has established various user service arrangements. It does not require an authorisation procedure.

#### *3.1.1.9. Commercial databases*

##### Consumer Information Register

The Consumer Information Register is an individual credit and business information service. The service provides assessments of the credit standing of companies and individuals, and especially assessments concerning companies' operations, soundness, credit standing etc. The database contains information from the Trade Register and other records from debt collection agencies etc. It is the most used credit rating service in Finland with many hundreds of entries for each data subject. The Consumer Information Register is a commercial service that is available as internet-based pay application.

### Dun & Bradstreet

Dun & Bradstreet is an individual credit and business information service. It provides assessments of the credit standing of companies and individuals, and especially assessments concerning companies' operations, soundness, credit standing etc. The database contains information from the Trade Register and other records and extensive information for each data subject.

Dun and Bradstreet is a commercial service that is available as internet-based pay application.

#### *3.1.1.10. Boat Register*

The register contains technical details on boats and information on ownership.

Most public sector officials and/or legal persons operating in the public administration who constantly need up-to-date information on these matters may apply for user rights for the system. Citizens are able to buy individual records online.

Every public sector authority or party responsible for public administration makes an agreement with the register holder about the search procedure for its user rights.

## **3.2. Co-operation at national level**

### **3.2.1. Identification of bank accounts**

With regard to

- (a) the identification of an unknown bank account belonging to a specified person
- (b) the identification of the unknown owner of a specified bank account
- (c) the identification of operations from and to a specified bank account in a specified period in the past,

these measures are available during an investigation under several legal bases.

As regards

- (d) the monitoring of operations to and from a specified bank account in the future, real-time or advance monitoring of operations to or from a bank account is only possible in exceptional cases, other than as laid down in the legislation on prevention and investigation of money laundering and the financing of terrorism.

*3.2.1.1. Legal Framework*

The pre-trial investigation authority has the right under the law (Section 36 of the Police Act; Sections 18 and 28(3) of the Customs Act; Section 10 of the Border Guard Act) to obtain the information referred to under points (a), (b) and (c) for the prevention or investigation of crime. Information can in addition be obtained for the purpose of enquiry into a charge of money laundering under the Act on Prevention and Investigation of Money Laundering and the Financing of Terrorism. The information may be requested in writing from a bank.

Under Section 141 of the Act on the activities of credit institutions and Section 11 of the Public Prosecutors Act, the prosecutor has the right to obtain information relating to bank accounts in order to investigate a crime.

*3.2.1.2. Types of crimes covered*

According to the information given by the Finnish authorities the measures under 3.2.1 can be obtained for any crime.

*3.2.1.3. Duration of a measure regarding a bank account*

There are no particular conditions for a measure regarding a bank account. After expiry of a measure, the enquiry can be renewed.

*3.2.1.4. Competent authorities*

The authorities competent to request and take the measure are the pre-trial investigation authority and the prosecutor.

*3.2.1.5. Information of persons affected by the measure*

Section 27 of the Personal Data Act lays down the limits of the registered right of inspection. Pursuant to subsection 1 of paragraph 1, no person has the right of inspection provided for in Section 26 of the law if inter alia prevention or investigation of crime would be impeded by providing information. This therefore has a bearing on situations occurring before the beginning of the pre-trial investigation (the "enquiry stage"), in which an account is investigated to prevent a

crime, and there is no question of the possibility provided for in the Pre-trial Investigation Act whereby a person is prohibited from revealing facts coming to his knowledge to third parties.

Under Section 48 of the Pre-trial Investigation Act, the person heading the investigation may prohibit the disclosure of any facts present in the pre-trial investigation and relating to the investigation other than those concerning himself or his client. Under subsection 2 of the paragraph, the provisions of Section 38(1) (breach of secrecy) or 38(2) (infringement of secrecy) are applied to any breach of the abovementioned secrecy requirement, unless a more severe penalty is prescribed elsewhere in legislation.

Ultimately the pre-trial investigation and prosecution authority decides on notification to the subject in the course of the pre-trial investigation and prosecution examination. Provisions concerning the publicising of participants (Act concerning publicising the activity of the authorities) specify when the pre-trial investigation material will be made public.

#### *3.2.1.6. Secrecy obligations or privileges impeding or affecting the measure*

There are no conditions that could impede or affect a measure.

#### *3.2.1.7. Enforcement of the measures in practice*

Before a measure is enforced, a senior official reviews it. Furthermore it is reviewed from a legal point of view by the authority (as well as by an external parliamentary legal expert and by the attorney general) and the courts, where the subject matter is used as evidence.

For the monitoring of banking operations, the person responsible for the banking operation concerned transmits the information on request. The authorities have no direct access to banks' databases. Nor do the banks have a central register of accounts.

### **3.3. Co-operation at European level**

#### **3.3.1. Legal Framework**

Finland has implemented the Protocol to the Convention on Mutual Legal Assistance between Member States of the EU by Act 45/2005.

National implementation of the protocol required no changes in national legislation on international judicial assistance in criminal matters. The co-operation required by the protocol in providing information on bank accounts was possible on the basis of national legislation even before the protocol came into force.

Finland has implemented Framework Decision 2006/960/JHA<sup>20</sup> by Act 26/2009. The information concerned can be obtained in Finland through a decision of the pre-trial investigation authority; thus it can be obtained and provided in cases covered by the Framework Decision.

In accordance with Section 36 of the Police Act, bank information referred to under (a.) to (c.) in chapter 3.2.1 may be requested or provided by way of official assistance for purposes of crime prevention or investigation. Where information is requested from them, the Finnish police require that there is a reason to suspect a criminal offence or that any offence specified should accordingly be under investigation or at the enquiry stage, to exclude data-fishing or any similar prohibited procedure. The use of data is not restricted to the act referred to in the request, but further disclosure requires permission from the Finnish police (the National Bureau of Investigation as national central authority).

Finland has implemented the Naples II Convention by Act 427/2004 and Decree 738/2004. The Naples II Convention regulates the co-operation between the customs authorities and other competent authorities to ensure the prevention and detection of infringements of national customs provisions as well as the prosecution and punishment of infringements of Community and national customs provisions.

The Naples II Convention is a tool for mutual assistance and co-operation that can be used by all competent law enforcement and judicial authorities, i.e. it is not a tool only for customs authorities. It allows assistance and co-operation among and between all the law enforcement authorities.

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<sup>20</sup> Council Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union; (OJ L 386, 29.12.2006, pp. 89-100).

### 3.3.2. Information requests via the ARO

The ARO contact point responds to information requests sent by the ARO contact points of other states. Where information is requested under the Framework Decision via any other channel, the matter is settled by the recipient of the request.

### 3.3.3. Competent authorities

#### 3.3.3.1. Acting as issuing State

Under Section 5 of the Act on International Judicial Assistance in Criminal Matters (4/1994) a request for legal assistance may be made to a foreign state by the Ministry of Justice, a court, the Prosecutor's Office or the pre-trial investigation authority.

The right of the Prosecutor's Office and the pre-trial investigation authority to obtain information protected by banking secrecy is laid down in Section 36(1) of the Police Act (493/1995), Section 141(2) of the Act on the Activities of credit institutions (121/2007), Section 28(3) of the Customs Act (1466/1994) as well as Section 37(3) of the Act on Prevention and Investigation of Money Laundering and the Financing of Terrorism (503/2008).

Under those provisions, with regard to the measures listed in points a to d of paragraph 2.1, a request would be made to another Member State by the prosecution authority or the pre-trial investigation authority, which have the right to obtain bank account information accordance with the abovementioned provisions. The request could also be made via the Ministry of Justice acting as central authority for international legal assistance in criminal matters.

Correspondingly, the abovementioned prosecution authority or pre-trial investigation authority, or the Ministry of Justice acting as central authority, could receive the request.

The police also have their own directive, under which the National Bureau of Investigation is the central authority through which police administrative and legal assistance requests are principally transmitted. It should also be noted that the channels of international co-operation (including SIRENE, Europol National Unit, and Interpol NCB) are centralised in the National Bureau of Investigation.

In addition, the Customs acts as the national central authority under certain international agreements. International administrative and legal assistance is the responsibility of the Customs Investigation Service/Legal and International Affairs/International Affairs Unit.

The Customs also acts as the national central authority under the Naples II Convention.

### 3.3.3.2. *Acting as receiving State*

Competence for execution of requests under the abovementioned provisions lies with the competent prosecution authority or pre-trial investigation authority. Under Section 4 of the Act on International Judicial Assistance in Criminal Matters (4/1994), requests are forwarded either via the Ministry of Justice or directly to the authority with competence for implementation of the request. In general the local police, the National Bureau of Investigation or the Customs, would execute the request.

### 3.3.4. **Problems encountered**

Private-law claims by the plaintiff are according to legislation a matter for the police and the prosecutor in Finland. The principle of adhesion relating to this causes problems where the prosecutor is handling the plaintiff's case. In most other countries such civil-law claims by the plaintiff are treated as a separate civil case. Improvements as regards the problems in this connection are to be expected with the revision of the Coercive Measures Act.

A national problem is that the authorities change in the course of the trial, and nobody is responsible for seized property all the way through to the end. Problems have emerged in particular as regards the ultimate fate of property frozen in other countries.

At times the problem has been the difference in the status of the person questioned compared with other countries. In Finland, the status of an examinee in a situation that is unclear is that of suspect, not of a person to be heard as a witness under an obligation to tell the truth.



### **3.4. Financial investigations and use of financial intelligence**

#### **3.4.1. Legal framework**

Finland has no specific legal framework for financial investigations with the exception of money laundering investigations (Money Laundering Act 18.7.2008/503).

Finland has not yet ratified the 2005 Council of Europe Convention on the Laundering, Search, Seizure and Confiscation of the Proceeds of Crime and on the Financing of Terrorism (the “Warsaw” Convention)<sup>21</sup>.

#### **3.4.2. Special legal powers and tools for investigating the financial aspects of criminal activities**

Under Section 5 of the Criminal Investigation Act, investigation of the proceeds of crime is part of the pre-trial investigation, so that measures permitted by the Act may be employed for this. Evidence obtained under the Coercive Measures Act<sup>22</sup> for purposes of criminal investigation often also contains information relating to crime proceeds which may be exploited.

#### **3.4.3. Use and effectiveness of financial investigations in specific crimes**

Regarding the specific experience in Finland, the authorities have outlined the situation as follows: Drugs crime and financial crime are increasingly closely related, as a result of which investigation of those offences also requires smooth and effective co-operation on the part of authorities responsible for pre-trial investigation and others. There have for some time been indications that criminals involved in drug dealing have widened their area of activity to include financial crime in order to make further gains from their criminal activity and in doing so reduce their risk of getting caught. Hence, in almost every somewhat more extensive investigation of drug dealing activity one line of investigation when targeting the main suspects is or should be to investigate also the financial crime aspect of their criminal activity. Accordingly, for the investigation of financial offences and their associated features, special knowledge and know-how concerning financial crime is needed.

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<sup>21</sup> CETS 198

<sup>22</sup> Coercive Measures Act (450/1987; amendments up to 693/1997 included).

Money connected with drugs crime is concealed and/or its source obscured with the aid of various companies, false invoices etc. Accordingly, the investigation of money laundering offences together with investigation of drugs offences, for example, should be the normal operational policy, especially where serious organised-crime "heavyweights" are concerned. The methods, contacts and know-how of financial crime investigators are decisive in this respect.

At present the abovementioned operating model is not yet being used as effectively as it should be. In Finland there have been a number of broad-based investigations in which offences relating both to narcotic substances and financial crime have been investigated, and good results have been obtained from some of these.

In investigation of computer-related offences the challenge in recent times has been fraud perpetrated using malicious software and the redirection of assets thereby obtained in such a way as to obscure their illegal source (i.e. money laundering). Various police forces have had cases of this kind for investigation. The NBI's Financial Crime Department / IT-Crime Section has recently been responsible for investigation of an extensive series of offences connected with organised crime carried out using malicious software and relating to the transfer of assets to different countries.

Investigation of IT crime in fact focuses mainly on tracing assets, in general with the help of the financial crime investigation personnel of the police administration and making use of crime proceeds tracing.

The police financial crime units have had some cases for investigation which involved occupational trafficking in human beings. In such cases investigation of crime proceeds is the primary focus.

#### **3.4.4. Continuation of an investigation into the financial aspects of crime after closure of a case**

An investigation may be continued in situations as referred to in Chapter 10 [Confiscation] of the Criminal Code, i.e. where the possibility is being investigated of confiscation from a new party who was not personally an accomplice in the crime but benefitted from it.

In addition, there is the possibility of carrying out a test purchase as prescribed in the Police Act<sup>23</sup> in order to provide evidence of illegally obtained proceeds to a law enforcement authority.

### 3.4.5. Involvement of private experts during investigations

Under Section 46 of the Pre-trial Investigation Act, the person leading the investigation has the right where necessary to obtain expert opinions for example from accountants, financial experts or other appropriate quarters. The expert may not be anyone with a connection to the case or the person involved which jeopardises his impartiality. The prosecutor may request an expert opinion in the enquiry phase. A court may request an expert opinion pursuant to Chapter 17, Section 44 of the Code of Judicial Procedure

The pre-trial investigation authorities have many accountancy experts of their own who are consulted in the first place.

### 3.4.6. Financial intelligence

#### 3.4.6.1. *Financial investigations in the intelligence phase*

Finland has had a long-standing use of financial investigations in the intelligence phase to demonstrate criminal activity.

#### 3.4.6.2. *Financial intelligence information as a starter for criminal and financial investigations*

The Finnish authorities have reported that they have since long been using financial intelligence as a starter for criminal and financial investigations.

The NBI's Intelligence Division has responsibility for police, customs and border guard co-operation. The purpose of the Criminal Investigation Act is to promote joint operations between the police, the customs and the border guard authority (PCB authorities) and the development of joint

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<sup>23</sup> Cf. Section 28, of the Police Act (493/1995; amendments up to 560/2007 included) that stipulates: “5) undercover transaction means a purchase offer made by the police with the aim of preventing, detecting or investigating an offence, or with the aim of recovering the proceeds from an offence, or the purchase of an object, substance or property that can be considered a sample unless the prevention, detection or investigation of an offence, or the recovery of the proceeds from an offence necessitate the purchase of a batch larger than a sample or the purchase of an object, substance or property as an entity of certain size.

operational policies for the PCB authorities so that the tasks and individual measures assigned to the PCB authorities for the prevention, detection and investigation of offences (crime prevention), surveillance as well as the related international co-operation will be appropriately, effectively and economically performed.

Joint operations means carrying out action involving crime prevention, surveillance or international co-operation on behalf of another PCB authority or assisting with tasks in this field and co-operation with PCB authorities in a common area of operation.

The aim of PCB operations is:

- Producing information for law enforcement authorities
- National and international criminal intelligence gathering and analysis
- Target combating (selection of targets for prevention)
- Maintaining crime situation awareness
- Rapid information exchange on detection of criminals, increasing the likelihood of their being caught and crime prevention
- Support for operational activities

This also applies to information from the FIU located within the NBI that by the abovementioned procedure identifies offences and passes them on for investigation to various police units. The FIU can provide information on its own initiative or on request as required to another unit.

#### *3.4.6.3. Co-operation with and collection of financial intelligence from other authorities in the intelligence phase*

Established practices have developed for co-operation. The pre-trial investigation authorities cooperate closely for example with tax and enforcement authorities. Information may be exchanged with either for purposes of crime prevention, i.e. as intelligence data and for investigation of crimes that have come to light. Customs co-operation between taxation and inspection departments internally for purposes of crime prevention and investigation is close and well established.

Co-operation is on a case-by-case basis as well as on the basis of established procedures in special criminal proceeds detection units. Beginning in 1996, these units were set up for 17 different parts of the country. Groups directed by police senior management are located in police premises and the tax and enforcement authorities are represented in them in addition to the police.

A **grey economy information unit** started operating in the Tax Administration in 2011; one of its functions is to produce reports on the fulfilment of obligations. These include a description of the activity and management of an organisation or its staff and of the discharge of statutory obligations (Grey Economy Information Unit Act 1207/2010).

### **3.5. Co-operation with Europol and Eurojust**

#### **3.5.1. Co-operation with Europol**

##### *3.5.1.1. Experience to date*

The Finnish authorities have informed that pre-trial authorities and prosecutors do have experience of co-operation with Europol regarding financial crime matters though prosecutors may have less experience of co-operation with Europol as their main co-operation partner in this context is Eurojust.

Pre-trial authorities participate in Europol Analysis Work File (AWF) activities relating to financial crime.

##### *3.5.1.2. Expectations regarding Europol support*

Various expectations from the different stakeholders regarding Europol support have been voiced.

In view of the Finnish police, for instance, some information held in registers (e.g. information on persons in charge of a company or on bank accounts etc.) could be obtained via Europol national desks.<sup>24</sup>

According to Finnish Customs they make use of the Europol channel and their national contact person in Europol whenever possible. Customs have made use of the Europol mobile office

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<sup>24</sup> The Finnish authorities have clarified that it was not possible to obtain information on bank account holders from the Finnish Europol desk as Finland does not have a central bank account register. The Finnish Europol Liaison Bureau may however, relay a request to the Europol National Unit which will process the request. Usually such a request requires a rogatory letter.

function in, among other things, international operations relating to financial crime. Finnish Customs has once made use of Europol mobile office function. Mobile office was used in Finland in Customs operation in 2011 autumn. Operation concentrated on passenger traffic between Estonia and Finland. Customs authorities would expect enhanced use of analysing activities in producing operational analyses, analysis training and support in connection with JIT meetings and investigations, etc. (premises, funding, analyst support).

Prosecutors might need, for international financial crime matters, information about crime investigations pending abroad, expert witnesses or wider analysis of crime phenomena (e.g. the pyramid fraud phenomenon, Boiler Room, etc.).

### **3.5.2. Co-operation with Eurojust**

#### *3.5.2.1. Experience to date*

Most of the requests sent by prosecutors to Eurojust have dealt with financial crimes. Help from Eurojust has been requested at the phases of pre-trial, consideration of charges and court proceedings. Most typically the requests have been urging execution of requests for judicial assistance, consultation relating to freezing and confiscation orders and enquiries concerning the legislation or case law of another member state particularly in evidentiary issues. The most challenging requests have related to the tracing of proceeds of crime, the issuing of freezing orders and the possibility of confiscation in financial crimes involving, as a rule, a Finnish complainant (executions of freezing orders relating to claims for compensation by complainants have caused problems at the confiscation phase in cases where a confiscation decision cannot be obtained from Finland).

Furthermore, prosecutors have taken part in gatherings and coordination meetings of prosecutors and pre-trial authorities organised by Eurojust in the case of certain interconnected crimes.

In the case of corruption there are two international investigation teams (JITs) for whom coordination meetings have been arranged in The Hague and in the partner countries of JIT. The Finnish national member in Eurojust is also a member of the JIT. Funding has been requested from Eurojust for these JIT activities. The customs authorities also have experience of an international investigation team organised with the support of Eurojust.

*3.5.2.2. Expectations regarding Eurojust support*

In the answers given in the questionnaire, the Finnish authorities stated that they expected support from Eurojust urging responses to requests for judicial assistance and other requests as well as the possibility of even more informal discussions with the pre-trial and prosecution authorities of the other MS. In this respect they advocated coordination that would make genuine criminal liability a reality in international crime matters where the trial had to be held in the most appropriate country considering the entire body of crimes.

In order to enhance the co-operation of prosecutors and the materialising of criminal liability Eurojust could examine how the tracing of proceeds of crime and the removal thereof was possible in cases of financial crime in different MS. Finland was particularly interested in safeguarding the position of the complainant in the execution of Confiscation. A possible task of Eurojust could also be to examine the efficiency and operation of provisions on money laundering in connection with financial crimes within the EU.

Finally, the Finnish authorities expected more flexibility in the process of obtaining financial support from Eurojust (e.g. translations relating to a JIT after the event). They maintained that currently the support procedure does in fact not support international pre-trial in the manner expected.

## **3.6. Conclusions**

### **3.6.1. Information and data bases**

- Finland has no centralized register of bank accounts; furthermore the expert team was informed that no need for such a database has been identified. There is no direct access of investigative and prosecuting authorities to the databases of the banks. Information on bank accounts is sent only upon request. Placing the request and receiving the information currently involves paper work and sometimes necessitates a long time. There is no deadline provided in the law for banks to reply to requests for bank information.
- About 20 banks are operating in FI, whereas 3 banks are holding about 90 % of the market share. The same structure is demonstrated in the insurance sector.

- A uniform request form has been developed and it is envisaged that it will be sent to all banks. There is no deadline for banks to reply, but normally a good co-operation level has been reported. In addition urgent requests bear a specific marking indicating to the banks that the request has to be dealt with priority.
- Since 2009 a joint project (involving investigative and prosecuting authorities, banks, the Federation for Financial Services) has been on-going to find a solution for an electronic access of the banks' databases. The working group has agreed on the content, format, and information exchange mechanisms for obtaining data electronically from banks. The system is expected to be fully operational at the end of 2013.

### **3.6.2. Co-operation at national level**

- According to the information received the absence of a mechanism that would allow for a more centralised and thus stringent management of seized assets was felt to be a deficiency. In this respect it was particularly the ultimate fate of property frozen abroad that had obviously raised concern. The experts therefore concluded that a more overarching solution with regard to managing seized assets could help to improve the situation.

### **3.6.3. Co-operation at European level**

- Finland has yet to ratify the 2005 Council of Europe Convention on the Laundering, Search, Seizure and Confiscation of the Proceeds of Crime and on the Financing of Terrorism.

### **3.6.4. Financial investigations and use of financial intelligence**

- There is no strict separation of investigations for organized crime and for financial crime; if needed joint teams are set up.
- Finland enjoys close co-operation with neighbouring countries from the EU, but also with Russia. There are almost 30 agreements signed with Russia, the last one is related to controlled deliveries. Based on such agreements, the Russian investigators are allowed to take part in the financial investigations conducted by Finland (without however, conducting themselves interviews with suspects or victims on Finnish territory).
- The authority in charge with co-operation in criminal matters is the Ministry of Justice. However, also police forces have the right to issue and execute MLA requests regarding



criminal investigations. When asking for a MLA request the NBI acts as a Central Authority in most of the cases (except of the cases involving the Nordic EU countries, when the local police can directly send an MLA request to their counterparts).

- In comparison to other Member States international co-operation against financial crime in the form of JITs is widely used by Finland. Most of the JITs are set up with the neighbouring countries, Estonia and Sweden. The Finnish experience with JITs shows that JITs are very efficient tools in fighting against financial crimes, especially regarding tracing and freezing the proceeds from crime. Requests for setting up a JIT where investigative authorities from Finland are involved are sent through the Central Authority, NBI. Around 20 JITs where Finland participated have been set up so far. They include narcotics, property crime and also economic crimes (3 JITs in corruption cases, 3 JITs in money laundering/fraud cases, 2 JITs in tax fraud cases). Finland maintains accurate statistics on the number of JITs established and monitors the progress and results of the JITs.
- The channels used for international co-operation are: Europol, Eurojust, EJM contact points, Interpol and police liaison officers (deployed in relevant countries: Russia – 5; Estonia – 1; Spain – 1; China – 1; Europol – 2; Interpol 1). The NBI has the role to coordinate the international co-operation and facilitating the link with all partners outside Finland. All requests for police co-operation are directed to the NBI (around 200-400 per year; for economic crimes – around 100 per year; no accurate statistics exist on the exact number of requests). In some cases, there is also the possibility to use direct contacts and avoid the intervention of NBI. The intention for the future is to reduce the involvement of NBI in international co-operation and promote direct contacts.
- There is an increase in the number of economic crimes cases where investigations lead to Estonia and Russia, and recently to Sweden.
- In order to initiate an investigation on money laundering, the investigators need to obtain evidence on the predicate offence. The evidence must be then presented by the prosecutor to the court. In practice, there are difficulties in obtaining information when the predicate offence is committed abroad, especially in Russia.
- According to the law, financial investigations must explore all the possibilities for returning property obtained through the crime and for enforcing confiscation imposed as a result of the crime or compensation to the plaintiff. This situation creates difficulties in practice; especially when the assets are located abroad and there is no guarantee that the compensation for the victim of crime can be ensured.

### 3.6.5. Co-operation with Europol and Eurojust

#### 3.6.5.1. Europol

- Finland has a permanent liaison office within Europol. Currently there are 3 liaison officers (2 officers representing the National Bureau of Investigation and 1 representative of the National Board of Customs).
- Finland is contributing to the Europol Information System (EIS) and is also member to 16 analytical work files (AWF). According to Europol statistics the volume of Finland's contributions to Europol lies within the average if compared to other Member States and third parties. In addition the Finnish prosecutors and courts have acknowledged a lack of experience in cooperating with Europol.
- During the visit it became clear that Finland has well organised and structured law enforcement with a solid functioning coordination mechanism between law enforcement authorities (police, customs and border guard). There is a clear division of tasks and responsibilities with regard preventing and combating financial crime.
- Despite the fact that the police developed specific action plans to combat financial crime, the first one dating back to 1996 whilst the recent one covers 2010 and 2011, none of these plans seem to include a reference to Europol.
- Equally the Unit for Assistance of Economic Crime Prevention initially set up in 2005 within the Police Department of the Ministry of Interior and now operating under the The National Police Board is mainly focussing its activities (analysing, reporting and follow up) on the domestic economic crime situation and seems to have cut itself off from the European developments monitored by Europol.
- The expectations regarding Europol listed in the questionnaire could be met if the Finish law enforcement (police, customs and border police) would be more proactive in sharing information with the respective projects at Europol.
- It was felt that Finland could make more use of Europol in selecting targets by the National Bureau of Investigation (NBI). The data on suspected persons in Finland could then be sent to Europol to be cross-checked.
- Especially regarding customs crime related projects such as intellectual property rights infringements (AWF Copy), value added or tax crime (AWF MTIC), cigarette smuggling (AWF Smoke) there appears to be room for improved co-operation with Europol. The initiatives taken by Finland to enhance co-operation with Europol in relation to combating money laundering (AWF SUSTRANS) and tracing proceeds are promising.

- Europol has so far not been invited to participate in the JITs established in financial crime cases. However, Europol is informed about all the relevant JITs and is currently a participant in practically all JITs where Finland is involved. Finland has a very positive attitude towards Europol's participation on JITs.

#### 3.6.5.2. Eurojust

- The expert team has encountered a high degree of awareness among investigative and prosecuting authorities on the role and advantages of using Eurojust.
- Consultations with the National Member of Eurojust are taking place regularly, especially with regard to the execution of MLA requests, freezing and confiscation orders; facilitation of freezing orders to secure the claims for victim compensations.
- The Finnish National Member at Eurojust participates in two JITs set up in two corruption cases.
- Eurojust has been asked and provided funding for the establishment of the JITs.
- The expectations raised by the Finnish authorities related to more involvement and assistance of Eurojust in tracing proceeds from crime and in safeguarding the position of victim in the execution of freezing orders.
- Expectations for more flexibility in obtaining JITs financial support from Eurojust, in particular in covering the costs for translating documents resulted after JIT meetings.
- Finland has implemented the 2002 and 2008 Eurojust Decisions. The implemented act provides even for the obligation of inviting the Eurojust National Member for Finland to take part in a JIT whenever Community funding is provided for setting up a JIT.
- Notwithstanding the overall active involvement of Eurojust, the experts were of the opinion that there was leeway for a wider involvement of and assistance from Eurojust in tracing proceeds of crime and safeguarding the victims' claims in cross border cases.

## 4. FREEZING AND CONFISCATION

### 4.1. Freezing

#### 4.1.1. At national level

##### 4.1.1.1. *Legal basis*

Under Section 26(3) of the Act on Prevention and Investigation of Money Laundering and the Financing of Terrorism, a senior police officer working in the NBI/FIU may issue a person subject to a reporting obligation with an order to refrain from executing business transactions for not more than five working days, where such restraint is required to prevent and investigate money laundering.

There is no national legislation relating to the freezing of assets within the area of responsibility of the Ministry of Justice. In the law implementing Framework Decision 2003/577/JHA on the Freezing of Assets it is laid down that where Finland is a State issuing a decision on the freezing of assets, the freezing decision is understood to mean a freezing or seizure order under the Coercive Measures Act issued by a court, a temporary freezing seizure order issued by a prosecutor or an attachment order issued by a court or prosecutor<sup>25</sup>.

##### 4.1.1.2. *Types of crime for which the measure can be obtained*

Freezing can be obtained for any type of crime that counts in Finland as a predicate offence for money laundering (cf. Criminal Code, Chapter 32, Section 6). A freezing order can be issued on the basis of the above provision even before there is reason to suspect any specific offence.

##### 4.1.1.3. *Duration of the measure*

The freezing order may have a duration of not more than five working days whereas Saturday is not counted as a working day.

##### 4.1.1.4. *Other conditions necessary to obtain the measure*

The measure is necessary to prevent or investigate money laundering or the financing of terrorism.

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<sup>25</sup> Cf. Section 2(2) of the EU Freezing of Assets Act.

*4.1.1.5. Competent authority*

A senior FIU police officer may issue a person subject to a reporting obligation with an order to abstain from a business transaction. The FIU acts jointly with the National Bureau of Investigation Intelligence Division.

The ARO has no jurisdiction in this procedure.

*4.1.1.6. Information of persons affected by the measure*

Persons affected by a freezing order are not automatically informed thereof. When the person who is affected by the freezing order contacts e.g. the bank where frozen funds are located, he/she is informed by the bank only that he/she should contact the FIU for further information. The bank is not entitled to inform the affected person of any other matters relating to the freezing.

*4.1.1.7. Legal remedies for the person concerned by the measure*

There is no right of appeal against a restraining order.

*4.1.1.8. Withdrawal of a freezing order*

The freezing order expires automatically after five working days. Where it is found that the requirements for the order are not fulfilled, the senior FIU police officer must withdraw the order immediately. When the period of freezing has ended, an order of the court may be sought for the assets to be made subject to freezing or seizure. That decision is valid for four months at a time.

*4.1.1.9. Management of seized assets*

Finland has no special structure for the management of seized assets.

Assets are in the possession of the person subject to the reporting obligation under the conditions agreed between the client and the reporting person, in general in accordance with the conditions attached to the client's account.

#### 4.1.2. Co-operation at European level - Implementation of Framework Decision

2003/577/JHA

Finland has implemented Council Framework Decision 2003/577/JHA<sup>26</sup> through the Act on the execution in the European Union of decisions concerning freezing of property or evidence № 540 of 15.7.2005 (hereinafter EU Freezing Act)<sup>27</sup>.

The EU Freezing Act is applied to freezing orders submitted after 2 August 2005.

Both the Framework Decision and the preceding national legislation are applicable. Judicial authorities can choose in individual cases which one of the two instruments is applied.

#### 4.1.3. Mutual assistance in the area of freezing

##### 4.1.3.1. Statistics

###### (a) Requests by Finland

Police are not keeping statistics on this matter. It was estimated that the number of requested freezing orders and related requests for judicial assistance was some 20-30 per year (freezings are not known except for those that are dealt with by the NBI).

To the knowledge of the Office of the Prosecutor General, Finland has submitted in total 10-15 requests to other Member States.

The national Eurojust member is repeatedly contacted by Finnish prosecutors concerning confiscations in MS as well as outside the EU. There might be even more cases if the freezing of assets could be used in order to safeguard the claim of a complainant.

###### (b) Requests to Finland

So far only one request has been received by Finland from Sweden.

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<sup>26</sup> Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence, OJ L 196, 2.8.2003, p. 45.

<sup>27</sup> Cf. <http://www.finlex.fi/laki/ajantasa/2005/20050540>

#### 4.1.3.2. *Experience when acting as an issuing State*

##### Competent authority

According to Section 19 of the EU Freezing Act a decision on sending a Finnish freezing order for execution to another Member State is made by the prosecutor or the court that issued the freezing order. The court decides on sending the order on a request by the prosecutor who is competent to prosecute in the criminal matter at hand. The prosecutor referred to in Section 19(1) is the one who is competent to function as prosecutor in relation to sending the freezing order.

The prosecutor is also the instance mentioned in part (c) of the certificate as being the one that must be contacted by the executing authorities.

##### Guidance on freezing order

In order to facilitate the processing of a freezing order under FD 2003/577/JHA and the Finnish implementing legislation the Finnish authorities have issued a **Handbook on Freezing**. Templates and guidance are at the disposal of all legal aid authorities electronically from their own computer with the help of the Handbook of international legal aid issues, although no standard interpretations have been defined in national legislation.

Furthermore, there is detailed guidance on the confiscation phase in the **Handbook of international legal aid issues**.

The national legislation does not provide for any other material to accompany the request in addition to the freezing order and the certificate in accordance with Section 9.

##### Securing the validity of evidence in the executing State

There are no provisions in the national legislation on formalities or procedures to be observed in the executing state in order to ensure that the evidence is valid in Finland.

##### Preferred transmission channels

The main option for transmitting the freezing order is a direct contact. Only in exceptional cases (or on request by the recipient) central authorities are used. The Interpol route will be employed if the recipient cannot be identified otherwise. The method of transmission can be chosen according to the situation.

Eurojust and the EJM have been used to identify the competent authority. Particular problems have not been encountered except that the EJM Atlas has not always been reliable. Therefore prosecutors tend to use the Eurojust national member. It was reported that this instance has also often discussed with other national members the special procedures to be followed and the time limits.

Europol has not been used for the purpose of transmitting freezing orders.

The Asset Recovery Office, which is a part of the pre-trial authority, has a role in the pre-trial phase but it is not involved in the decision-making process concerning freezing.

#### Additional information requests

The experts noted that the Finnish authorities were taking a pragmatic approach with regard to additional information requests as they were perceived as a means to resolve any emerging obstacle. In most cases contacts regarding requests for additional information have been unofficial (e.g. via e-mail or telephone), sometimes via a liaison magistrate and sometimes directly between judicial authorities. Such contacts have concerned the specifications needed in courts in order to be able to carry out freezing decisions as smoothly as possible. Hence there might have been difficulties in meeting the deadlines but up to the date of the on-site visit matters were always accommodated.

Language problems in direct contacts have been reported to be virtually non-existent since the language used has been English. There is nothing to prevent documents being requested to be translated in accordance with the Framework Decision.

#### Difficulties observed

It was reported that Spanish investigating magistrates have often requested that a freezing order be translated into Spanish. The Finnish authorities have rated such practice as hindering a speedy execution of a request.

Furthermore, problems were potentially seen with regard to some rarer languages since getting a translator at short notice may be difficult. The Finnish authorities have therefore favoured an approach where all Member States would accept documents in the principal European languages, i.e. English, French and German.



At the time of the on-site visit all cases remained uncompleted and therefore the Finnish authorities were not in a position to describe any cases in which the evidence could not be transmitted or the property confiscated although the freezing order had been successfully executed.

The Finnish have however, highlighted a potential problem that may emerge at a later phase: According to Finnish law it is possible that the frozen property is entirely or partly returned to a complainant. In general, the claim of the State is subordinate to the claim of the complainant. Therefore problems may emerge in the confiscation phase. In their answers to the questionnaire Finland maintained that it was deemed important to defend the complainant's right to compensation.

Some problems have been encountered with Estonia. According to the view of the Finnish authorities Estonian courts have re examined the grounds of freezing orders issued in Finland. Such has been the case especially when the registered owner of the property to be frozen was not the suspect. Estonian courts have required additional evidence on the link between the registered owner and the suspected crime. In one of such cases the Estonian Supreme Court was reported to have rejected, respectively repealed the freezing order.

Another divergence of understanding about how a request should have been treated appeared to have occurred with relation to the UK that – like Estonia - has examined the grounds of the freezing order that in the view of Finland did not comply with FD 2003/577/JHA.

It was felt that the problem with language-compliance versions of the certificate was that they could not be adapted. Translation into a more rare language might be a problem but according to the Finnish authorities such requests had not been received so far.

#### *4.1.3.3. Experience when acting as an executing State*

At the time of the on-site visit Finland had received only one freezing order which lends any statement concerning the experience as an executing State only a limited value.

#### Mechanisms of receipt

According to Section 6 of the EU Freezing Act a request to execute a freezing order can be done in writing, as electronic transmission or otherwise in a manner producing a written record of the request. According to Section 7 of the same Act the certificate shall be submitted either in Finnish, Swedish or English or a translation into one of these languages shall accompany it. The competent

prosecutor may accept a certificate submitted in a language other than Finnish, Swedish or English, if there is nothing to prevent this: for instance, if the matter is urgent and the prosecutor has a command of the language used. No specific verification procedures have been introduced. The competent prosecutor will contact the issuing authority as appropriate.

#### Competent authorities and role of ARO

Section 5 of the EU Freezing Act lays down the territorial competencies of the different district court prosecutors when carrying out prosecution duties relating to the execution of a freezing order. If the property or evidence is situated in the territorial ambit of several Courts of Appeal, the location of the property or evidence is not certain or for any other particular reason, any district court prosecutor is competent regardless of the Court of Appeal in whose territorial ambit the property or evidence is situated.

For particular reasons the competent prosecutor may be another prosecutor than referred to above.

The Central Authority or ARO has no role in this process.

#### Legal remedies

Section 3 of the EU Freezing Act contains provisions on appeal. According to Section 16 [Appeal against execution of a freezing order] the person concerned by the freezing order can refer to the district court a decision of a prosecutor as referred to in Section 9(1) and 12(1). The district court shall deal with the matter without delay. When considering the matter the provisions of Section 9(2) of Chapter 1 and Section 13 of Chapter 4 of the Coercive Measures Act are also observed, where applicable. When the decision order is executed in the manner laid down for restraint on alienation and sequestration, execution acts of an execution officer can be appealed as provided in the Enforcement Code.

Decisions of the district courts can be appealed to the court of appeal. Appealing does not prevent execution of the freezing order unless the court dealing with the matter orders otherwise.

According to Section 17 of the EU Freezing Act [Examination of the substantive justifications] the substantive basis of a freezing order issued by a judicial authority of another member state cannot be examined in Finland. The competent prosecutor shall inform the person concerned on how the

freezing order is appealed in the member state that issued the freezing order and shall give him/her the contact details of the authority of the issuing member state that can give additional information on appealing.

According to Section 18 of the EU Freezing Act [Notifications to other member states in consequence of the appeal] the competent prosecutor shall inform the judicial authority of the issuing member state of the appeal and of the grounds of the claim. As a result, that member state can submit additional information to the prosecutor. The judicial authority issuing the freezing order shall be informed of the outcome of the appeal.

#### **4.1.4. Assessment of FD 2003/577/JHA by the Finnish authorities**

In the opinion of the Finnish authorities the procedure introduced by FD 2003/577/JHA is easier, faster and has lowered the threshold for sending requests to other countries.

They particularly emphasized that the prescribed deadline and form for executing a freezing order had a positive effect on its execution. In practice however, it often happens that the procedure cannot be pursued owing to claims for compensation, which are made by complainants almost without exception in financial crime cases in Finland.

In Finland a claim by a complainant has influence on the success of the prosecutor's claim concerning confiscation. Therefore it is not yet clear in connection with the freezing whether the frozen property can be confiscated to the State or in order to fulfil the claim of a complainant, which might eventually lead to problems. In the view of the Finnish authorities it should therefore be possible to use FD 2003/577/JHA both in connection with the prosecutor's claim concerning confiscation and the complainant's claim.

## **4.2. Confiscation (including FD 2005/212/JHA and FD 2006/783/JHA)**

### **4.2.1. Confiscation at national level**

#### *4.2.1.1. Legal basis*

Confiscation at national level is regulated by the provisions laid down in Chapter 10 [Confiscation] of the Finnish Criminal Code, namely **Section 2 [Confiscation of the proceeds of crime]** and **Section 3 [Extended confiscation of the proceeds of crime]**.

*4.2.1.2. Types of crime for which confiscation is possible*

Confiscation is a possible sanction for any crime that has produced proceeds.

Extended confiscation is possible for the property of the perpetrator, where there are reasons to believe that the property is fully or partly derived from significant criminal activity, may be confiscated only if the perpetrator is convicted of a “triggering offence”. A triggering offence is typically an act producing financial benefit which carries a possible penalty of at least four years imprisonment or an attempt to commit such an offence or another offence referred to in the same section.

*4.2.1.3. Competent authorities*

The court decides on the confiscation.

An enforcement officer is responsible for the enforcement of a confiscation. The law enforcement authorities carry out the confiscation of an object.

*4.2.1.4. Information of persons affected*

In general a pre-trial officer or a prosecutor carries out the seizure or provisional confiscation of property, and this must be brought before a court for confirmation within a prescribed time. The person subject to this measure is, as a rule, given notice of it immediately.

*4.2.1.5. Legal remedies for a person affected*

Chapter 3 [Restraint orders and freezing of property], namely Sections 3 and 4, and Chapter 4 [Seizure], namely Sections 7, 9, 11 and 13 to 15 of the Coercive Measures Act contain the provisions regarding legal prerequisites and remedies for a person affected by such measure. Furthermore the possibility for recourse is also placed in the Finnish constitution; an appeal however, does not have a suspensive effect and does not bar the legal action;

*4.2.1.6. Involvement of the ARO during this procedure*

Finnish legislation does not foresee any role for the ARO during confiscation.

#### 4.2.1.7. Possibilities for extended powers of confiscation

As regards the powers of extended confiscation referred to in Article 3(2) of FD 2005/212/JHA they are dealt with by the provisions of Section 3 of Chapter 10 of the Criminal Code concerning extended confiscation of the proceeds of crime. At the time of the on-site visit the Finnish Supreme Court had issued two rulings on extended confiscation of proceeds: KKO 2006:9 and 2006:51.<sup>28</sup>

#### 4.2.1.8. Confiscation of property owned by corporations

Under Section 2 of Chapter 10 of the Criminal Code the sanction of confiscation is applied to the person who actually benefited. If several persons share the benefit and it is not clear how it is shared, the sanction of confiscation can be ordered jointly and severally (Government Bill 80/2000, p. 22). Joint and several liability has been applied when the defendants' property could not be clearly distinguished; see e.g. KKO 1995:99, where a company and a married couple, one of whom owned the company and was also the managing director and the chairman of the board, and the other of whom was the chairman of the board and the actual business leader of the company, were ordered jointly and severally to forfeit the proceeds.

As 10(3) of the Criminal Code shows, if the conditions are met and more than one person is sentenced to confiscation, they are jointly liable.

Confiscation may be ordered under Section 10(2) or 10(3) of the Criminal Code, even though the offender has not been prosecuted. The court may make a claim for confiscation alone.

### 4.2.2. Confiscation at European level

#### 4.2.2.1. Competent authority

Finland has implemented Framework Decision 2006/783/JHA on the application of the principle of mutual recognition to confiscation orders<sup>29</sup>.

Under Section 3 of the Law № 11.4.2008/222 [Law on the national implementation of the provisions in the field of legislation of the Framework Decision on the application of the principle

<sup>28</sup> The Case-law of the courts of appeal is discussed in: Viljanen, Pekka: *Konfiskaatio rikosoikeudellisena seuraamuksena* by, 2007, page 204 et seq.

<sup>29</sup> Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders; OJ L 328, 24.11.2006, pp. 59-78.

of mutual recognition to confiscation decisions and on the application of the Framework Decision] the competent authority as referred to in the Framework Decision 2006/783/JHA in Finland is the Legal Register Centre (*Oikeusrekisterikeskus*).

#### 4.2.2.2. *Practical guidance*

The certificate is always filled in at the *Oikeusrekisterikeskus* and it is the responsibility of its officers to learn how to fill in the form. No broader guidance exists.

#### 4.2.2.3. *Experiences as requesting and requested State*

At the date of the on-site visit Finland had not received any such requests for execution. Finland had sent two execution requests to the Netherlands. No execution requests have been sent to other Member States.

As far as FD 2006/783/JHA is concerned the Finnish authorities have commented that no list of Member States having implemented the FD was available (cf. the Framework Decision on fines). Such a list however, was considered useful as it would provide competent authorities with up to-date information on which Member States have implemented the FD.

#### 4.2.2.4. *Legal basis for co-operation with MS that have not yet implemented FD 2006/783/JHA*

The Law on implementation of FD 2006/783/JHA is applied to decisions submitted after 24 November 2008. If the other Member State has not yet implemented the FD, the Act on International Co-operation in the Enforcement of Certain Penal Sanctions № 16.1.1987/21 and the corresponding Decree № 16.1.1987/22 apply. As to the Nordic Countries (Sweden), the Act on Nordic Co-operation in Criminal Matters № 29.6.1963/326 and the corresponding decree № 18.12.1964/620 apply.

### 4.3. **Conclusions**

- Finland has implemented the EU instruments with regard to freezing and confiscation.
- The Finnish system provides for a value based freezing and confiscation of proceeds from crime. Any property that needs to be frozen is evaluated and the court will decide upon freezing the amount of money equivalent with the value of the property in question.

- The investigative authorities have the power to freeze proceeds from crime for a maximum of 5 working days. Any extension of freezing orders must be submitted then by decision of the courts.
- So far only one freezing order based on the Framework Decision 2003/577/JHA has been issued by Finland and none has been received. A Handbook on Freezing (in Finnish Language) has been drafted and it is available electronically for all relevant authorities. Still, the traditional MLA requests are preferred (mainly because of lack of training, of nation-wide awareness regarding the FD on freezing orders and little experience).
- Comprehensive statistics are not available; therefore it is not possible to make assessment of the overall effectiveness of the system of the frozen and the confiscation in the process of the investigations of the financial crimes and financial aspects of the organized crime.
- The full statistical data is presented only for frozen accounts and funds from FIU. There no information what is their destiny in the next parts of the process – the pre-trial investigations, prosecutions and court trials.
- There are no statistics on the number of requests for freezing sent to foreign countries.
- The investigative authorities do not have the power to issue freezing orders in a foreign country. The freezing orders are issued by a prosecutor with assistance from the investigative authorities.
- In one case (with Estonia) it took around three years to secure the confiscation of proceeds from crime.
- There is no civil confiscation system established in Finland (no procedures other than the criminal procedures to deprive the perpetrator s of the property in question could be applied).
- Finland has adopted the extended powers of confiscation.
- There is no system in Finland providing for the use of confiscated money/property by the police authorities (all confiscated money goes to the general budget).
- Finland maintains accurate statistics regarding the value of the confiscated assets in financial and economic crimes cases. In 2001, 3m euro were confiscated in Germany and after successful negotiations the money was returned to Finland. The confiscation is usually requested based on the 2000 MLA Convention (not FD 2006/783/JHA on confiscation orders).
- In Finland, the legislation provides that a freezing order could be made over the defendant's assets to secure the future compensation of the victim. Unfortunately, due to a lack of full implementation of the EU instruments in the field of freezing and confiscation of assets in some Member States, Finland experiences difficulties in the freezing and confiscation of assets located abroad with a view to ensuring the compensation of victims.

- There are no records of the freezing orders and confiscation orders issued by Finland for assets located abroad.
- Finish authorities noticed that some times international co-operation (exchange of orders) takes place via central contact points – Ministry of justice. This approach is contrary to the spirit of the Framework Decisions concerned, which are intended to foster direct contact between the authorities involved.
- The ‘Handbook on Freezing’ that the Finnish authorities have issued in order to facilitate the processing of a freezing order under FD 2003/577/JHA and the Finnish implementing legislation and the way in which this tool is supplemented by other helpful applications can be considered as an example of good practise.
- Although it yet remains to be proven whether this was an issue across the EU in terms of quantity the Finnish authorities have highlighted that national insisting on the national language when transmitting a request could possibly hinder its speedy execution; the expert team could therefore adhere to the Finnish proposal of an approach where all Member States would accept documents in the principal European languages.

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## **5. PROTECTION OF THE FINANCIAL INTERESTS OF THE COMMUNITIES**

### **5.1. Available mechanisms, particularly co-operation with OLAF**

#### **5.1.1. Measures to ensure pro-active transmission of information to OLAF**

Training has been received and the customs authorities have organised training nationally on storing data in various registers. The customs service is an active user of OWNRES, Mutual Assistance Broker (MAB) and the FIDE system, in which certain types of crime are recorded.

#### **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.

#### **5.1.3. Possible role of the European Commission in a criminal investigation**

Regarding the involvement in proceedings as a civil party the EU Commission has the status of plaintiff if it has directly granted a benefit in cases of fraud involving EU subsidies and has thereby suffered a loss. There may have been some cases where the Commission could have had the status of plaintiff. However, the Commission is not prepared to accept this status, and so some ambiguity has arisen in this regard. In addition, it has not been clear who has this competence within the Commission or from whom a statement of complainant and a claim for compensation would be requested.

#### **5.1.4. Participation of OLAF officials in a criminal investigation**

The Finnish authorities have affirmed that OLAF representatives may be heard during the pre-trial and the main hearing of a criminal case.

#### **5.1.5. OLAF participation in a joint investigative team (JIT)**

Finland has recently amended the 2002 Finnish Act on Joint Investigation Teams providing for the possibility of inviting OLAF to participate in a JIT whenever a JIT is set up in cases of fraud, corruption or other offences affecting the EU financial interests.

Section 2 of the Act on Joint Investigation Teams defines the composition of an investigation team. A team is composed of competent authorities from the states having established the team. Other persons may also belong to an investigation team depending on what the agreement provides.

The agreement on establishing an investigation team provides for the composition of the investigation team. The law has been interpreted that a representative of OLAF may participate in the investigation team as an expert but that person does not have the specific competence to use, for instance, coercive measures.

#### **5.1.6. Experience with JITs dealing with fraud against the financial interests of the European Communities**

The customs service's crime prevention department (in Vaasa) has investigated a financial crime involving circumvention of anti-dumping duties. The starting point of the investigation was a study carried out by OLAF resulting in the detection of a group of companies where the same products had been imported to both the parent company and to subsidiaries of the group in different European countries and there had been an attempt to conceal the Chinese origin of the products. OLAF gave support at the tax audit and pre-trial phases by arranging two meetings between the various countries involved. One of the meetings was held in Copenhagen and the other in Vaasa. In addition to Finland, the case was investigated in Denmark, Great Britain and Sweden. In addition, there was a participant from Italy at one of the meetings as there were suspicions of similar activities in Italy.

#### **5.1.7. Coordination of contacts with OLAF**

The Customs service is in close co-operation with OLAF with a view to solving and detecting various kinds of financial crimes and crimes with economic effects.

#### **5.1.8. Expectations with regard to support from OLAF**

The Finnish authorities deemed that studies and analyses carried out by OLAF are useful to the customs service in uncovering frauds against the financial interests of the Community. In Finland frauds have been uncovered with the help of this data. The support given by OLAF in the pre-trial phase has been vital. The information sources used by OLAF and its expertise are an important help

to the customs service. Furthermore, the customs service has received support from OLAF in the development of technical facilities for the prevention, detection and investigation of customs crimes (including fraud against Community assets).

The Finnish authorities have expressed their hope that OLAF is continuing to carry out studies/analyses relating to fraud against the Community and other phenomena in the future and would expect further strong support from OLAF in respect of activities aiming at the detection of crimes and, in addition, support to national investigations carried out in the field of international co-operation in particular.

## **5.2. Conclusions**

- OLAF can participate in a JIT whenever it is set up in cases of fraud, corruption or other offences affecting the EU financial interests.
- The experts were informed that within the Ministry of Finance, since 2004, a new function/unit (Government Financial Controller's Function) was created to control, at governmental level, the use of EU funds (including EU subsidies) and to report back to the European Commission. The function is divided in two parts: (1) auditing the EU's structural funds and (2) the EU funds control. In the past six years, three cases of misuse of EU funds have been identified and reported. There are 11 persons working in this unit, which is operationally independent, but belonging to the Ministry of Finance due to the administrative work required.

## 6. RECOMMENDATIONS

### 6.1. Recommendations to Finland

Given the present legal and organisational set-up, while taking into account the specificities of the Finnish governmental and administrative services, the evaluation team came to the conclusion that co-operation between the different players works very well in general terms. All practitioners met seemed to be highly motivated and dedicated to their duties. Nevertheless the evaluation team thought fit to make a number of suggestions for the attention of the Finnish authorities.

The experts would like to summarise their suggestions in the form of the following recommendations:

Finland should

1. consider that the judicial authorities maintain statistics on court decisions on freezing and confiscation; (cf. 4.3)
2. consider keeping separate records of the freezing orders and confiscation orders issued by Finland for assets located abroad ; (cf. 4.3)
3. continue its efforts in building capacities and special expertise in order to support the investigations by tracing the proceeds from crime; (cf. 3.4.3)
4. continue its efforts to introduce mechanisms for shortening the length of proceedings in financial crime cases; (cf. 2.3.3)
5. report in the follow-up to this evaluation report on how and to what extent the recommendations of the 2010 Parliament's Audit Committee have been addressed; (cf. 2.3.3)
6. consider promoting direct cross-border contacts between investigative authorities in issuing and executing international MLA requests
7. consider, notwithstanding the fact that Finland has implemented all the EU instruments in mutual recognition in criminal matters, their wider use, especially in the area of freezing and confiscation; (cf. 4.3)
8. consider specific training programmes for investigators, judicial authorities and judges in respect of freezing and confiscation as well as on the assistance that Europol and Eurojust could provide in cross-border cases. (cf. 2.3.2, 2.3.4)
9. consider the advantages that financial investigations could gain from the introduction of a centralized register of bank accounts; (cf. 3.6.1)

10. inform the GENVAL about the functioning of the new system for an electronic access to the banks' databases as one alternative how to access bank data; (cf. 3.6.1)<sup>30</sup>
11. organise the management of assets in such a way as to ensure responsibility for seized assets all the way through the investigative and legal proceedings; (cf. 3.3.5, 3.6.2, 4.1.1.9)
12. consider consulting the information and analytical resources available at Europol when selecting the targets for serious crimes by the NBI; (cf. 2.3.1.1, 3.6.5.1) as well as an increased level of commitment regarding the contribution of Finland to Europol AWFs related to financial and economic crime; consider also membership to the Europol MTIC (Missing Trader Intra-Community); (cf. 3.6.5.1) and consider – apart from the existing Eurojust involvement - inviting Europol on a larger scale to participate in JITs set up in financial crime cases; (cf. 3.6.5.1)
13. ratify the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS 198); cf. (3.6.3)
14. promote a wider involvement of and assistance from Eurojust in tracing proceeds of crime and safeguarding the victims claims in cross border cases. (cf. 3.6.5.2)
15. integrate the EU policy dimension into the Finnish policy making cycle, whereas the priorities of the OCTA and the ROCTA should be better translated into the national measures; (cf. 2.3.3)
16. foster closer co-operation between the environmental administrative authorities and the law enforcement to address the financial aspects of environmental crime.<sup>31</sup>
17. conduct a follow-up on the recommendations given in this report eighteen months after the evaluation and report on progress to the Working Party on General Affairs, including Evaluations (GENVAL).

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<sup>30</sup> The evaluation team has been informed that the Finnish developed system for electronic requests and replies on banking information will become an international ISO-standard during 2012.

<sup>31</sup> The Finnish authorities have informed after the on-site visit that more actual casework was foreseen to significantly improve all levels of co-operation among the environmental regulators and law enforcement officers.

## 6.2. Recommendations to the European Union, its Member States, institutions and agencies

The European Union should

18. European Union is invited to revise the existing legislation in order to clarify the rules on freezing and confiscation aimed at safeguarding the claims of the victim in criminal proceedings ; (cf. 2.2.6)

The Member States should

19. study the Finnish model of establishing regional co-operation networks for Financial Crime and Investigations as an example for coordination in order to optimize limited resources and increase results; (cf. 2.3.1)
20. study the practice of Finnish model of signing MoUs between customs authorities and the private sector in order to have access to data for the purpose of economic crime intelligence and investigations. (cf. 2.3.1.2)
21. study the Finnish target selection procedure for serious crimes as a possibility to prioritize the work of investigative authorities; (cf. 2.3.1.1)
22. consider the Finnish model of establishing a “Grey Economy Information Unit” as an efficient tool to prevent black economy and economic crime; (cf. 2.3.3, 3.4.6.3)
23. consider the introduction and use of an investigative plan in conducting financial investigations as a good practice; (cf. 2.3.1.1)
24. study the Finnish model for a working definition of financial crime as a means for more targeted action; (cf. 2.2.1, 2.3.3)
25. take the positive experience in Finland in using joint investigation teams (JITs) as example and encouragement to use the instrument more widely in international co-operation; (cf. 3.6.4)
26. should take note of the Police, Customs and Border Guard co-operation mechanism as a best practice, particularly with regard to its criminal intelligence and analysis function.

ANNEX A: PROGRAMME FOR THE ON-SITE VISIT

**Monday, 2 May**

Arrival of experts and observers

**Tuesday, 3 May**

Ministry of Interior, Police Board, Helsinki Police Department and National Bureau of Investigation

- 08.30 Transport from hotel to the Ministry of Interior
- 09:00 Coffee
- 09.15 Welcoming notes by Permanent Secretary of the Ministry of Interior Overview of the Ministry of Interior – structure, competences, tasks
- 09.45 Overview of the legal framework, criminal policy and government programs concerning financial crime  
Introduction to the national system for the prevention of financial crime
- 10.45 Discussion
- 11.00 Overview of the Finnish Police and the Police Board – structure, competences, tasks  
Databases and IT capacities of the police
- 12.00 Discussion
- 12.30 Lunch
- 13.15 Financial crime investigations and tracing proceeds of crime - District Police perspective – structure, competences, tasks  
A practical case  
Unit for Assistance of Economic Crime Prevention – structure, competences, tasks
- 15.00 Transport from Ministry of Interior to the National Bureau of Investigation
- 15.30 Financial Crime Investigations and tracing proceeds of crime - National Bureau of Investigation - structure, competences, tasks  
FIU Finland / NBI – composition, tasks, national and international co-operation  
Asset Recovery Office / NBI – composition, tasks, national and international co-operation  
Overview of international co-operation in criminal matters, Europol National Unit and police representation in Eurojust / NBI  
Applying EU Framework Decision concerning proceeds of crime / NBI

- 17.30 Discussion  
18.00 Dinner at National Bureau of Investigation  
19.30 Transport to hotel

**Wednesday, 4 May**

Ministry of Finance, Tax Administration, Customs Administration, Ministry of  
Employment and Economy, Financial Supervisory Authority

- 08.30 Transport from hotel to the Ministry of Finance  
09.00 Overview of the Ministry of Finance and authorities under the ministry - focus on  
financial crime – structure, competences, tasks  
09.30 Overview of the Tax Administration – structure, competences, tasks  
Databases and IT capacities of the tax authorities  
10.30 Overview of the Grey Economy Information Unit - Tax Administration – structure,  
competences, tasks  
11.00 Overview of the Customs Administration – structure, composition, tasks in criminal  
proceedings on financial crime, national and international co-operation  
Databases and IT capacities of the customs authorities  
A practical case  
12.30 Discussion  
13.00 Lunch  
14.00 Overview of the Ministry of Employment and Economy – structure, competences,  
tasks  
14.45 Overview of the Financial Supervisory Authority – structure, competences, tasks  
15.30 Discussion  
16.00 Transport to the hotel

**Thursday, 5 May**

Ministry of Justice, Helsinki District Court, Office of the Prosecutor General,  
Enforcement Authority, Office of Bankruptcy Ombudsman

- 08.30 Transport from hotel to the Ministry of Justice  
09.00 Overview of the Ministry of Justice  
09.30 Overview of legal provisions – seizure and confiscation of assets. Overview of  
international co-operation and transposition of European Union Framework  
Decisions



## RESTREINT UE/EU RESTRICTED

- 11.30 Discussion
- 12.00 Lunch
- 13.00 Overview of the Prosecution Service – structure, competences, tasks  
Databases and IT capacities of the prosecution authorities
- 14.00 Discussion
- 14.15 Transport to the Helsinki District Court
- 14.45 Overview of the court system
- Legal practice on confiscation pursuant to the European freezing order
- 15.30 Discussion
- 15.45 Overview of the National Administrative Office for Enforcement and the  
Enforcement Authority – structure, competences, tasks
- 16.30 Overview of the Office of Bankruptcy Ombudsman – structure, competences, tasks
- 17.00 Transport to the hotel

### Friday, 6 May

Ministry of Social Affairs and Health, Ministry of the Environment, Roundtable in  
the Ministry of Interior

- 08.30 Transport from hotel to the Ministry of Interior
- 09.00 Overview of the Ministry of Social Affairs and Health – structure, competences,  
tasks
- 09.45 Overview of the Ministry of the Environment – structure, competences, tasks
- 10.30 Discussion
- 11.00 Questions and additional information from all authorities

Departure of experts and observers according to flight schedule. Transport to the  
airport.

**ANNEX B: LIST OF PERSONS INTERVIEWED/MET**

**Ministry of Interior**

Permanent Secretary of Ministry of the Interior Ms. Ritva Viljanen

Director of International and EU Affairs Mr. Erkki Hämäläinen

Superintendent Mr. Antti Simanainen

**National Police Board**

Deputy National Police Commissioner Mr. Robin Lardot

Chief Privacy Officer Mr. Jari Råman

Superintendent Mr. Matti Rinne

Superintendent Mr. Seppo Ruotsalainen

**Unit for Assistance of Economic Crime Prevention**

Senior Planning Officer Ms. Kirsi Jauhiainen

**Helsinki Police Department, Economic Crime Investigation Unit**

Head of Unit, Detective Superintendent Mr. Ilkka Koskimäki

Detective Chief Inspector Mr. Hannu Männikkö

**National Bureau of Investigation**

Deputy Head of Unit, Detective Superintendent Mr. Jaakko Christensen

Head of Unit, Detective Superintendent Mr. Pekka Vasara

Deputy Head of Unit, Detective Superintendent Ms. Laura Niemi

Detective Superintendent Mr. Jukka Korkiatupa

Detective Superintendent Mr. Kimmo Ulkuniemi

Detective Superintendent Mr. Janne Järvinen

Detective Chief Inspector Mr. Kaj Björkqvist

Detective Sergeant Mr. Pekka Asikainen

**Ministry of Finance, Tax Department, Customs unit**

Director of Customs Unit Mr. Ismo Mäenpää

**Tax Administration**

Inspector General Mr. Jarmo Mielonen, Tax Auditing Unit

Senior Advisor Mr. Petri Lehtonen, Tax Collection Unit

Senior Advisor Mr. Kalle Hirvonen, Tax Auditing Unit

**Grey Economy Information Unit - Tax Administration**

Director Mr. Janne Marttinen

**Government Financial Controller's Function**

Deputy Government Controller-General Mr. Esko Mustonen

Legal Adviser Mr. Pasi Ovaska

**Customs Administration**

Head of Investigation Mr. Petri Lounatmaa

Head of Unit, Senior Customs Officer Ms. Heidi Happonen

Head of Unit, Senior Customs Officer Mr. Teemu Koskela

**Ministry of Employment and Economy**

Administrator, Legal Affairs Ms. Päivi Kantanen

**Financial Supervisory Authority**

Legal Adviser Ms. Tuija Nevalainen

Market Supervisor Mr. Janne Häyrynen

**Ministry of Justice**

Director Mr. Matti Joutsen

Counsellor of Legislation Mr. Jaakko Rautio

Counsellor of Legislation Mr. Janne Kanerva

Counsellor of Legislation Ms. Katariina Jähkölä

**Office of the Prosecutor General**

District Prosecutor Mr. Harri Tiesmaa

**Helsinki District Court**

Chief Judge Mr. Eero Takkunen  
Head of Unit, Judge Ms. Eija Larinkoski  
Head of Unit, Judge Ms. Jaana Niemisalo  
Head of Unit, Judge Ms. Jaana Helander  
Head of Unit, Judge Ms. Liisa Paul  
Head of Administration Ms. Tarja Honkanen  
Judge Trainee Mr. Kari Peltola  
Judge Trainee Ms. Marina Törnkvist  
Secretary Ms. Marja-Leena Tuormaa

**National Administrative Office for Enforcement**

Senior Administrative Bailiff Mr. Petteri Katajisto  
Senior Administrative Bailiff Mr. Visa Kallio

**Office of Bankruptcy Ombudsman**

Senior Bankruptcy Lawyer Ms. Marina Vatanen  
Senior Bankruptcy Lawyer Mr. Antti Kurikka

**Ministry of Social Affairs and Health, Department for Occupational Safety and Health**

Director-General Mr. Leo Suomaa  
Senior Legal Adviser Mr. Tapani Aaltela

**Ministry of the Environment**

Legal Adviser Ms. Elise Sahivirta

**RESTREINT UE/EU RESTRICTED****ANNEX C: LIST OF ABBREVIATIONS/GLOSSARY OF TERMS**

<b>ACRONYM ABBREVIATION TERM</b>	<b>ACRONYM IN THE ORIGINAL LANGUAGE</b>	<b>ENGLISH TRANSLATION/EXPLANATION</b>
ARK	-/-	Vehicle Register
ARO	-/-	Asset Recovery Office
AWF COPY	-/-	Europol Analysis Work File - Intellectual Property Rights
AWF MTIC	-/-	Europol Analysis Work File - Missing Trader intra Community Fraud
AWF SMOKE	-/-	Europol Analysis Work File - Illicit Tobacco Trade
AWF SUSTRANS	-/-	Europol Analysis Work File - Suspicious Financial Transactions
CARIN	-/-	Camden Assets Recovery Inter-Agency Network
CEN	-/-	Customs Enforcement Network for the World Customs Organisation
CEPOL	Collège européen de police	European Police College
CPC	-/-	Criminal Procedure Code
ECHR	-/-	European Court of Human Rights
EIS	-/-	Europol Information System
ELTO	-/-	Electronic collection of evidence
ETL	-/-	Criminal Investigation Act
EU	-/-	European Union
FATF	-/-	Financial Action Task Force
FIU	-/-	Financial Intelligence Unit
FIVA	-/-	Financial Supervisory Authority
JIT	-/-	Joint Investigation Teams

**RESTREINT UE/EU RESTRICTED**

<b>ACRONYM ABBREVIATION TERM</b>	<b>ACRONYM IN THE ORIGINAL LANGUAGE</b>	<b>ENGLISH TRANSLATION/EXPLANATION</b>
MDG	-/-	Multidisciplinary Group on Organised Crime
MLA	-/-	Mutual Legal Assistance
MoU	-/-	Memorandum of Understanding
NBI	-/-	National Bureau of Investigation
NPB	-/-	National Police Board
OCTA	-/-	Organised Crime Threat Assessment
OLAF	Office européen de lutte anti-fraude	European Anti-Fraud Office
PC	-/-	Penal Code
PCB	-/-	Police, Customs, Border Guard Co-operation
ROCTA	-/-	Russian Organised Crime Threat Assessment
SAR	-/-	Suspicious Activity Report
SIENA	-/-	Europol Secure Information Exchange Network Application
STR	-/-	Suspicious Transaction Report
VRK	-/-	Population Register
YTJ	-/-	Business Information System

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