

NB: Unofficial translation
Ministry of Justice, Finland

Act on the Prosecution Service

(439/2011, amendments up to 738/2015 included)

Chapter 1 - General provisions

Section 1 - *Scope of application*

- (1) This Act contains provisions on the administration and duties of the Finnish prosecution service.
- (2) The prosecution service and prosecutors are, in addition, subject to what is separately provided in respect of them.

Section 2 - *Organisation of the prosecution service*

- (1) The prosecution service consists of the Office of the Prosecutor General, which is the central office, the regional Prosecution Offices and the Prosecutor's Office of Åland.
- (2) The Prosecutor General serves as the supreme prosecutor and supervisor of the prosecutors.
- (3) The prosecution service operates within the administrative sector of the Ministry of Justice.

Section 3 - *Role of the prosecution service*

The prosecution service is responsible for organising the prosecutorial service.

Section 4 - *Prosecutors*

- (1) The following are prosecutors:
 - (1) the Prosecutor General and the Deputy Prosecutor General;
 - (2) State Prosecutors;
 - (3) District Prosecutors-in-Charge and the Prosecutor-in-Charge for the Åland Islands.
 - (4) District Prosecutors and Prosecutors for the Åland Islands; and
 - (5) Junior Prosecutors.
- (2) The Act on the Implementation of Certain Provisions Contained in the Decision on Eurojust (742/2010) contains provisions on Finland's national member in Eurojust.

Section 5 - *Special Prosecutors*

Special prosecutors include the Chancellor of Justice of the Government and the Parliamentary Ombudsman, whose right to bring charges is governed by section 110 of the Constitution of Finland.

Section 6 – Duties of a prosecutor

- (1) The duty of a prosecutor is to impartially, promptly and economically secure criminal liability in a case being considered by him or her, in a manner consistent with the legal safeguards of the parties and the public interest.
- (2) In addition, the duties of a prosecutor are subject to what is separately provided in respect of them.

Section 7 – Jurisdiction of a prosecutor

- (1) A prosecutor is independent and autonomous in the consideration of charges.
- (2) A prosecutor has jurisdiction as a prosecutor throughout the country.
- (3) A prosecutor who has prosecuted a case in a District Court may transfer to another prosecutor, subject to his or her consent, the task of appealing the decision of the District Court, responding to an appeal, appearing in the main hearing or performing another measure relating to an appeal if, with consideration to the nature of the matter, this is appropriate.
- (4) The Prosecutor General may assign more than one prosecutor to the same case. At the same time, the division of responsibility among them shall be determined. A District Prosecutor-in-Charge may issue such an order to subordinate prosecutors.

Chapter 2 - Office of the Prosecutor General

Section 8 - Organisation of the Office of the Prosecutor General

- (1) The Office of the Prosecutor General is headed by the Prosecutor General. The Deputy General Prosecutor assists and serves as deputy for him or her.
- (2) Further provisions on the organisation of the Office of the Prosecutor General are laid down by a Government Decree.

Section 9 - Duties of the Office of the Prosecutor General

The duties of the Office of the Prosecutor General are to:

- (1) guide and develop the prosecution service;
- (2) be responsible for the effectiveness of the activities of the prosecution service;
- (3) supervise the legality and consistency of the activities of prosecutors;
- (4) attend to duties relating to general administration, communications and training in the prosecution service, and
- (5) see to national and international cooperation falling within his or her remit.

Section 10 - Duties of the Prosecutor General as the supreme prosecutor

- (1) The duties of the Prosecutor General are to:
 - (1) serve as the prosecutor in matters which by law fall within his or her remit or that he or she takes up for consideration;

- (2) decide on the submission of a prosecutor's petition to the Supreme Court for leave of appeal and to represent prosecutors in the Supreme Court;
- (3) improve the legal quality and consistency of the prosecution service; and
- (4) see to other duties as separately provided in law.

(2) The Prosecutor General may take over a case from a subordinate prosecutor or assign a subordinate prosecutor to a case where the Prosecutor General has decided a charge is to be brought. In addition, the Prosecutor General may assign a case to a subordinate prosecutor for consideration of possible charges.

(3) The Prosecutor General may, for a prescribed period, grant a designated person who meets the eligibility criteria for a District Prosecutor the prosecutorial powers that he or she requires for the specific task. The provisions on prosecutors otherwise apply to this person in the exercise of his or her prosecutorial powers.

Section 11 - Deputy Prosecutor General

(1) The Deputy Prosecutor General has powers equivalent to the Prosecutor General in matters to be considered by him or her.

(s) The division of tasks between the Prosecutor General and the Deputy Prosecutor General is provided in the Rules of Procedure of the Office of the Prosecutor General.

Section 12 - State Prosecutors

(1) State Prosecutors serve in the Office of the Prosecutor General.

(2) A State Prosecutor prosecutes criminal cases with the greatest significance to society as a whole and cases dealt with by a Court of Appeal as the first instance, unless otherwise provided or otherwise ordered.

Section 13 - Requirements for office

(1) The requirements for office for the Prosecutor General and the Deputy Prosecutor General are a Master's degree in Law other than a Master's degree in International and Comparative Law, the wide experience required by the task as well as proven leadership skills and management experience.

(2) The requirements for office for a State Prosecutor are a Master's degree in Law other than a Master's degree in International and Comparative Law.

(3) The requirements for office for other officials in the Office of the Prosecutor General may be provided by a Government Decree.

Section 14 - Appointments

(1) The mode of appointment of the Prosecutor General is provided in the Constitution of Finland. The Deputy Prosecutor General is appointed by the President of the Republic on the proposal of the Government.

(2) A State Prosecutor is appointed by the Government on the proposal of the Office of the Prosecutor General.

(3) The mode of appointment for other officials in the Office of the Prosecutor General are provided by a Government Decree.

Section 15 - *Decision-making in the Office of the Prosecutor General*

Administrative matters to be dealt with in the Office of the Prosecutor General are decided by the Prosecutor General unless the law or the Rules of Procedure provide that the matter shall be decided by another official. A matter which by law must be decided by a State Prosecutor may not be decided by any official other than the Prosecutor General or the Deputy Prosecutor General. The Prosecutor General may reserve the right of decision in a matter which may otherwise be decided by another official of the Office.

Section 16 - *Rules of Procedure*

The organisation of work in the Office of the Prosecutor General is provided in the Rules of Procedure of the Office, which are confirmed by the Prosecutor General. The Rules of Procedures of the Office contains provisions on the internal organisation of the Office, personnel, performance of duties by officials, deputies, assignment of proceedings, as well as preparation of and decision-making in cases.

Chapter 3 - *Prosecution Offices*

Section 17 - *Organisation of Prosecution Offices*

(1) Regional prosecution services are organised at the level of Prosecution Offices. The area of a Prosecution Office includes one or more municipalities. A Prosecution Office may have, in addition to headquarters, service bureaus.

(2) A Prosecution Office is headed by a District Prosecutor-in-Charge assisted by at least one Deputy Chief.

(3) Further provisions on the areas of operation and headquarters of Prosecution Offices are provided by a Government Decree. Provisions on the establishment and closure of service bureaus of Prosecution Offices are provided by a Decree of the Ministry of Justice.

Section 18 - *Prosecutor's Office of Åland*

(1) The prosecutorial service in Åland is the responsibility of the Prosecutor's Office of Åland. The ambit of the Office is the Åland Islands and its headquarters are in Mariehamn.

(2) The Prosecutor's Office of Åland is headed by the Prosecutor-in-Charge for the Åland Islands. The Office has one or more Prosecutors for the Åland Islands.

(3) The provisions in this Act on a Prosecution Office, with the exception of section 17, apply to the Prosecutor's Office of Åland. The provisions in this Act on a District Prosecutor-in-Charge and District Prosecutor apply to the Prosecutor-in-Charge for the Åland Islands and the Prosecutor for the Åland Islands.

(4) Provisions on the language to be used in the Prosecutor's Office of Åland and on the linguistic proficiency of the personnel are provided in Chapter 6 of the Act on the Autonomy of Åland (1144/1991).

Section 19 – *Duties of a Prosecution Office*

The duties of Prosecution Office are to:

- (1) develop the prosecution service;
- (2) be responsible for the effectiveness of prosecution;
- (3) supervise the legality and consistency of the activities of prosecutors; and
- (4) see to co-operation among the authorities.

Section 20 *District Prosecutor and Junior Prosecutor*

- (1) District Prosecutors serve in Prosecution Offices. An Office may also have Junior Prosecutors in training for prosecutorial duties.
- (2) District Prosecutors and Junior Prosecutors serve as prosecutors in criminal cases arriving in a Prosecution Office and in other matters specified separately.

Section 21 - *Requirements for office*

- (1) The requirements for office for a District Prosecutor-in-Charge are a Master's degree in Law other than a Master's degree in International and Comparative Law and proven leadership skills.
- (2) The requirements for office for a District Prosecutor and a Junior Prosecutor are a Master's degree in Law other than a Master's degree in International and Comparative Law.
- (3) The requirements for office for other officials in a Prosecution Office may be provided by a Government Decree.

Section 22 - *Appointments*

- (1) A District Prosecutor-in-Charge and a District Prosecutor are appointed by the Office of the Prosecutor General. A Junior Prosecutor is appointed by a Prosecution Office.
- (2) The mode of appointment for other officials in a Prosecution Office is provided by a Government Decree.

Section 23 - *Decision-making in a prosecution office*

Administrative matters to be dealt with in a Prosecution Office are decided by the District Prosecutor-in-Charge unless the law or the Rules of Procedure provide that the matter be decided by a Deputy Chief or another official. The District Prosecutor-in-Charge may reserve the right of decision in administrative matters which another official of the Office otherwise may decide.

Section 24 - *Rules of Procedure*

The organisation of work in a Prosecution Office is provided in the Rules of Procedure of the Office as confirmed by the District Prosecutor-in-Charge. The Rules of Procedure of the Office contains provisions on the internal organisation of the Office, personnel, performance of duties by officials, deputies, assignment of proceedings, as well as preparation of and decision-making in cases.

Chapter 4 - Miscellaneous provisions

Section 25 - Right of access to information

- (1) A prosecutor has, regardless of secrecy provisions, the right to obtain without charge the information and documents necessary to carry out official duties from an authority and a corporation established for the performance of a public function unless the provision of such information or document to a prosecutor for use as evidence is prohibited or restricted by law.
- (2) A prosecutor has, regardless of business, banking or insurance secrecy obligating a corporation member, an auditor, a board member or an employee, the right to obtain the information necessary to carry out official duties.
- (3) A prosecutor does not, however, have the right to information referred to in subsection 1 in respect of information that an authority or a corporation established for the performance of a public function has obtained under a permit for conducting scientific research, compiling statistics, or for planning or investigative tasks.
- (4) A prosecutor shall have the right to obtain information concerning fines and enforcement of fines from the Legal Register Centre's register of fines.

Section 25(a) – Confidentiality obligation (898/2011)

The provisions in Chapter 7, sections 1, 4 and 5 of the Police Act (892/2011) on the confidentiality obligation of members of police personnel applies correspondingly to members of the personnel of the prosecution service.

[Section 25(a) has been amended by the Act of 738/2015, which enters into force on 1 January 2016 and reads as follows:

- (1) The provisions in Chapter 7, sections 1 and 5 of the Police Act (872/2011) on the confidentiality obligation of members of police personnel applies correspondingly to members of the personnel of the prosecution service.*
- (2) A prosecutor has a confidentiality obligation in respect of information referred to in Chapter 7, section 3(1) of the Police Act that he or she has obtained while serving as the head investigator referred to in Chapter 2, section 4 of the Criminal Investigation Act (805/2011). The provisions of Chapter 7, section 5 of the Police Act on the obligation of a member of police personnel to provide information apply to the obligation of a prosecutor to provide information.*
- (3) Notwithstanding the confidentiality obligation referred to in subsection 1 and the confidentiality right referred to in subsection 2, Chapter 18, section 12(3) of the*

Code of Judicial Procedure applies to the obligation of a member of the prosecution service to testify in court proceedings.]

Section 26 - Disqualification

- (1) A prosecutor is disqualified from the consideration of a case if:
 - (1) the prosecutor or a close relative is a party to the case;
 - (2) the case is likely to result in particular benefit or loss to the prosecutor or his or her close relative;
 - (3) the prosecutor or his or her close relative counsels a party or a person for whom the case is likely to result in particular benefit or loss;
 - (4) the prosecutor is in a service relationship or a commission relationship pertaining to the case in question with a party or a person to whom the case is likely to cause specific benefit or damage;
 - (5) the prosecutor is a member of a board, of a comparable body or of a supervisory board, serves as a managing director or is in a comparable position in a corporation, foundation, or public-law institution which is a party, or to whom the case is likely to result in particular benefit or loss;
or
 - (6) a circumstance other than those referred to in paragraphs 1–5 gives rise to reasonable doubt as to the impartiality of the prosecutor in the case.
- (2) A close relative of the prosecutor refers to persons referred to in section 28, subsections 2 and 3 of the Administrative Procedure Act (434/2003).
- (3) Even if disqualified, a prosecutor may undertake urgent measures. The prosecutor shall notify the person responsible for appointing a deputy for him or her of the disqualification.

Section 27 - Standby

- (1) The Prosecutor General may arrange standby duties for prosecutors in an appropriate manner.
- (2) In addition to what is provided in subsection 1, the head of a Prosecution Office may order a prosecutor to be on standby, if this is necessary to ensure that the prosecutor can be reached in order to decide urgent cases falling within his or her jurisdiction.

Section 28 - Acting as an attorney or counsel

- (1) The provisions in section 3 of Chapter 15 of the Code of Judicial Procedure on a public official and on a legally qualified member of a general court of law apply to a prosecutor's right to serve as an attorney or a counsel in a trial.
- (2) Section 9 of Chapter 3 of the Criminal Procedure Act (689/1997) contains provisions on the obligation of a prosecutor to pursue the civil claim of an injured party.

Section 29 - Jurisdiction over charges for offences in office

(1) Charges against the Prosecutor General and the Deputy Prosecutor General for offences in office shall be brought before the Supreme Court. The case shall be prosecuted by the Chancellor of Justice or the Parliamentary Ombudsman.

(2) Charges against a State Prosecutor, a District Prosecutor-in-Charge, a District Prosecutor and a Junior Prosecutor for offences in office shall be brought in a Court of Appeal.

Section 30 - *Transfer of a position*

The Office of the Prosecutor General shall decide on the transfer of a position within the prosecution service.

Section 31 - *Handling of indemnity matters concerning the prosecution service* (979/2014)

The Act on State Indemnity Operations (978/2014) contains provisions on the consideration of indemnity matters concerning the prosecution service.

Section 32 - *Further provisions* (1239/2011)

(1) Further provisions on the duties of the Prosecutor General as the head of the Office of the Prosecutor General and on the duties of a District Prosecutor-in-Charge as the head of a Prosecution Office may be provided by a Government Decree. Further provisions on the personnel of the prosecution service, on the duties of personnel and on assignment of such duties may also be provided by a Government Decree. In addition, provisions on the right to decide on the employment relationship of personnel may be contained in a Government Decree.

(2) Further provisions on the implementation of this Act may be issued by a Government Decree.

Section 33 - *Reference provision*

What is otherwise provided elsewhere in law on a public prosecutor applies also to a prosecutor.

Chapter 5 - *Entry into force*

Section 34 - *Entry into force*

(1) This Act enters into force on 1 January 2012.

(2) Measures required for the implementation of this Act may be taken before the entry into force of this Act.

(3) This Act repeals the following:

(1) Act on Public Prosecutors (199/1997);

(2) Act on District Prosecutors (195/1996); and

(3) Act on the Prosecutor's Office of Åland (872/1977).