



Agenda item 11

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## **USE OF AIS DATA AS EVIDENCE IN COURT PROCEEDINGS Finland**

### **1. General remarks**

In Finnish legal system there is the principle of free burden of proof. This means that all legally collected information can be used as evidence in court proceedings. It is up to the court which evidence is accepted and to what extent. In general AIS data, radar tracks and VHF recordings can be used as evidence in courts.

There are several cases where VHF data has been used in accident investigations and court proceedings. However this information has been VHF-voice communication and radar track information.

Even though there is no court cases available dealing with actual AIS-data, similar information may have been used.

### **2. Reliability of AIS data**

If AIS recordings are used as evidence in court there would be also need to show that the recording is coming from a reliable source and has not been changed after reception (need for official AIS database?)

### **3. VTS-data**

According to the Finnish VTS Code (623/2005) 16 § the VTS Authority must store the VTS-picture and VHF-voice communication 30 days. This information is basically public information and everybody has right to get copies. This right may be limited by legislation mentioned below.

### **4. AIS data from SafeSeaNet**

Article 24 of the directive 2002/59/EU is dealing with confidentiality of information sent to SafeSeaNet purposes pursuant to the Directive. This information shall only use such information in compliance with the Directive.

The IFCD-document prepared between Commission and Member States determines which is the information article 24 is referring. AIS-data is not in the list.

This means that general rules of information confidentiality are followed. The following Codes regulate this information:

- a. Publicity of Documents<sup>1</sup> Code (621/1999)
- b. Personal Data Code<sup>2</sup> (523/1999)

As far as AIS-data is concerned the main rule is that all information is public unless it contains information of person's personal data or commercial secret.

## **5. SOLAS Chapter V, Rule 19**

This Rule concerns carriage requirements for shipborne navigational systems and equipment. All ships of 300 gross tonnage and upwards engaged on international voyages and cargo ships of 500 gross tonnage and upwards not engaged on international voyages and passenger ships irrespective of size shall be fitted with an automatic identification system (AIS).

IMO has determined that aim of the AIS usage is to:

- a) prevent collisions,
- b) tool for the coastal countries to get information,
- c) tool for VTS to identify the ships.

IMO has been quite strict in the use of AIS-data. It has taken a rather negative attitude to any other usage of AIS-data than aim to the above mentioned. IMO has mentioned that publicity of the AIS-information may foster merchant shipping's, ships' and ports' safety and security. However as the AIS-information is of Broadcasting type, limitation has shown to be difficult.

## **6. Helsinki Convention (HELCOM)**

Helsinki Convention ANNEX IV, Regulation 9 contains the general rule according to which AIS information can be given between HELCOM contracting countries

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<sup>1</sup> not an official translation

<sup>2</sup> not an official translation

## **Regulation 9; Use of Automatic Identification Systems (AIS)**

The Contracting Parties:

- a) shall establish national, land-based monitoring systems for ships, based on AIS signals. A full monitoring of the Baltic Sea Area within A1 sea area shall take place not later than 1 July 2005;
- b) shall establish a common Baltic Sea monitoring system based on - and with access to - all national Baltic AIS monitoring systems; and
- c) shall elaborate reliable statistics on ships' traffic in the Baltic Sea Area to assess the need for further additional measures to improve the safety of navigation and the emergency capacity. These statistics shall be elaborated on the basis of specified and conformed national AIS data.

HELCOMN has accepted Recommendation 33/1 on "Unified Interpretation in Relation to Access to and Use of Helcom AIS. The Annex 3, Appendix 1 determines to which purposes AIS data may be used between HELCOM contracting parties.

### **APPLICATIONS FOR RETRIEVED AIS DATA FROM THE COMMON BALTIC SEA AIS**

**Real-time AIS data** in this agreement is defined to be:

- delivered end-to-end non-stop, one vessel report after the other as soon as they are transmitted
- delivered promptly when they are received at the base station
- delivered without any delay (additional latency)
- not sent in blocks
- irrespective of the reporting interval (not all messages received by the national centre are relayed/forwarded to the regional centre. The reporting interval is less frequent)

#### **Type of access:**

For each specific case some restrictions – at the discretion of a Participating Party - can be applied, where applicable and justified, such as: time limitation, geographical limitation and/or update rate.

Whenever access is implemented directly from the HELCOM AIS Information Centre, it is given for all Participating Parties' data\* and at the update rate in-force.

If an access to a full update rate is needed this should be solved on a bilateral basis.

**Type of AIS data:**

- Real time (R),
- Statistic data\*\* (S),
- Historical data (H)
- Web based visualization of AIS real-time data\*\* (V)

User	Uses	Type of AIS data
HELCOM Secretariat	Aiming at implementation of the Helsinki Convention	S, H, V
National administration, including accident investigation authorities and any research institutes or organizations or their contractors in the Baltic Sea states and Norway acting according to the uses set herein	<ul style="list-style-type: none"> <li>- Pollution preventing and combating</li> <li>- VTS (Vessel Traffic Services)</li> <li>- Port State Control (PSC)</li> <li>- Contingency planning</li> <li>- International Ship and Port Security (ISPS)</li> <li>- Search and Rescue (SAR)</li> <li>- Accident investigation</li> <li>- Traffic planning, efficiency and management, incl. icebreaking services</li> <li>- Mandatory reporting system for HAZMAT reporting requirements</li> <li>- Pilotage</li> <li>- Customs surveillance</li> <li>- Science and research supporting the implementation of the Helsinki Convention and for preparing IMO ships routing measures</li> </ul>	R, S, H, V
EU institutions Institutions in Russia	Aiming at implementation of the Helsinki Convention, including: <ul style="list-style-type: none"> <li>- Mandatory reporting system for HAZMAT reporting requirements</li> <li>- Traffic planning</li> <li>- Pollution prevention</li> <li>- Maritime safety and security</li> </ul>	R, S, H, V

The table may require further consideration to define in detail information to be exchanged among Participating Parties.

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\* Except for real-time streamed data that can be filtered on the basis of the countries' AIS data  
 \*\* Currently limited to 5 accounts per country involved due to technological reasons

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