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Law on earth stations and certain radars

As accordance with the parliament's decision:

1 §

Scope

This law applies to the establishment of earth stations and radars for earth station and radar operations on Finnish territory and on vehicles or vessels registered in Finland.

The law does not apply to:

- 1) The transmission or reception of radio communications intended for general reception as referred to in section 136(2) of the electronic communications services law (Laki sähköisen viestinnän palvelusta 917/2014);
- 2) short-term programme production or experimental use of satellite radio traffic for which a radiocommunications license has been granted; and
- 3) the use of terminal equipment, if the use of such equipment does not require a license pursuant to section 39(3) of the electronic communications services law, and the use of similar terminal equipment aboard vessels engaged in international traffic.

However, by way of derogation from paragraph 2, the Law shall apply to the reception by non-conventional terminal equipment of radio positioning satellite communications the principal purpose of which is other than the synchronisation of communication networks, radio navigation or other conventional use of time or position data.

2 §

Definitions

For the purposes of this law:

- 1) *ground station* means a transmitter capable of transmitting data or signals or a space-based system or a receiver capable of receiving data or signals from a space-based system, and equipment for the storage, processing, transmission and other handling of such data or signals;
- 2) *ground station operations* means the transmission of data or signals to or from space using a ground station and the processing thereof;
- 3) *radar* means a transmitter which transmits radio signals or laser pulses to targets in space or the upper atmosphere, and a receiver, whether attached to or separate from the transmitter, which processes the radar echoes reflected from the target, and the equipment necessary for the storage, processing, transmission and other handling of such data or signals;
- 4) *radar operations* means the transmission of radio signals or laser pulses into space or the upper atmosphere, or the reception of radio signals or laser pulses from the space or the upper atmosphere by radar, and the processing of radio signals or laser pulses;
- 5) *operator* means a natural or legal person who carries out or intends to carry out ground station operations or radar operations or who is effectively responsible for such activity;
- 6) *ground station data* means signals and information transmitted or received by a ground station or radar, and products derived therefrom, other than those which are not based principally on signals

or information transmitted by the equipment but are obtained as conclusions through the combination or manipulation of various data or calculations based thereon, irrespective of the stage of processing or storage of the signals and recorded data or the means of transmission or presentation.

3 §

Ground station and radar operations by authorities

Sections 4, 7, 8, 10, 17 and 18 of this law shall not apply to the ground station or radar operations carried out by a public authority referred to in sections 4(1) parts 1 to 7 of the Law on the Openness of Government Activities (Laki viranomaisten toiminnan julkisuudesta 621/1999) or to the ground station or radar operations carried out on Finnish territory by an institution or agency of the European Union, unless they are carried out for commercial purposes. Section 5 of this law shall not apply to ground station or radar operations carried out by the authorities referred to above. Section 13 of the law shall not apply to the Finnish Defence Forces.

The authority carrying out the ground station or radar operations must notify the Finnish Transport and Communication Agency of its ground station or radar operations and any changes to it. The authority carrying out the ground station or radar activity must also inform the Agency if the activity is transferred to another authority. The notification obligation does not apply to the ground station and radar activities of the Defence Forces.

More detailed provisions on the submission of the notification referred to in paragraph 2 and on the information and documents to be provided in the notification may be laid down by order of the Finnish Transport and Communications Agency.

4 §

Requirement of authorisation for operations

A ground station or radar may only be established and ground station and radar operations may only be carried out if the Finnish Transport and Communications Agency has granted prior authorisation. However, if the granting of such an authorisation would obviously affect national security, the authorisation shall be granted by the Government. The authorisation shall be granted for a limited period, not exceeding ten years at a time. The authorisation may be subject to additional conditions as necessary for the safety and supervision of the operations. The licence may also be subject to conditions concerning the clients of the operator of the ground station and radar operations and the safety requirements laid down in article 6.

The authorisation is granted subject to the following conditions:

- 1) the operator has been assessed as reliable in accordance with 5 §.
- 2) The operator has submitted a report to the Finnish Transport and Communications Agency on compliance with the safety requirements laid down in 6 §.
- 3) The operator has provided the Finnish Transport and Communications Agency with a report on the customer due diligence procedures in place;
- 4) ground station and radar operations do not conflict with Finland's national security, Finland's international obligations or Finland's foreign and security policy; and
- 5) the transmitting ground station or radar has been granted or has applied for a radiocommunications license as referred to in Section 39 of the Electronic Communications Services Act.

In its application, the operator shall provide reliable evidence of compliance with the conditions laid down in paragraph 2 that is necessary for the assessment of the permit. The operator shall also provide a statement of the customers and categories of customers of the ground station or radar operations and of its ownership.

More detailed provisions on the application for a permit and on the information and documentation to be provided in the application for a permit may be laid down by government decree.

5 §

The reliability of the operator

If the operator is a legal person, the requirement of trustworthiness required under Article 4(2)(1) also applies to the managing director and his deputy, the member and deputy member of the board of directors, the member and deputy member of the supervisory board and equivalent bodies, the general partner and other members of senior management. The requirement of integrity also applies to the owners of a legal person engaged in ground station or radar activities who hold 10% or more of the ownership or voting rights in the undertaking.

A person is not considered trustworthy if:

- 1) he or she has been convicted within the last five years of a criminal offence which may be considered to make him manifestly unfit to carry out ground station or radar operations;
- 2) he or she is otherwise considered, on the basis of his or her position or activities, to be manifestly unfit to carry out ground station or radar activities in a manner compatible with national security, Finland's international obligations or foreign and security policy;
- 3) he or she is subject to a business ban recorded in a public register or credit reference register; or
- 4) he or she is bankrupt or subject to levy of execution or otherwise adjudged to be unable to pay his or her debts and this may be regarded as leaving the person exposed to exploitation, pressure, bribery or other improper influence or is otherwise likely to jeopardise his or her ability and capacity to fulfil their obligations under this Act or under the terms of an authorisation or permit granted under it, or in an otherwise reliable manner.

When considering the outcome of the assessment of the integrity of a natural person, the competent authority shall take particular account of the relevance of the person's activities and background to the operator as a whole in relation to the conduct of the ground station or radar operations. The assessment of trustworthiness shall be based on an overall assessment, taking into account the person's position and authority within the entity carrying out the ground station or radar operations.

The information obtained under the Criminal Records Act (770/1993) and, in the case of a foreign person, an extract from the criminal record issued by the competent authority of his or her country of origin or establishment shall be accepted as evidence under paragraph 2(1). The criminal record extract may not be older than six months. If the country of establishment of the foreign person does not issue the abovementioned extract or certificate, a declaration on oath or affirmation under the law of the country of establishment of the person shall be accepted as evidence instead.

The period referred to in paragraph 2(1) shall run from the date of the final judgment until the date of receipt of the application.

6 §

Safety requirements

The operator must manage the risks to the safety of its ground station or radar and its ground station or radar operations. The activity and the operator shall meet the following safety requirements:

- 1) the transmission, reception and other processing of ground station data is secure and the ground station or radar is adequately protected against external interference and security threats;
- 2) third parties do not have unauthorised access to the operational premises and equipment from which the ground station or radar is controlled or used to manage the ground station data;
- 3) security breaches and threats to the ground station or radar, and faults and malfunctions that significantly disrupt the functioning of the ground station or radar can be detected;
- 4) the commands issued to the ground station or radar, the encryption methods and encryption keys used, the time and routes of the commands and other necessary log data shall be kept for four years;
- 5) ground station data shall not be provided for military use to a country subject to an arms embargo imposed by the European Union or the United Nations or for any other use contrary to sanctions imposed by the European Union or the United Nations;
- 6) business continuity, crisis management and disaster recovery planning are in place and the security of the supply chains of the electronic systems essential for operations is ensured; and
- 7) the risk management procedure and practices for ensuring information system security are documented.

The measures referred to in paragraphs 1 to 4 and 6 shall be proportionate to the risks of the operations, the costs of the measures and the technical possibilities available to counter the threat.

The operator must notify the Finnish Transport and Communications Agency without delay if it has reason to suspect that it has disclosed ground station data for purposes that it suspects may endanger national security or compliance with Finland's international obligations or conflict with Finland's foreign and security policy. The same applies in situations where the operator discovers that ground station data transmitted or received by a ground station or radar has been accessed by an unauthorised person.

More detailed provisions on the safe conduct of ground station and radar activities and on the minimum requirements for systems and equipment affecting safety may be laid down by Government decree.

7 §

Transfer of authorisation for ground station or radar operations

The authorisation for the ground station or radar operations may not be transferred to a company belonging to a group referred to in Chapter 1, Section 6 of the Accounting Act (1336/1997) other than the operator. Any intra-group transfer must be notified immediately to the authority that issued the permit.

If the control or equivalent effective control over the operator referred to in Chapter 1, Section 5 of the Accounting Act changes, the change of control must be notified immediately to the authority that issued the permit.

8 §

Modifications and withdrawal of authorisation

The issuing authority may amend or withdraw a ground station or radar permit if:

- 1) incorrect or incomplete information has been provided in the application for a permit or in the annexes thereto, which has influenced the decision to grant the permit;
- 2) the operator of the ground station or radar operations no longer meets the conditions for granting a permit laid down in Article 4;
- 3) the operator has materially failed to comply with or infringed an obligation or restriction laid down in this Act or the conditions of the permit;
- 4) the amendment or revocation of the authorisation is necessary for Finland's national security, Finland's international obligations or Finland's foreign and security policy; or
- 5) the operator transfers the permit contrary to Article 7 or a change of control within the meaning of that Article requires such a transfer.

The authority that issued the permit may not revoke the permit despite the change of control referred to in section 7 if it is evident that the conditions for granting the permit are met and the activity continues in accordance with the terms of the permit. In such cases, the licence may be amended to reflect the change of control and may be subject to such conditions as are necessary for the safe conduct and supervision of the ground station or radar operations as referred to in Article 4(1) to reflect the changed situation.

Before amending or revoking a permit, the permitting authority shall set a reasonable time limit for the operator to correct the deficiency, error, breach or omission. A permit may be withdrawn only for particularly serious reasons in a situation where it is not possible to modify the permit. In addition, where a permit is withdrawn on grounds other than those referred to in paragraph 1(4), the withdrawal shall be conditional upon the failure of the permit holder to remedy the deficiency, error, breach or omission within a reasonable period of time despite having been requested to do so.

In its decision to amend or revoke a permit, the issuing authority may impose any necessary conditions for the safe continuation or cessation of the ground station or radar operations. When revoking a permit, the issuing authority may also require the operator to transfer the ground station or radar operations to another operator or authority.

9 §

Monitoring

The Finnish Transport and Communications Agency shall monitor compliance with this Act and the provisions and decisions adopted pursuant to it.

10 §

Duty of candour

The operator must submit an annual report to the Finnish Transport and Communications Agency on its ground station operations and information on its customers.

The operator shall immediately inform the Finnish Transport and Communications Agency of any changes that may affect the conditions for granting a licence or the terms of the licence as provided for in § 4. The

operator shall also notify any changes in the customer and ownership of the ground station or radar operations without delay.

More detailed provisions on the content of the report referred to in paragraph 1 and the information to be provided may be laid down by order of the Finnish Transport and Communications Agency.

11 §

Notification of incidents to the Finnish Transport and Communications Agency

The operator must notify the Finnish Transport and Communications Agency of any significant information security incident affecting or threatening ground station or radar operations without delay, but within 24 hours of becoming aware of the incident. The operator shall also notify without undue delay the estimated duration and impact of the incident or threat thereof, the remedial measures taken and the measures to prevent recurrence.

12 §

Access to information by the Finnish Transport and Communications Agency

The Agency shall be entitled to obtain from the operator or on his behalf, without prejudice to the provisions on confidentiality and other restrictions on disclosure of information, the information necessary for the performance of its tasks under this Act. The right of the Agency to receive information on messages, traffic data and location data is laid down in Article 14.

Notwithstanding the provisions on confidentiality, the Office of Transport and Communications shall be entitled to obtain from public authorities and persons exercising a public function, free of charge, the information necessary for the performance of its duties under this Act concerning the operator and the members and deputy members of its board of directors or supervisory board, the managing director and his deputy, the general partners and other senior management. The right of access also applies to information from the register of fines referred to in Article 46 of the Act on the enforcement of fines (672/2002).

13 §

Right of access

The Finnish Transport and Communications Agency shall have the right to carry out any inspections of the operator and ground station and radar operations necessary for the purposes of supervision under Section 9. The Finnish Transport and Communications Agency may have the inspection carried out by another authority or, with the exception of ground station and radar operations carried out on behalf of the Defence Forces, by an independent expert. The expert shall be subject to the provisions on criminal liability in the performance of his duties under this Article. Liability for damages shall be governed by the Tort Liability Act (412/1974).

The Agency, the other authority carrying out the inspection and the independent expert shall have the right of access, to the extent necessary for the inspection, to premises owned or occupied by the operator and used for the conduct of ground station or radar operations. The Agency, the other authority carrying out the inspection and the independent expert shall be entitled, without prejudice to confidentiality provisions or other restrictions on disclosure of information, to have access to documents and information necessary fro

the performance of their supervisory task, including information concerning the information system or telecommunications arrangements being inspected.

The Agency, the other authority carrying out the inspection and the independent expert shall also have the right of access to the ground station data and the information system used in the ground station and radar operations to the extent necessary to monitor compliance with Articles 4 and 6 or the provisions and regulations issued pursuant thereto and with the conditions of the license, when carrying out the inspection. The Agency, the other authority carrying out the inspection and the independent expert shall also have the right to carry out the necessary security scans for this purpose. The provisions of Article 14 shall apply to the processing of electronic messages, transmission data and location data.

An inspection in a room used for permanent housing may be carried out only by a public authority and only if there are reasonable and specified grounds for suspecting that this Act has been or is being infringed in a manner that may be punishable under the Criminal Code (39/1889) and if access to the room used for permanent housing is necessary to investigate the infringement.

The inspection must comply with the provisions of Article 39 of the Administrative Code (434/2003).

14 §

Right of access to information on electronic communications

Notwithstanding the provisions on confidentiality and other restrictions on the disclosure of information, the Agency shall have the right to obtain from the operator transmission data, location data and messages if they are necessary to monitor compliance with Article 6 or the regulations or permit conditions issued pursuant thereto or to investigate significant security breaches or threats.

The Finnish Transport and Communications Agency shall also have the right to monitor and use the transmission data and content of radio broadcasts other than those intended for general reception, if this is necessary to monitor compliance with Article 6 or the provisions or licence conditions issued pursuant to it.

The monitoring and use referred to in paragraph 2 and the inspection of ground station data or information systems referred to in Article 13(3) shall not restrict the protection of confidential communications or privacy beyond what is necessary.

Sections 319 and 316(4) of the Electronic Communications Services Act provide for the confidentiality, disclosure and destruction of information received and acquired by the Finnish Transport and Communications Agency concerning messages, transmission data, location data and the content and existence of confidential radio transmissions, and shall also apply to information received and acquired by the Finnish Transport and Communications Agency under this section.

15 §

Disclosure of information and official assistance

The Ministry of Transport and Communications and the Ministry of Defence, the Ministry of Foreign Affairs, the Ministry of Transport and Communications, the Security Police and the Defence Forces shall be entitled, notwithstanding any provisions on secrecy or other restrictions on the

disclosure of information, to disclose to each other any document received or drawn up in the performance of their duties under this Act and to disclose to each other any information of a confidential nature if it is necessary for the performance of their duties under this Act.

The Finnish Transport and Communications Agency shall be entitled to receive, on request, official assistance from the police and the Defence Forces in the performance of its duties in the course of inspections referred to in § 13 and in the implementation of interim measures referred to in § 17.

The right to disclose information referred to in subsection 1 also applies to information referred to in section 14(1) and (2) if disclosure of the information is necessary to assess the threat to national security, Finland's international obligations or Finland's foreign and security policy. The disclosure of information may not restrict the protection of confidential communications or privacy any more than is necessary.

Section 14(4) on the confidentiality of information shall not prevent the disclosure of information to another authority if it is necessary for the investigation or prosecution of an offence relating to ground station or radar operations.

16 §

Supervisory decision

The Finnish Transport and Communications Agency may issue a warning to any person who infringes this Act or the provisions, regulations, decisions and permit conditions issued pursuant to it, and may require him or her to remedy his or her errors or omissions within a reasonable period. The decision may be enforced by the imposition of a penalty payment or the threat of the partial or total cessation of the activity or of having the omitted measure carried out at the expense of the person concerned. Penalties, suspension and execution are provided for in the Penalties Act (1113/1990).

17 §

Interim decision

If an error or failure to comply with this Act or a rule, order, decision or condition of a permit issued pursuant to this act causes an imminent danger to national security or national defence, the Finnish Transport and Communications Agency may, as a temporary measure, suspend or restrict the ground station or radar operations causing the danger or order other necessary temporary measures. The decision may be enforced by a penalty payment or the threat of partial or total suspension of the operations or the costs of the omitted measure being borne by the person concerned.

Before adopting a decision on interim measures, the Agency shall give the addressee the opportunity to be heard, unless the hearing cannot be held as quickly as the urgency of the matter necessarily requires.

18 §

Fees for public authorities

The applicant for a license under this act shall pay a fee of EUR 2 000 to the Finnish Transport and Communications Agency together with the application. The application fee shall not be refunded even if the application is abandoned or rejected.

The holder of a ground station or radar license is required to pay an annual control fee. The surveillance fee is non-refundable even if the operator of the ground station or radar operations ceases its activities in the middle of the calendar year.

The fees for ground station and radar surveillance are as follows:

- 1) for ground station or radar operations carried out for business purposes, EUR 1 200;
- 2) for non-commercial research or training activities, EUR 300.

The fee is imposed by decision of the Finnish Transport and Communications Agency.

19 §

Appeals

The right of appeal to the Administrative Court is regulated by the Administrative Procedure Act (808/2019).

However, in appeals against a decision to impose and enforce a periodic penalty payment and a decision to impose and enforce a threat of imposition or suspension, the provisions of the Act on periodic penalty payments apply.

The decision of the Finnish Transport and Communications Agency may stipulate that the decision must be complied with notwithstanding any appeal, unless the appeal authority orders otherwise.

20 §

Entry into force

This Act shall enter into force on February 1st 2023.

Ground station or radar operations started before the entry into force of this Act may be continued without the authorisation referred to in section 4 for a period of 12 months from the date of entry into force of this Act. The activity shall be deemed to have commenced on the date on which the ground station or radar is put into operation.