

# Social Fieldwork Research (FRANET)

European Arrest Warrant proceedings –  
safeguards for requested persons  
Perspective of requested persons

Finland,

**2023**

FRANET contractor: Institute for Human Rights,

Åbo Akademi University

Author: Raket Tiderman

**DISCLAIMER:** This document was commissioned under contract as background material for a comparative analysis by the European Union Agency for Fundamental Rights (FRA) for the project [Procedural safeguards in European Arrest Warrant Proceedings](#). The information and views contained in the document do not necessarily reflect the views or the official position of FRA. The document is made publicly available for transparency and information purposes only and does not constitute legal advice or legal opinion.

# Table of Contents

<b>EXECUTIVE SUMMARY .....</b>	<b>1</b>
<b>INTRODUCTION .....</b>	<b>3</b>
<b>RESEARCH FINDINGS .....</b>	<b>4</b>
• 1. Right to information.....	4
a. Provision of information.....	4
b. Information about rights .....	5
c. Information about the EAW .....	6
d. Information on consenting to surrender.....	7
e. Understanding of information.....	8
f. Discussion of findings .....	9
• 2. Right to interpretation and translation.....	11
a. Provision of interpretation .....	11
b. Translation of documents.....	11
c. Interpretation of consultations with lawyers.....	12
d. Discussion of findings .....	13
• 3 Right to access to a lawyer.....	14
a. Information about legal assistance .....	14
b. Legal assistance in executing state.....	15
c. Legal assistance in issuing state .....	17
d. Communication between the lawyers in both states .....	17
f. Discussion of findings .....	18
• 4. Execution of the EAW .....	20
<b>CONCLUSION.....</b>	<b>23</b>

## List of Tables

Table 1: Were the requested persons informed about their procedural rights? .....	5
Table 2: Were the requested persons informed of the contents of the EAW against them? .....	6
Table 3: Were the requested persons informed about what consenting to their surrender entailed?.	8
Table 4: Were the requested persons informed of their right to access to a lawyer in the executing Member State? .....	15
Table 5: Were the requested persons informed by authorities of their right to access to a lawyer in the issuing Member State? .....	15

## EXECUTIVE SUMMARY

This report looks at the application of procedural safeguards of persons arrested on a European Arrest Warrant (EAW) from the viewpoint of requested persons. The report constitutes the second part of the research project on procedural rights during EAW proceedings, initiated in 2022. Whereas part one was based on interviews with defence lawyers, prosecutors and judges engaged in surrender proceedings, the present report is based on interviews with requested persons themselves.

The main focus of the study is the application of procedural rights as guaranteed by the Directive 2010/64/EU on the right to interpretation and translation,<sup>1</sup> the Directive 2012/13/EU on the right to information in criminal proceedings,<sup>2</sup> and particularly, the Directive 2013/48/EU on the right to access to a lawyer.<sup>3</sup> The application of the proceedings and fundamental rights guaranteed under the 2002 European Arrest Warrant Framework Decision (FD) are moreover examined.<sup>4</sup> The FD is implemented in Finland through the Act on Extradition on the Basis of an Offence between Finland and Other Member States of the European Union (*laki rikoksen johdosta tapahtuvasta luovuttamisesta Suomen ja muiden Euroopan unionin jäsenvaltioiden välillä/lag om utlämning för brott mellan Finland och de övriga medlemsstaterna i Europeiska unionen*) (hereafter 'the EU Extradition Act').<sup>5</sup> As such, the report presents findings on the implementation of the rights and practices laid out in said instruments, i.e., the right to information; linguistic rights; the right to a lawyer; as well as practices applied when executing an EAW.

First, regarding the right to information, findings demonstrate that requested persons are generally informed about their rights. The requested persons interviewed for this research were typically informed both in writing, through a written notice of rights, as well as orally during the arrest or at the latest during the court hearing. While the requested persons were seemingly also informed about the contents of the EAW issued against them, the experience of one interviewee shows that the content of the EAW might not always be explained adequately and/or early enough in the process. Similar tendencies could be noted regarding consenting; indeed, while most interviewees were formally provided information about consenting, some interviewees seemed to have a somewhat simplified understanding of what consenting entails. Moreover, only two interviewees were sure that they had been informed about the speciality rule, whereas most interviewees were uncertain. While the findings suggest that the information provided is not always explained in enough detail, findings nevertheless indicate that the authorities do attempt to verify whether the information has been understood.

Second, findings show that practice generally corresponds with law when it comes to providing interpretation and translations. Cost-free interpretation had been provided to all interviewees in need

---

<sup>1</sup> Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings, OJ 2010 L 280.

<sup>2</sup> Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings, OJ 2012 L 142

<sup>3</sup> Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty, OJ 2013 L 294.

<sup>4</sup> Council Framework Decision 2002/584/JHA on the European arrest warrant and the surrender procedures between Member States, OJ 2002 L 190, 18 July 2002.

<sup>5</sup> Finland, [Act on Extradition on the Basis of an Offence Between Finland and Other Member States of the European Union \(\*laki rikoksen johdosta tapahtuvasta luovuttamisesta Suomen ja muiden Euroopan unionin jäsenvaltioiden välillä/lag om utlämning för brott mellan Finland och de övriga medlemsstaterna i Europeiska unionen\*\)](#), Act No. 1286/2003, 1 January 2004.

thereof, usually for the whole process. When it comes to translations, most interviewees had received both the letter of rights and the arrest warrant in a language that they could understand.

The experiences of the interviewees thirdly indicate that there are certain challenges both when it comes to informing about the right to a lawyer as well as when it comes to providing one. Indeed, findings indicate that the obligation of providing information about the right to a lawyer by way of a letter of rights, as required by law, is not always adhered to in practice. The findings moreover strongly suggest that requested persons are rarely informed about the right to have a lawyer both in the executing state and in the issuing state (dual representation). Notably, two of the interviewees were provided a lawyer only just before the start of the court hearing, thereby potentially impeding the effective enjoyment of the right to access to a lawyer. As a positive finding, it could be observed that requested persons are informed and indeed provided with state-funded legal assistance.

Lastly, when it comes to the execution of the EAW, all but one of the interviewees had consented to being surrendered. The interviewee who challenged their surrender had referred to their state of health as the main argument in this regard. They did not feel as if their arguments had been considered sufficiently by the district court. In general, however, the interviewees had a positive view of how the EAW process had been carried out in the respective executing states and felt that they had been treated with respect by the authorities.

## INTRODUCTION

In total, five eligible interviews were carried out in the timeframe of 3.2.2023 to 22.3.2023. Three of the interviewees were requested from Finland by Estonia, whereas one interviewee was requested from Estonia by Finland, and the final one from Portugal by Finland. Two interviewees were interviewed face-to-face in a Finnish prison, whereas the other three interviews were conducted via electronic means of communication. Two of the remote interviews were carried out with a videoconferencing tool used by the Finnish Prison and Probation Service. For the third remote interview, conducted with a person who had already served their sentence, another tool was used. All interviewees were provided with FRA's consent form and data protection notice, as well as general information about the project, well in advance of the interview. All interviews were audio recorded with a portable audio recorder with the consent of the interviewees.

Carrying out interviews with prison inmates in Finland preconditions a research permit issued by the Prison and Probation Service, as well as a security clearance issued by the Finnish Security and Intelligence Service. The security clearance and the research permit were completed on 23.1.2023 and 1.2.2023 respectively. The interviewer received training from a senior colleague experienced in interview techniques prior to conducting the interviews.

Assistance in identifying suitable interviewees was provided by particularly the Finnish Prison and Probation Service, the District Court of Helsinki and the Supreme Court of Finland. The Prison and Probation Service kindly distributed a letter with a request to participate in the research to Finnish prisons with persons belonging to the target group of the study. The District Court of Helsinki and the Supreme Court assisted in identifying potential interviewees by providing information about pending EAW proceedings. Much valued assistance was moreover provided by interviewees from part one of this research, who recommended potential interviewees and reached out to them with the request to participate.

The average length of the interviews was 72 minutes. Interpretation was used where needed. Three of the interviews were interpreted from Estonian to Finnish and one interview from Russian to Finnish. The interviewees were willing to share their experiences regarding the themes of the interview and were open about their thoughts and perceptions concerning the surrender proceedings. Their contribution is invaluable for this research and greatly appreciated.

The report is based on five individual and semi-structured interviews. The data from the audio files of the interviews were compiled into separate interview reports, individually approved by FRA. A comparative analysis across the interview reports was conducted to look for any patterns or divergencies. The questions provided by FRA in the main interview reporting template (i.e., the interview questions) served as guidance when compiling the final report. A special focus was given to recurring themes and promising practices highlighted by the interviewees as well as diverging views expressed by them. Aspects highlighted by FRA when evaluating the interview reports were also emphasized. Where reference is made to national legislation, the report draws on a desk research over national legislation, preparatory work, case law, policy documents and academic literature compiled for part one of this research.

The present report consists of four main sections. Examined in the first three substantive sections are the interviewees' personal experiences of the EAW proceedings regarding the right to information, the right to interpretation and translations, and the right to lawyer. At the end of each section is a discussion of findings, summarizing the key findings and takeaways regarding the enjoyment of each right. Finally, in chapter four, the interviewees' experiences regarding the execution of the EAW are examined.

## RESEARCH FINDINGS

### 1. Right to information

#### a. Provision of information

**Three of the interviewees received information about their rights and about the contents of the EAW issued against them during the day of the arrest** (Requested persons, Finland). In contrast, one interviewee reported not having been informed about the EAW until their court hearing (Requested person, Finland). One of the interviewees had been provided with initial information at the back of the police car during the arrest, and more detailed information at the police station the same day (Requested person, Finland). Three of the interviewees moreover noted that they had been informed more thoroughly about their rights and the contents of the EAW at the court hearings (Requested persons, Finland)

*FI: Kyllä minulle kerrottiin miksi. Kyllä minulle jopa ensimmäisenä päivänä muistaakseni näytettiin Suomen pidätyspyyntö -paperit...Kun minut pidätettiin...seuraavana päivänä oli karkoitusoikeudenkäynti...siellä selitettiin kaikki ihan alusta loppuun äärimmäisen tarkasti, äärimmäisen hyvin.*

ENG: If I recall correctly, I was shown the Finnish arrest warrant document the first day. The day after my arrest was the surrender hearing...everything was explained there from beginning to end, extremely precisely, extremely well. (Requested person, Finland)

**The replies varied somewhat as to how the information was provided:** one interviewee reported having received information about their rights and the arrest warrant both orally and in writing on the day of the arrest (Requested person, Finland), whereas another interviewee received information about the EAW both orally and in writing, but information about their rights only orally (Requested person, Finland). Others received most of the information in the beginning of the process in writing (Three requested persons, Finland). One interviewee, for instance, was provided a letter of rights during the arrest and the arrest warrant a couple of days later (Requested person, Finland). While the interviewee had received limited information also orally, the more detailed oral information was provided during the court hearing. As mentioned above, one of the interviewees reported being unaware of the EAW until the court hearing (Requested person, Finland).

*FI: Ihan alussa (kun minut pidätettiin)...sain asiakirjan oikeuksistani...myöhemmin sain pidätysmääräyksen.*

ENG: In the beginning (when I was arrested)...I received a document laying out my rights...later I received the arrest warrant. (Requested person, Finland)

When it comes to by whom the information was provided, most interviewees referred to the authorities, mostly the police and/or the judge. **In general, the interviewees were pleased with how they were treated by the police when they were arrested** (Four requested persons, Finland). One interviewee noted that although the police who arrested them was appropriate, the police was rather reserved when it came to providing information about the defendant's rights (Requested person, Finland). The interviewee had nevertheless received more detailed information during the same day (presumably at the police station), as well as the day after at the court hearing.

b. Information about rights

**All interviewees had received information about their rights by the authorities.** Most interviewees reported having been informed both orally and in writing (Three requested persons, Finland). **Three interviewees expressly noted that they had received a document laying out their rights, as required by law** (Requested persons, Finland).<sup>6</sup> Two interviewees reported that the letter of rights was provided to them on the day of the arrest by the police (Requested persons, Finland). As noted above, one interviewee received information by their rights both orally (in the police car) and through a letter of rights (at the police station) on the day of the arrest (Requested person, Finland). One of the interviewees indicated that they did not receive any written document about their rights and that they received most information from their lawyer and from the authorities during the court hearing (Requested person, Finland). The way in which the information was provided did not come up at all in one of the interviews (Requested person, Finland).

*FI: Minut pidätettiin, kun olin auton ratissa. Minut poistettiin autostani ja vietiin poliisin autoon. Tuolla esitettiin minulle oikeudet suullisesti. Tämän jälkeen, kun saavuttiin poliisiasemalle, annettiin kirjallinen paperi näistä minun oikeuksistani.*

ENG: I was arrested while in my car. I was taken from my car to the police car. There, my rights were presented to me orally. After this, when we arrived to the police station, I was given a document about my rights. (Requested person, Finland)

*FI: Jotain ne puhuivat, mutta minulle annettiin se paperi kouraan, sen takia että muuten se olisi venynyt niin pitkäksi tämä jutustelu.*

ENG: They talked about something, but then handed me the document, because otherwise this chit-chat would have dragged on for so long. (Requested person, Finland)

**Most interviewees seemed to find it difficult verbalising the rights they had been informed about.** One interviewee, for instance, could not recall what the rights were, but mentioned that they had received “a bunch of documents” (Requested person, Finland). Two interviewees mentioned the right to make one phone call (Requested persons, Finland) whereas three interviewees mentioned the right to access to a lawyer (Requested persons, Finland). One interviewee also reported having been told to give the contact details of their lawyer, and that they did not have to tell anything without their lawyer’s presence (Requested person, Finland). In addition to rights, two interviewees reported having been informed about the grounds on which they could challenge the EAW (Requested persons, Finland).

Table 1: Were the requested persons informed about their procedural rights?

FINLAND	Requested person 1	Requested person 2	Requested person 3	Requested person 4	Requested person 5	Total
YES	x	x	x	x	x	5/5
In writing (letter of rights)	-	-	-	(-)	-	-
Orally	(x)	-	-	(-)	-	1/5

<sup>6</sup> Finland, [Act on Extradition on the Basis of an Offence Between Finland and Other Member States of the European Union \(laki rikoksen johdosta tapahtuvasta luovuttamisesta Suomen ja muiden Euroopan unionin jäsenvaltioiden välillä/lag om utlämning för brott mellan Finland och de övriga medlemsstaterna i Europeiska unionen\)](#), Act No. 1286/2003, 1 January 2004, section 20 a.

In writing (letter of rights) and orally	-	x	x	(-)	x	3/5
NO	-	-	-	-	-	-
Don't know/remember	-	-	-	-	-	-
Did not answer	-	-	-	-	-	-

Please note that an 'x' within a parenthesis is used to describe that the interviewee's reply was not fully clear, whereas a hyphen within a parenthesis refers to the matter not coming up during the interview.

### c. Information about the EAW

**Four interviewees were informed about the contents of the EAW against them** (Requested persons, Finland). Three of them mentioned that their arrest would not have needed much explaining, as they already knew the reason for it (Requested persons, Finland). As noted above, however, **one interviewee did not seem to have been made aware about the contents of the EAW until their court hearing** (Requested person, Finland). Indeed, according to the interviewee, it was only then when they found out that their surrender was requested. According to the interviewee, the arresting police had not explained why they were arrested, only told the interviewee to pack their things and to come with them.

*FI: Kirjallisesti lähetettiin kaikki rikostani koskevat lakipykälät.*

ENG: I was provided with all the legal paragraphs that concerned the crime that I was accused of in writing. (Requested person, Finland)

Four interviewees reported having been informed about the contents of the EAW both orally and in writing (Requested persons, Finland). **Two interviewees expressly noted that they were provided the arrest warrant, in line with legal requirements** (Requested persons, Finland).<sup>7</sup> One of them had been handed the arrest warrant on the day of the arrest (Requested person, Finland), the other a few days after the arrest (Requested person, Finland). The information about the contents of the EAW generally seems to have been provided by the police, in accordance with law, as noted by three of the interviewees (Requested persons, Finland).<sup>8</sup> One interviewee moreover reported having received information about the EAW by their lawyer (Requested person, Finland) whereas another interviewee was informed by the prosecutor (Requested person, Finland).

**Table 2: Were the requested persons informed of the contents of the EAW against them?**

	Requested person 1	Requested person 2	Requested person 3	Requested person 4	Requested person 5	Total
<b>YES</b>	x	x	-	x	x	4/5
In writing	-	-	-	-	-	-
Orally	-	-	-	-	-	-

<sup>7</sup> Finland, [Act on Extradition on the Basis of an Offence Between Finland and Other Member States of the European Union \(laki rikoksen johdosta tapahtuvasta luovuttamisesta Suomen ja muiden Euroopan unionin jäsenvaltioiden välillä/lag om utlämning för brott mellan Finland och de övriga medlemsstaterna i Europeiska unionen\)](#), Act No. 1286/2003, 1 January 2004, section 21.

<sup>8</sup> Finland, [Act on Extradition on the Basis of an Offence Between Finland and Other Member States of the European Union \(laki rikoksen johdosta tapahtuvasta luovuttamisesta Suomen ja muiden Euroopan unionin jäsenvaltioiden välillä/lag om utlämning för brott mellan Finland och de övriga medlemsstaterna i Europeiska unionen\)](#), Act No. 1286/2003, 1 January 2004, section 21.

In writing and orally	x	x	-	x	x	4/5
<b>NO</b>	-	-	(x)	-	-	1/5
<b>Don't know/remember</b>	-	-	-	-	-	
<b>Did not answer</b>	-	-	-	-	-	

Please note that while requested person 3 was not informed about the EAW during their arrest, the information about the contents of the EAW was provided at the court hearing.

d. Information on consenting to surrender

**Most interviewees were informed that they could either consent or not consent to the surrender** (Four requested persons, Finland). One of the interviewees noted, however, that the possibility to refrain from consenting had not been presented (Requested person, Finland). While three of the interviewees were informed about what consenting to their surrender would entail in practice (Requested persons, Finland), two had been told that they would be surrendered regardless of whether they consented or not (Requested persons, Finland). **All five interviewees were informed about consenting orally.** The information was provided by several actors, including by the prosecutor (One requested person, Finland), the judge (Two requested persons, Finland) and the lawyers (Two requested persons, Finland). Worth noting is that **none of the interviewees reported having been informed by the police**, although it is primarily the duty of the police to provide information about consenting.<sup>9</sup>

*FI: Karkoitusoikeudenkäynnissä kerrottiin kyllä (mahdollisuudesta suostua tai kieltäytyä suostumasta). Tuomari ja syyttäjä, kummatkin kertoivat tämän. Ja myöskin puolustusasianajaja.*

ENG: Yes, the matter (the possibility to consent or not to consent) was explained at the surrender hearing. Both the judge and the prosecutor explained this. As well as the defence attorney. (Requested person, Finland)

*FI: Minulle kerrottiin, että mitä vaan sanon, lähden silti Viroon joka tapauksessa.*

ENG: I was told that I would be surrendered to Estonia, regardless of what I say. (Requested person, Finland)

The replies varied when it came to whether information about the ‘speciality rule’ had been provided. **Whereas two of the interviewees were sure that they were informed about the speciality rule** (Requested persons, Finland), **the other three were uncertain** (Requested persons, Finland). One interviewee was under the impression that they could be tried for also other crimes than the one specified in the EAW (Requested person, Finland). Of the two interviewees who had been informed about the speciality rule, one had also received information about renouncing it (Requested person, Finland). The other interviewee had nevertheless been informed “very thoroughly” about the rule itself (Requested person, Finland). Notably, one interviewee first reported having been informed about the rule, but thereafter changed their mind. The interviewee explained that the authorities had

<sup>9</sup> Finland, [Act on Extradition on the Basis of an Offence Between Finland and Other Member States of the European Union \(laki rikoksen johdosta tapahtuvasta luovuttamisesta Suomen ja muiden Euroopan unionin jäsenvaltioiden välillä/lag om utlämning för brott mellan Finland och de övriga medlemsstaterna i Europeiska unionen\)](#), Act No. 1286/2003, 1 January 2004, section 21. According to section 29, subsection 2 it is also the duty of the district court to inform requested persons of the consequences of the consent.

not told what would have happened had they been suspected of other offences than the one specified in the EAW (Requested person, Finland).

*FI: Periaatteessa kyllä (kerrottiin erityissäännöstä), mutta kukaan ei selittänyt...että mitä jos on muitakin rikoksia mistä minua epäillään.*

ENG: In principle yes (information about the speciality rule was provided), but no-one explained...what would happen if I would be suspected of other crimes as well. (Requested person, Finland)

**Table 3: Were the requested persons informed about what consenting to their surrender entailed?**

	Requested person 1	Requested person 2	Requested person 3	Requested person 4	Requested person 5	Total
<b>YES</b>	x	-	(x)	-	(x)	3/5
<b>NO</b>	-	-	-	-	-	-
<b>Don't know/remember</b>	-	x	-	x	-	2/5
<b>Did not answer</b>	-	-	-	-	-	-

Please note that an 'x' within a parenthesis is used to describe that the interviewee's reply was not fully clear or consistent.

e. Understanding of information

**While the interviewees generally understood the information provided, one interviewee reported having had difficulties understanding some of the information** (Requested person, Finland). **The interviewee had nevertheless said that they understood, seemingly not to drag on the process.** The authorities did also not attempt to make sure whether the interviewee had understood the information provided.

*FI: Ennen oikeuden istuntoa minulle annettiin minun oikeuteni paperilla, ja minä selasin niitä nopeasti ja sanoin että ymmärsin. Joitain kysymyksiä minä en ihan ymmärtänyt, mutta se olisi vienyt liian paljon aikaa (käydä nämä läpi).*

ENG: Before the court hearing I was given a document with my rights. I went through these quickly and said that I understood. Some questions I did not quite understand, but it would have taken too long (to go through them). (Requested person, Finland)

**Except for the above-mentioned example, the replies indicate that the authorities examine whether the defendants have understood the information provided** (Three requested persons, Finland). The interviewees mentioned that the police (Two requested persons, Finland) and the judge (Two requested persons, Finland) had asked whether they had understood the information that was told. One of the interviewees, for instance, noted that the arresting police had asked various questions, including whether they understood why they were arrested (Requested person, Finland). The judge at the interviewee's court hearing had moreover asked whether they understood the contents of the judgment upon which the EAW was based. Another interviewee similarly noted that they were asked on several occasions during the hearing whether they understood their rights (Requested person, Finland). Finally, **most interviewees expressed having been treated with respect by the authorities who provided them information** (Four requested persons, Finland).

*FI: Jos verrataan Viron poliisiin, täällä (Suomessa) poliisi puhui rauhallisesti, kysyi aina, ymmärsinkö minä, ja tarvittaessa käytettiin tulkkia.*

ENG: If compared to the Estonian police, here (in Finland) the police spoke calmly, always asked whether I understood, and, if necessary, an interpreter was used. (Requested person, Finland)

*FI: En tuntenut heidän suunnastaan ylimielisyyttä; ihmiset tekivät vain omaa työtänsä...Heidän kehonkielensä ja äänensävyänsä eivät ilmaisseet, että he eivät kunnioittaisi minua.*

ENG: I did not sense any arrogance from their part; people were just doing their work...Their body language and tone of voice did not imply that they would not have respected me. (Requested person, Finland)

#### f. Discussion of findings

Findings demonstrate that the requested persons were generally informed about their rights. The requested persons were typically informed both in writing, through a written notice of rights, and orally, by the police and/or the authorities during the court hearing. Whereas two of the interviewees reported having received a letter of rights from the police on the day of the arrest, one interviewee indicated that they had not received such a document. The experiences of the interviewees, as a whole, nevertheless indicate that the legal requirement of providing requested persons with a letter of rights is generally adhered to in practice.<sup>10</sup>

Most requested persons were moreover informed about the contents of the EAW issued against them. As with the information about their rights, the requested persons received information about the EAW both orally and in writing. Two interviewees expressly noted having received the arrest warrant from the police soon after the arrest. Notably, however, one interviewee reported having been unaware of the arrest warrant until the court hearing. While there is a chance that information about the EAW might have been provided in writing (the interviewee reportedly received “a bunch of documents”), the authorities seem to at least not have explained the content of the documents sufficiently. Indeed, not only does the EU Extradition Act oblige the authorities to serve requested persons with the arrest warrant but also to explain its content.<sup>11</sup> When it comes to the latter part, there might thus be room for improvement.

Findings moreover show that although all interviewees formally received at least some information about consenting, such information was not always adequate. Notably, the interviewees did not report having received information about consenting from the police, although it is primarily the responsibility of the police to inform about consenting.<sup>12</sup> Moreover, only two of the interviewees remembered having been informed about the speciality rule, of which only one was informed about

---

<sup>10</sup> Finland, [Act on Extradition on the Basis of an Offence Between Finland and Other Member States of the European Union \(laki rikoksen johdosta tapahtuvasta luovuttamisesta Suomen ja muiden Euroopan unionin jäsenvaltioiden välillä/lag om utlämning för brott mellan Finland och de övriga medlemsstaterna i Europeiska unionen\)](#), Act No. 1286/2003, 1 January 2004, section 20 a.

<sup>11</sup> Finland, [Act on Extradition on the Basis of an Offence Between Finland and Other Member States of the European Union \(laki rikoksen johdosta tapahtuvasta luovuttamisesta Suomen ja muiden Euroopan unionin jäsenvaltioiden välillä/lag om utlämning för brott mellan Finland och de övriga medlemsstaterna i Europeiska unionen\)](#), Act No. 1286/2003, 1 January 2004, section 21.

<sup>12</sup> Finland, [Act on Extradition on the Basis of an Offence Between Finland and Other Member States of the European Union \(laki rikoksen johdosta tapahtuvasta luovuttamisesta Suomen ja muiden Euroopan unionin jäsenvaltioiden välillä/lag om utlämning för brott mellan Finland och de övriga medlemsstaterna i Europeiska unionen\)](#), Act No. 1286/2003, 1 January 2004, section 21. See also section 29, subsection 2.

renouncing it. Worth noting is that most interviewees were unsure of whether information about the speciality rule had been provided. The findings thus indicate a certain discrepancy between law and practice – at least when it comes to explaining the consequences of giving the relevant consents.

Findings finally show that the authorities generally examine whether the information has been understood by the requested persons. One interviewee, for instance, reported that the police had repeatedly asked whether the information provided had been understood, whereas two other interviewees had been asked similar questions by the judge. While most interviewees had understood the information that was provided to them, one reported having had difficulties in this regard. Worth noting is that the interviewee did not indicate that they did not understand the information provided, for instance by requesting the authorities to explain it. The authorities had also not assisted in the matter, for instance, by asking verifying questions.<sup>13</sup>

---

<sup>13</sup> Worth noting is moreover that the interviewee was not provided a lawyer until the court hearing and did not have a chance to talk to the lawyer in private (notably, although the person objected to being surrendered).

## 2. Right to interpretation and translation

### a. Provision of interpretation

**Interpretation was provided to all four interviewees in need thereof** (Requested persons, Finland). One of the interviewees, a national of the executing state, did not need interpretation, as the proceedings were held in the interviewee's mother tongue (Requested person, Finland). Most interviewees had access to interpretation during the whole process. **Two of the interviewees, however, were not provided interpretation immediately after their arrest** (Requested persons, Finland). One of them was provided interpretation the day after the arrest (Requested person, Finland), and the other when meeting with their lawyer (Requested person, Finland). The interviewee, requested from Finland by Estonia, had nevertheless managed to communicate with the authorities before receiving the interpreter, as the person knew some Finnish. Worth noting is that **three of the interviewees had more than one interpreter during the surrender proceedings** (Requested persons, Finland).

*Fi: Prosessi oli äidinkielelläni, eli en tarvinnut (tulkkausta).*

ENG: The process was in my mother tongue, i.e., I did not need interpretation. (Requested person, Finland)

All four interviewees who used interpretation were provided it in the language of their choice (Requested persons, Finland). Regarding two interviewees, however, interpretation was provided automatically in their mother tongue, i.e., without first having inquired whether or in what language interpretation is requested (Requested persons, Finland). The other two interviewees were offered the choice between interpretation in English or in their mother tongue (Requested persons, Finland). One of them preferred English, as they presumed that it would speed up the process (Requested person, Finland).

*Fi: He tiesivät, että olen virolainen ja sen takia tarjosivat heti viron kielistä tulkkia.*

ENG: They knew that I am Estonian, and therefore immediately offered an Estonian interpreter. (Requested person, Finland)

*Fi: Välittömästi kiinnioton jälkeen ei tarjottu, vaan vasta seuraavana päivänä luovutusosoikeudenkäynnissä. Missä minulle tarjottiin suomenkielistä tulkkia, ja minä kieltäydyin, ja sanoin, että jos täältä löytyy englanninkielinen, niin mieluummin se...ihan johtuen siitä, että siinä olisi kestänyt niin kauan saada suomenkielinen tulkki.*

ENG: Not immediately after the arrest, but on the next day at the surrender hearing. There I was offered a Finnish-speaking interpreter. I refused and said that if there is an English-speaking interpreter available, I would prefer that...simply because it would have taken so long to get a Finnish interpreter. (Requested person, Finland)

*Fi: Tarjottiin sekä viron että englannin kielen tulkkausta. Minä valitsin äidinkieleni, eli viron, sen takia, että englantini ei ole niin vahva.*

ENG: I was offered interpretation in both Estonian and English. I chose my mother tongue, i.e., Estonian, because my English is not that strong. (Requested person, Finland)

### b. Translation of documents

**The interviewees were provided with the relevant documents in a language that they could understand**, as noted by all five interviewees. The translations were mostly provided in their mother tongue. One interviewee had nevertheless requested to receive the documents in English (Requested person, Finland). Two interviewees were moreover provided with the documents both in the language of the issuing state (Estonian, their mother tongue), and in the language of the executing state (Finnish) (Requested persons, Finland). While the interviewees had certain difficulties remembering which documents they had received, four of the interviewees seemed to have received the arrest warrant (Requested persons, Finland), and three of them the letter of rights (Requested persons, Finland). One interviewee had, however, only received the arrest warrant in English, instead of in their mother tongue Estonian (Requested person, Finland). Another interviewee moreover pointed out that although the documents were provided in their mother tongue, the language used was rather poor (Requested person, Finland). None of the interviewees perceived that anything was missing.

*FI: Yksi asiakirja oli englanninkielinen. Se oli...se pidätysmääräys...Kyllä minä suurin piirtein ymmärsin sen. Kaikki muut asiakirjat olivat viron kielellä.*

ENG: One document was in English. It was...the arrest warrant. I could still understand it, more or less. All other documents were in Estonian. (Requested person, Finland)

*FI: Annettiin, mutta vähän google translaterin kautta. Eli olivat venäjän kielellä, mutta oudosti.*

ENG: Yes, but it was as if the documents had been made by using Google translate. I.e., they were in Russian, but the wording was strange. (Requested person, Finland)

### c. Interpretation of consultations with lawyers

Three of the interviewees needed interpretation to communicate with their lawyers (Requested persons, Finland). **The interviewees were provided a state-appointed interpreter for this purpose.** One of the interviewees had not, however, been informed about the costs for interpretation (Requested person, Finland). As with another interviewee – both requested from Finland by Estonia – an interpreter had been assigned automatically and came together with the lawyer (Requested persons, Finland). Both interviewees had had several interpreters when meeting with their lawyers. One interviewee did not need interpretation to communicate with their lawyer, as they shared the same mother tongue (Requested person, Finland). Another interviewee chose to speak English with their lawyer, despite having been offered interpretation in their mother tongue (Requested person, Finland).

**The interpreters were usually physically present in the same space as the requested persons.** Only one interviewee reported having used remote interpretation during the process (Requested person, Finland). The remote interpretation took place directly after the arrest, before the requested person was brought to prison.

*FI: Kaikissa tapauksissa tulkki istui vieressä.*

ENG: In all situations the interpreter sat beside me. (Requested person, Finland)

*FI: Ennen vankilaa, kuulustelut ovat olleet etätulkkauksena, mutta täällä vankilassa on ollut tulkki paikan päällä. Eli poliisikuulustelut ovat olleet etätulkkauksena...puhelimitse.*

ENG: Before prison, the hearings were carried out by using remote interpretation, but here in prison the interpreter has been physically present. I.e., the police hearings were carried out by way of remote interpretation, by telephone. (Requested person, Finland)

While the interviewees were generally satisfied with the interpretation, some challenges could also be noted. Indeed, **one interviewee reported not having been given enough space to express themselves; according to the interviewee, the lawyer and the interpreter mostly discussed together** (Requested person, Finland). The interviewee moreover wondered why several different interpreters had been used during the process. Another interviewee, who had also had more than one interpreter, mentioned that their first interpreter lacked sufficient skills in the language in question (Requested person, Finland).

*Fi: Minulla ei ollut mahdollisuutta paljon edes puhua, he vain keskenään juttelivat, oikeusavustajan kanssa.*

ENG: I did not even have the chance to talk much, they just talked with each other, the lawyer and the interpreter. (Requested person, Finland)

*Fi: Minä vain ihmettelin, että miksi aina joka ikinen kerta oli uusi tulkki? Miksei olisi voinut olla sama?*

ENG: I just wondered, why was there a new interpreter every single time? Why could it not have been the same one? (Requested person, Finland)

#### d. Discussion of findings

Findings show that the right to interpretation and translations is generally fulfilled. The requested persons in need of interpretation were assigned an interpreter both for the purposes of communicating with the authorities and with their lawyers. In general, the requested persons had access to interpretation during the whole process, although some delay in receiving an interpreter in the beginning of the process could be noted. While some of the requested persons were inquired about the choice of language, others were automatically assigned an interpreter in their mother tongue. Only one interviewee had used remote interpretation during parts of the EAW process. None of the interviewees had had to pay for the interpretation services. To this end, findings indicate that practice corresponds with the legal requirement of providing cost-free interpretation in surrender proceedings.<sup>14</sup> Certain potential challenges could nevertheless be identified: not receiving interpretation immediately after the arrest, the use of several interpreters during the process, not allowing the requested person enough space to speak, as well as the quality of interpretation. When it comes to translations, most interviewees had seemingly received both the letter of rights and the arrest warrant in a language that they could understand, as required by the EU Extradition Act.<sup>15</sup> Findings thus indicate that practice corresponds with law also regarding the right to translations.

---

<sup>14</sup> Finland, [Criminal Investigation Act \(esitutkintalaki/förundersökningslagen\)](#) Act No. 805/2011, 1 January 2014, chapter 4, section 12, subsection 4; [Criminal Procedure Act \(laki oikeudenkäynnistä rikosasioissa/lag om rättegång i brottmå\)](#) Act No. 689/1997, 1 October 1997, chapter 6 a, section 2, subchapter 3.

<sup>15</sup> Finland, [Act on Extradition on the Basis of an Offence Between Finland and Other Member States of the European Union \(laki rikoksen johdosta tapahtuvasta luovuttamisesta Suomen ja muiden Euroopan unionin jäsenvaltioiden välillä/lag om utlämning för brott mellan Finland och de övriga medlemsstaterna i Europeiska unionen\)](#), Act No. 1286/2003, 1 January 2004, sections 20 a and 21, subsection 2.

### 3. Right to access to a lawyer

#### a. Information about legal assistance

**Four of the interviewees reported having been informed of their right to a lawyer in the executing Member State** (Requested persons, Finland). One interviewee could not, however, recall whether such information had been provided by the authorities (Requested person, Finland). The interviewee was nevertheless provided with a state-appointed lawyer.

*FI: Kyllä kerrottiin. Ja minulle nimettiin myös avustaja Portugalissa. Ja sain olla myöskin yhteydessä Suomen puolen avustajaani.*

ENG: Yes I was told. And I was assigned a lawyer in Portugal. And I was also allowed to be in contact with my lawyer in Finland. (Requested person, Finland)

The replies varied somewhat as to how the information about the right to a lawyer had been provided: whereas one interviewee received information both orally, at the moment of the arrest, and in writing, when in prison (Requested person, Finland), two interviewees were informed in writing (Requested persons, Finland). **One interviewee reported having received only oral information about the right to a lawyer, despite the legal requirement of providing the information as part of the letter of rights** (Requested person, Finland).<sup>16</sup> The replies moreover varied regarding by whom such information was provided: at least two of the interviewees were informed about the right by the police (Requested persons, Finland), one reported having been informed by their lawyer (Requested person, Finland), whereas another noted having received the information in writing from the issuing state (Requested person, Finland). Worth noting is that providing information about the right to a lawyer (by way of handing out the letter of rights) is the responsibility of the police.<sup>17</sup>

*FI: Kun minut pidätettiin, poliisi kertoi minulle suullisesti, että minulla on oikeus käyttää oikeusavustajaa. Ja silloin kun olin jo täällä vankilassa, minulle annettiin asiakirja, missä kysyttiin, haluanko käyttää oikeusavustajaa vai en. Minun piti antaa siihen vastaus kirjallisesti.*

ENG: When I was arrested, the police told me orally that I have the right to use a lawyer. And when I was already in prison, I was given a document where it was asked whether I want to use a lawyer or not. I had to reply in writing. (Requested person, Finland)

*FI: Suullisesti minulle ei kerrottu (oikeudesta avustajaan), mutta tämä oli oikeuksia koskevassa asiakirjassa. En ehtinyt ottaa yhteyttä omaan lakimieheeni ennen oikeudenkäyntipäivää. Oikeusistunto oli ensimmäinen kerta, kun minä näin hänet (viranomaisten määräämän avustajan).*

ENG: I was not informed orally (about the right to access a lawyer), but it was laid out in the letter of rights. I did not have time to contact my own lawyer before the court hearing.

---

<sup>16</sup> Finland, [Act on Extradition on the Basis of an Offence Between Finland and Other Member States of the European Union \(laki rikoksen johdosta tapahtuvasta luovuttamisesta Suomen ja muiden Euroopan unionin jäsenvaltioiden välillä/lag om utlämning för brott mellan Finland och de övriga medlemsstaterna i Europeiska unionen\)](#), Act No. 1286/2003, 1 January 2004, section 20 a.

<sup>17</sup> Finland, [Act on Extradition on the Basis of an Offence Between Finland and Other Member States of the European Union \(laki rikoksen johdosta tapahtuvasta luovuttamisesta Suomen ja muiden Euroopan unionin jäsenvaltioiden välillä/lag om utlämning för brott mellan Finland och de övriga medlemsstaterna i Europeiska unionen\)](#), Act No. 1286/2003, 1 January 2004, section 20 a.

The hearing was the first time, that I saw the lawyer (assigned by the state). (Requested person, Finland)

Table 4: Were the requested persons informed of their right to access to a lawyer in the executing Member State?

	Requested person 1	Requested person 2	Requested person 3	Requested person 4	Requested person 5	Total
<b>YES</b>	x	x	-	x	x	4/5
In writing	-	-	-	x	x	2/5
Orally	x	-	-	-	-	1/5
In writing and orally	-	x	-	-	-	1/5
<b>NO</b>	-	-	-	-	-	-
<b>Did not know/remember</b>	-	-	x	-	-	1/5
<b>Did not answer</b>	-	-	-	-	-	-

**Information about the right to access to a lawyer in the issuing state was not provided as frequently as the corresponding information regarding the executing state.** Whereas three of the interviewees had not been informed about the right (Requested persons, Finland), one believed that such information was provided, although the interviewee could not say for sure (Requested person, Finland). In general, the interviewees seemed unaware of the right to dual representation (Requested persons, Finland). It may moreover be noted one of the interviewees, when asked about dual representation, seemed worried that the EAW-process would start again from the very beginning, would they be surrendered. It thus appeared as if the person was not fully aware of the conduct of the proceedings (Requested person, Finland).

*Fi: Mahdollisesti kyllä (kerrottiin oikeudesta avustajaan EAW:n antaneessa maassa), koska muistan, että minulta kysyttiin, että onko minulla oikeusavustaja täällä (Suomessa) tai Virossa.*

ENG: Potentially yes (information about the right to dual representation was provided), since I remember having been asked whether I have a lawyer here (in Finland) or in Estonia. (Requested person, Finland)

Table 5: Were the requested persons informed by authorities of their right to access to a lawyer in the issuing Member State?

	Requested person 1	Requested person 2	Requested person 3	Requested person 4	Requested person 5	Total
<b>YES</b>	-	(x)	-	-	-	1/5
<b>NO</b>	x	-	-	x	x	3/5
<b>Don't know/remember</b>	-	-	-	-	-	-
<b>Did not answer</b>	-	-	x	-	-	1/5

Please note that a parenthesis is used here to describe that the interviewee was not fully certain whether information about dual representation was provided.

b. Legal assistance in executing state

**According to four of the interviewees, their lawyers were chosen and contacted by the authorities** (Requested persons, Finland). Three interviewees reported having been assigned a lawyer almost automatically; the lawyer simply “appeared” to prison (One requested person, Finland) or to the court hearing (Two requested persons, Finland). One of the interviewees had been asked whether they wanted a lawyer, and whether they had someone in mind. Although the interviewee could not remember the name of the lawyer they had used before, the authorities were able to look up the name and assign the interviewee with the lawyer in question (Requested person, Finland).

*FI: Minulle vain annettiin avustaja...heti vankilaan sain.*

ENG: The lawyer was just brought to me...directly to prison. (Requested person, Finland)

*FI: Kaikki asianajajat ovat yleensä sanoneet, että ”sano, että olet syyllinen“...Nykyinen avustajani on ainoa ihminen, joka oikeasti auttaa, ilmaiseksi.*

ENG: All my previous lawyers have usually said that “say that you are guilty” ...My current lawyer is the only person who genuinely helps me – for free. (Requested person, Finland)

All interviewees were assigned a legal aid lawyer. None of the interviewees had had any wishes in this regard. **Three of the interviewees noted that they had not been offered the possibility to make wishes regarding legal assistance; a lawyer was just automatically assigned to them** (Requested persons, Finland). One interviewee had experience of the Estonian system and explained that if one does not take initiative oneself, a lawyer will be chosen by the authorities (Requested person, Finland).

*FI: Viranomaiset nimesivät julkisen oikeusavustajan, kyllä.*

ENG: The authorities assigned me a legal aid lawyer, yes. (Requested person, Finland)

*A: Virossa on näin, että jos minä en tee aloitetta ja pyydä lakimestä, automaattisesti oikeus vain määrää jonkun.*

ENG: In Estonia it works so that if I you don't on your own initiative ask for a lawyer, the authorities will automatically assign somebody. (Requested person, Finland)

Three of the interviewees had had the opportunity to privately meet and consult with their lawyers before being questioned by the authorities (Requested persons, Finland). According to two of them, their longest consultations lasted for approximately 30 minutes (Requested persons, Finland). In contrast, **two of the interviewees were not provided an opportunity to discuss with a lawyer in private, meeting their lawyers for the first time just before the court hearing** (Requested persons, Finland). While one of them had been able to consult the lawyer for a short moment before the hearing began (Requested person, Finland), the other did not have any time for legal consultation (Requested person, Finland).

*FI: Sellaista mahdollisuutta (keskustella avustajan kanssa yksityisesti) ei annettu missään vaiheessa. Silloin kun oli käräjäoikeusistunto...tuolla istuivat jo paikan päällä minun tulkkini ja oikeusavustajani. Minut tuotiin vain siihen kuulusteluhuoneeseen, ja istunto alkoi.*

ENG: Such an opportunity (to discuss with a lawyer in private) was not given at any stage. When I had my court hearing...my interpreter and lawyer were already sitting there. I was

just brought to the hearing room, and then the session began. (Requested person, Finland).

c. Legal assistance in issuing state

None of the interviewees had a lawyer assisting in the EAW process in the issuing state. One of the interviewees nevertheless kept contact with a lawyer in the issuing state who did not assist in the surrender matter per se, but who had assisted the interviewee in their previous processes (Requested person, Finland). When asked whether the interviewee had received assistance in contacting the lawyer in the issuing state, the interviewee replied affirmatively, in the sense that the police had allowed them to call the lawyer. Worth noting is that the interviewee was not informed about the right to dual representation by the authorities (nor did the interviewee seem aware of the right).

d. Communication between the lawyers in both states

Since none of the interviewees exercised the right to dual representation, the question regarding communication between the lawyers was not relevant regarding most of the interviews. As noted above, however, one of the interviewees had a separate lawyer assisting in the appeals phase of the interviewee's criminal matter in the issuing state, Finland (Requested person, Finland). When asked whether the lawyer in Finland had assisted the lawyer in the executing state, Portugal, the interviewee replied negatively. The interviewee, whose surrender had been requested for the purpose of enforcing a custodial sentence, felt that such cooperation would in any case have been unnecessary in their situation for several reasons, including as they were content with the legal assistance they had received from their lawyer in Portugal and since they already had a judgment in Finland.

*Fi: Eivät tehneet yhteistyötä, toisaalta ei ollut tarvetta; Suomessa oli jo tuomio, eli Suomen pää ei ollut sinällään epäselvä...Ja Suomen pään avustaja ei tiedä Portugalin pään laeista. Portugalin pään avustaja taas oli sen verran hyvä, että hän tiesi kyllä EU lait...eli en tarvinnut sinällään saada lisävahvistusta lainopillisissa asioissa.*

ENG: They did not cooperate, but on the other hand, there was no need to; there was already a judgment in Finland, i.e., the situation in Finland was not unclear as such. The lawyer at the Finnish side wouldn't have known about the laws in Portugal. The Portuguese lawyer on the other hand was skilled and knew EU legislation. In other words, I did not need additional assistance in legal matters as such. (Requested person, Finland)

e. Free of cost access to a lawyer

**Most interviewees had been informed about the right to state-funded legal assistance.** One of the interviewees mentioned having received information about the right to free legal aid assistance in the letter of rights provided to them at the beginning of the process (Requested person, Finland). Another interviewee was relatively sure that the information was provided by their lawyer and not by the authorities (Requested person, Finland), whereas a third interviewee seemed to have been informed about the right at the court hearing (Requested person, Finland). None of the interviewees paid for their lawyer in the executing state. **They were all provided with a lawyer appointed and funded by**

**the state, as required by law.**<sup>18</sup> Indeed, as noted by one interviewee, the lawyer was paid by the taxpayers of the executing state (“Finnish taxpayers”) (Requested person, Finland). The question of free of cost access to a lawyer in the issuing state did not come up during the interviews.

*FI: Käräjäoikeusistunnon alussa sanottiin, että minulle on määrätty ilmainen oikeusavustaja, valtion rahoittamana.*

ENG: I was informed at the beginning of the district court hearing that a free lawyer had been assigned to me, funded by the state. (Requested person, Finland)

f. Discussion of findings

The experience of the interviewees show that requested persons are usually informed about their right to a lawyer in the executing state. While the replies were relatively varied as to how and by whom such information was provided, most interviewees received the information from the police, typically in writing. Worth noting is that one interviewee received the information orally, whereas another interviewee only recalled having received the information from their lawyer. Findings thus indicate that the legal requirement of providing information about the right to a lawyer by way of a letter of rights, handed out by the police, is not always adhered to in practice.<sup>19</sup> Moreover, the experience of the interviewees strongly indicate that requested persons are not informed about the right to dual representation nor that they are necessarily even aware about the right. Accordingly, practice does not seem to correspond with the legal requirement of providing information about the right to a lawyer in the issuing state.<sup>20</sup>

Findings show that the lawyer is usually chosen and contacted by the authorities. While one interviewee had been inquired about whether they had a particular lawyer in mind, most interviewees had been assigned a lawyer without first having been consulted by the authorities regarding any wishes in this regard. A positive finding regarding the interviewee whose wishes the authorities had inquired, is that the authorities had made efforts to appoint a lawyer that the interviewee was familiar with from before, although the interviewee could not remember the name of the lawyer. A negative finding is, however, that two of the interviewees were not provided sufficient time to discuss with their lawyers in private, meeting their lawyers just before the start of the court hearing. They would arguably have needed legal assistance earlier to be able to exercise their right to access to a lawyer effectively, particularly as one of the interviewees challenged their surrender.

---

<sup>18</sup> Finland, [Act on Extradition on the Basis of an Offence Between Finland and Other Member States of the European Union \(laki rikoksen johdosta tapahtuvasta luovuttamisesta Suomen ja muiden Euroopan unionin jäsenvaltioiden välillä/lag om utlämning för brott mellan Finland och de övriga medlemsstaterna i Europeiska unionen\)](#), Act No. 1286/2003, 1 January 2004, section 20, subsection 2.

<sup>19</sup> Finland, [Act on Extradition on the Basis of an Offence Between Finland and Other Member States of the European Union \(laki rikoksen johdosta tapahtuvasta luovuttamisesta Suomen ja muiden Euroopan unionin jäsenvaltioiden välillä/lag om utlämning för brott mellan Finland och de övriga medlemsstaterna i Europeiska unionen\)](#), Act No. 1286/2003, 1 January 2004, Section 20 a. (N.b. the interviewee was arrested in Portugal. In this regard, please see applicable Portuguese legislation).

<sup>20</sup> Finland, [Act on Extradition on the Basis of an Offence Between Finland and Other Member States of the European Union \(laki rikoksen johdosta tapahtuvasta luovuttamisesta Suomen ja muiden Euroopan unionin jäsenvaltioiden välillä/lag om utlämning för brott mellan Finland och de övriga medlemsstaterna i Europeiska unionen\)](#), Act No. 1286/2003, 1 January 2004, section 21 b. In contrast to the right to a lawyer in the executing state, the information about the right to a lawyer in the issuing state does not have to be provided in the letter of rights; an oral notification suffices. An entry about the information that has been provided to the requested person, including on the right to legal representation in the issuing state, shall be made in the protocol that is handed to the competent prosecutor.

In line with requirements laid out in law,<sup>21</sup> findings finally show that requested persons are informed about the right to state-funded legal assistance and indeed provided with a lawyer appointed and funded by the state.

---

<sup>21</sup> Finland, [Act on Extradition on the Basis of an Offence Between Finland and Other Member States of the European Union](#) (*laki rikoksen johdosta tapahtuvasta luovuttamisesta Suomen ja muiden Euroopan unionin jäsenvaltioiden välillä/lag om utlämning för brott mellan Finland och de övriga medlemsstaterna i Europeiska unionen*), Act No. 1286/2003, 1 January 2004, section 20, subsection 2.

#### 4. Execution of the EAW

Three of the interviewees had consented to their surrender unconditionally (Requested persons, Finland). None of them had attempted to revoke their consent subsequently. **Only one interviewee had challenged their surrender, mentioning their state of health as the main argument for not consenting** (Requested person, Finland). According to the interviewee, requested from Finland by Estonia, the health care system runs smoother in Finland. The interviewee, who at the moment of the interview waited for the Supreme Court's decision to their appeal, did not feel as if their arguments had been taken into account by the district court. On the other hand, the interviewee mentioned not being fully aware of the position of the authorities (i.e., presumably, the content of the district court decision).<sup>22</sup>

*FI: Terveysyistä...Paljon paremmat lääkärit, ja ambulanssit tulevat paljon nopeammin, jos on kohtaus.*

ENG: For health reasons...Much better doctors, and the ambulances come much faster if one has a seizure. (Requested person, Finland)

*FI: Minä suostuin luovuttamiseeni. En missään tapauksessa muuttanut mieltäni.*

ENG: I consented to being handed over. I certainly did not change my mind. (Requested person, Finland)

*FI: Haluan istua tuomioni pois nopeasti ja päästä nopeasti ulos vapauteen.*

ENG: I want to serve my sentence quickly and quickly get out to freedom. (Requested person, Finland)

One interviewee, habitually resident in the executing state, Finland, seemingly consented to their surrender upon the condition that they be allowed to serve the sentence in Finland (Requested person, Finland).<sup>23</sup> Indeed, the interviewee was allowed to serve the sentence in Finland due to family reasons, as the interviewee's partner and new-born child lived there. The interviewee was first, however, surrendered to the issuing state, Estonia, for the purpose of prosecution, and allowed to return to Finland only after staying there for over six months. After serving their sentence, the interviewee was ordered an entry ban to Finland for several years. The interviewee found the entry ban unfair and illogical, and referred to it regularly during the interview.

*FI: Se riippuu, mitä vastustin: tietysti olin syyllinen, mutta vastustin sitä, että halusin olla Suomen vankilassa, Viron vankilan sijaan.*

ENG: It depends on what you mean; of course, I was guilty, but I objected to serving my sentence in Estonia, since I wanted to serve it in Finland. (Requested person, Finland)

**In general, the interviewees had a positive view of how the EAW-process had been carried out in the respective executing states.** It can be observed, however, that the three persons whose surrender

---

<sup>22</sup> A certain confusion regarding the conduct of the EAW proceedings could moreover be noted earlier during the interview, when the interviewee asked whether the whole process would start again from scratch if the interviewee would be surrendered.

<sup>23</sup> Finland, [Act on Extradition on the Basis of an Offence Between Finland and Other Member States of the European Union \(laki rikoksen johdosta tapahtuvasta luovuttamisesta Suomen ja muiden Euroopan unionin jäsenvaltioiden välillä/lag om utlämning för brott mellan Finland och de övriga medlemsstaterna i Europeiska unionen\)](#), Act No. 1286/2003, 1 January 2004, section 8, subsection 2.

was requested from Finland by Estonia had slightly differing experiences of the proceedings (requested persons, Finland). One of the interviewees commended the EAW process in Finland, saying that as far as they had heard, it was one of the best ones in Europe (Requested person, Finland). The other similarly felt that they had been treated well by the Finnish authorities when it came to the EAW-proceedings (Requested person, Finland). While the third interviewee did not have any complaints as such, some aspects of the proceedings differed when compared to the reports by the other two: most notably, the rather harsh treatment by the police during the arrest, the failure by the authorities to make sure whether the information provided had been understood, being excluded from discussions between the interpreter and lawyer, being poorly informed about the right to access to a lawyer, and not being able to discuss in private with a lawyer before being questioned by the authorities (Requested person, Finland).

*FI: Sen verran kun olen kuullut, niin Suomen poliisi ja koko tämä rakenne ja systeemi on parhaita Euroopassa.*

ENG: From what I have heard, the Finnish police and this whole structure and system is one of the best in Europe. (Requested person, Finland)

One of the interviewees had experienced the process the other way around, i.e., the person was surrendered from Estonia to Finland (Requested person, Finland). The interviewee felt that their rights had been guaranteed by the Estonian authorities during the process, and moreover commended the process for its swiftness. The interviewee, whose surrender was requested for the purpose of enforcing a custodial sentence, did not have anything against being surrendered; in fact, the interviewee wanted to serve their sentence in Finland.

*FI: Olen kiitollinen siitä, että Virossa tämä menettely tapahtui oikein ja sujuvasti, ja Suomelle olen kiitollinen siitä, että Suomi antoi mahdollisuuden kärsiä tuomioni Suomessa.*

ENG: I am grateful that the process in Estonia was conducted correctly and smoothly, and I am grateful to Finland for giving me the possibility to serve my sentence in Finland. (Requested person, Finland)

*FI: Tämä prosessi vei alle kolme viikkoa, se oli todella lyhyt aika verrattuna muihin, mitä olen Virossa kuullut.*

ENG: My process took under three weeks, which is a very short time compared to others, that I have heard about in Estonia. (Requested person, Finland)

The fifth interviewee, surrendered from Portugal to Finland, was very pleased with the process in the executing state (Requested person, Finland). However, the interviewee was less content when it came to the conduct of the Finnish authorities, pointing out, for instance, that the authorities had not attempted to contact the interviewee before issuing the EAW, although they had the interviewee's phone number and Portuguese address.

*FI: Portugalin päästä mulla ei ole juurikaan mitään valittamisen aihetta, kaikki tapahtui oikein asiallisesti ja "by the book" ja sain kaikki mahdolliset tarvittavat dokumentit nähtäväkseni ja tulkkaukset ja kaikki hoidettiin todella hyvin.*

ENG: When it comes to Portugal, I have almost nothing to complain about; everything was handled very appropriately and "by the book". I was presented with all the necessary

documents, and everything, including interpretation, was arranged very well. (Requested person, Finland)

*Fi: Syyttäjä Portugalissa ihmetteli, miksei Suomen poliisi soittanut minulle puhelua (vaikka heillä oli numeroni), sen sijaan että laittavat äärimmäisen monimutkaisen kansainvälisen etsintäkuulutuksen. Minulle ei nimittäin soitettu kertaakaan.*

ENG: The prosecutor in Portugal wondered why the Finnish police had not called me (although they had my phone number), instead of issuing an extremely complicated international arrest warrant. Namely, I was never called. (Requested person, Finland)

## CONCLUSION

The experiences of the requested persons interviewed for this report indicate a certain variation when it comes to the degree in which the procedural rights examined in the research are fulfilled. As such, the level of enjoyment appeared to be highest regarding linguistic rights, whereas most challenges could be identified regarding the right to access to a lawyer. Certain issues could moreover be noted regarding the right to information, although not necessarily as acute as regards legal representation. While there is room for improvement concerning the fulfilment of respective procedural right, several positive findings could also be identified.

Indeed, findings demonstrate that requested persons are generally informed about their rights through a letter of rights, in line with legal requirements. Requested persons usually also receive information about the contents of the EAW against them, typically by being provided the arrest warrant by the authorities. Findings moreover indicate that the authorities attempt to make sure that the information provided has been understood, particularly by asking verifying questions. Regarding linguistic rights, findings show that requested persons generally receive cost-free interpretation and translations in either their mother tongue or in another language that they have requested. Interpretation is usually arranged for the duration of the whole process. Finally, despite the challenges examined below, the experiences of the interviewees show that requested persons are generally informed about the right to a lawyer in the executing state, usually – albeit not always – as part of the letter of rights handed over to requested persons by the police. A promising practice identified were the efforts taken by the authorities to contact a lawyer previously used by one of the interviewees, despite the person not being able to recall the name of the lawyer.

Certain challenges could nevertheless be identified regarding all procedural rights examined. First, regarding the right to information, findings suggest that some information – particularly regarding consenting – is not always explained adequately enough to be truly understood by the recipient. This could be noted particularly regarding the speciality rule; while several interviewees found the rule vaguely familiar, only two of the interviewees recalled having been informed about it. Accordingly, it is possible that also others were formally informed about the speciality rule, but in such laconic terms, that they did not understand the content of the information, or, in any case, remember it. Although it is positive that the authorities do attempt to verify that the information provided is understood, it should be kept in mind that there might exist a certain threshold for requested persons to request for clarifications, particularly during court hearings. It would thus be advisable to make sure that the information is provided by the authorities as clearly and early enough in the process as possible.

Only few potential shortcomings were noted regarding linguistic rights. Perhaps most notably, several interviewees reported having had more than one interpreter during the process, which at least one interviewee appeared to find confusing. One interviewee moreover reported not having been allowed enough room to express themselves during discussions using interpretation. Finally, a few interviewees were not provided interpretation immediately after their arrest.

Lastly, regarding the right to access to a lawyer, findings indicate certain issues both when it comes to informing about the right and indeed ensuring access to legal representation. The experience of one interviewee suggests that requested persons are not necessarily always informed about the right to a lawyer in line with legal requirements, i.e., through a letter of rights handed by the police. Strong indications that requested persons are rarely informed about the right to dual representation, nor that they are necessarily even aware about the right, could moreover be observed. Importantly, the findings suggest that requested persons are not always provided a lawyer from the outset of the proceedings nor allowed to consult with their lawyer in private before discussing with the authorities, thus potentially impeding the effective enjoyment of the right to access to a lawyer.