

**Translation from Finnish**

**Legally binding only in Finnish and Swedish**

**Ministry of Justice, Finland**

**Act on the National Prosecution Authority**

**(32/2019)**

**Chapter 1**

**Status, duties and organisation of the National Prosecution Authority**

**Section 1**

**Scope of application**

This Act lays down provisions on the status, duties and administration of the National Prosecution Authority and on the duties of prosecutors.

**Section 2**

**Status and purpose of the National Prosecution Authority**

The National Prosecution Authority is, independently and autonomously, responsible for organising the prosecutorial activities in Finland.

**Section 3**

**Organisation of the National Prosecution Authority**

The Office of the Prosecutor General is the central administrative unit of the National Prosecution Authority. For the purposes of organising the operations of the National Prosecution Authority, the country is divided into prosecution districts. A prosecution district includes one or more municipalities.

The Prosecutor General serves as the supreme prosecutor and the supervisor of prosecutors.

The National Prosecution Authority operates within the administrative branch of the Ministry of Justice.

## **Section 4**

### **Duties of the Office of the Prosecutor General**

The Office of the Prosecutor General shall:

- 1) guide, direct and develop the National Prosecution Authority and the prosecutorial activities;
- 2) ensure the effectiveness of the operations of the National Prosecution Authority;
- 3) oversee the legality and uniformity of prosecutors' activities;
- 4) attend to the general administration, communications and training at the National Prosecution Authority;
- 5) engage in national and international cooperation in matters falling within its mandate;
- 6) be in charge of organising the activities of prosecutors who serve as heads of investigation when a police officer is suspected of having committed an offence.

## **Section 5**

### **Duties of prosecution districts**

Each prosecution district is responsible for organising the prosecutorial activities in criminal matters that are dealt with in the district. Criminal matters may be assigned to prosecution districts in a manner that deviates from the division of districts, if this is necessary in order to balance the workload, enable a more expedient consideration of matters, make use of special expertise, or for another special reason.

Within its own area of operation, a prosecution district develops the prosecutorial activities under the direction of the Office of the Prosecutor General, ensures the effectiveness of the prosecution service, oversees the legality and uniformity of prosecutors' activities, and conducts inter-authority collaboration and other cooperation related to the duties of prosecutors.

Furthermore, a prosecution district shall attend to any other duties separately assigned to it by the Office of the Prosecutor General.

## **Section 6**

### **Prosecution District of Åland**

The Prosecution District of Åland is responsible for organising the prosecutorial activities in criminal matters that are dealt with in the Province of Åland. The office of the Prosecution District is located in Mariehamn.

Provisions on the language to be used in the Prosecution District of Åland and on the language skills required of its personnel are laid down in chapter 6 the Act on the Autonomy of Åland (1144/1991).

The provisions of this Act concerning Chief District Prosecutors and District Prosecutors also apply to the Chief District Prosecutor and the District Prosecutors in the Prosecution District of Åland.

## **Chapter 2**

### **Prosecutors and their duties**

## **Section 7**

### **Prosecutors**

The following are prosecutors:

- 1) the Prosecutor General and the Deputy Prosecutor General;
- 2) State Prosecutors;
- 3) Chief District Prosecutors;
- 4) Senior Specialised Prosecutors;
- 5) District Prosecutors;
- 6) Junior Prosecutors.

Provisions on Finland's national member in Eurojust are laid down in the Act on the Implementation of Certain Provisions of the Decision on Eurojust (742/2010).

## **Section 8**

### **Special prosecutors**

The Chancellor of Justice and the Parliamentary Ombudsman are special prosecutors. Provisions on their right to bring charges are laid down in section 110 of the Constitution.

## **Section 9**

### **Duties of prosecutors**

Prosecutors shall ensure that criminal liability is realised in cases being handled by them in an equal, prompt and economical manner as required to ensure the legal protection of the parties concerned and to serve the public interest.

## **Section 10**

### **Powers of prosecutors**

Prosecutors shall consider charges independently and autonomously. Prosecutors make decisions in criminal matters being handled by them, falling within the prosecutors' power of decision and concerning the realisation of criminal liability, independently and autonomously. Prosecutors are competent to perform prosecutorial duties in the entire country.

## **Section 11**

### **The Prosecutor General's duties as the supreme prosecutor and the Prosecutor General's power of decision**

The Prosecutor General shall:

- 1) serve as the prosecutor in matters that fall within his or her mandate under the law or that he or she takes up for consideration;
- 2) decide on the submission of a prosecutor's application for leave to appeal to the Supreme Court and on the representation of prosecutors in the Supreme Court;
- 3) monitor the legal quality and uniformity of the prosecutorial activities and take measures to improve them;
- 4) designate a given prosecutor to serve as the head of investigation when a police officer is suspected of having committed an offence as referred to in chapter 2, section 4 of the Criminal Investigation Act (805/2011).

The Prosecutor General may take over a case from a subordinate prosecutor or designate a subordinate prosecutor to prosecute a case in which the Prosecutor General has decided that a charge is to be brought. In addition, the Prosecutor General may designate a subordinate prosecutor to consider charges.

The Prosecutor General may, for a fixed period, grant the prosecutorial powers needed for a specific assignment to a given public official who is on leave of absence from his or her post as a prosecutor and is serving in another public-service position. Otherwise, the provisions governing prosecutors apply to any person exercising prosecutorial powers.

## **Section 12**

### **Deputy Prosecutor General**

The Deputy Prosecutor General assists the Prosecutor General and serves as his or her deputy.

The Deputy Prosecutor General has the same power of decision as the Prosecutor General in matters to be dealt with by him or her.

## **Section 13**

### **State Prosecutors**

State Prosecutors serve at the Office of the Prosecutor General.

State Prosecutors prosecute cases assigned to them.

## **Section 14**

### **Senior Specialised Prosecutors**

Senior Specialised Prosecutors prosecute particularly demanding criminal cases within their field of specialisation and other criminal cases assigned to them.

## **Section 15**

### **Chief District Prosecutors, District Prosecutors and Junior Prosecutors**

Chief District Prosecutors, District Prosecutors and Junior Prosecutors prosecute criminal cases that are dealt with in the prosecution district and other cases assigned to them.

## **Section 16**

### **Required qualifications**

The required qualifications 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 diverse experience necessary for the position, and proven leadership skills and management experience.

The required qualification for the other prosecutors is a Master's degree in Law, other than a Master's degree in International and Comparative Law. A further qualification required of Chief District Prosecutors is proven leadership skills.

## **Section 17**

### **Appointment**

Provisions on the procedure for appointing the Prosecutor General are laid down in the Constitution. The Deputy Prosecutor General is appointed by the President of the Republic on the proposal of the Government.

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

A Chief District Prosecutor, a Senior Specialised Prosecutor and a District Prosecutor is appointed by the Office of the Prosecutor General. A Chief District Prosecutor is appointed for a fixed term of five years, unless there are special reasons for appointing him or her for a shorter term.

A Junior Prosecutor is appointed to a fixed-term public-service position by the prosecution district.

## **Chapter 3**

### **Leadership and decision-making**

#### **Section 18**

##### **Leadership**

The Office of the Prosecutor General is headed by the Prosecutor General.

Each prosecution district is headed by a Chief District Prosecutor. A Chief District Prosecutor may be assisted by one or more prosecutors designated to serve as Deputy Heads of Prosecution District. In addition to their prosecutorial duties, the Deputy Heads of Prosecution District are responsible for attending to certain administrative duties assigned to them within the prosecution district.

#### **Section 19**

##### **Decision-making in administrative matters**

The Prosecutor General decides administrative matters concerning the entire National Prosecution Authority, unless otherwise provided or ordered.

Administrative matters dealt with in the Office of the Prosecutor General are decided by the Prosecutor General, unless otherwise provided or ordered. An administrative matter that shall, under the law, be decided by the Prosecutor General cannot be decided by any other public official than the Prosecutor General or the Deputy Prosecutor General. The Prosecutor General may reserve himself or herself the right to decide a matter that another public official of the Office of the Prosecutor General would otherwise have the right to decide.

Administrative matters dealt with in a prosecution district are decided by the Chief District Prosecutor, unless the matter shall, under the law or the rules of procedure of the National Prosecution Authority, be decided by a Deputy Head of Prosecution District or another public official. The Chief District Prosecutor may reserve himself or herself the right to decide an administrative matter that another public official of the prosecution district would otherwise have the right to decide.

## **Section 20**

### **Assignment of criminal cases**

Criminal cases shall be assigned to prosecutors in a way that secures the parties' right to have their case considered in an independent, impartial and prompt manner.

The Prosecutor General may designate more than one prosecutor to serve as a prosecutor in the same criminal case. At the same time, the division of responsibilities among them shall be determined. Similarly, the Chief District Prosecutor may designate more than one prosecutor subordinate to him or her to serve as a prosecutor in the same criminal case.

## **Section 21**

### **Transfer of a criminal case to another prosecutor**

When a prosecutor is prevented from attending to his or her duties as a prosecutor due to another official duty or for some other reason, his or her supervisor may transfer criminal cases being handled by him or her to another prosecutor.

The supervisor may, for a special reason, transfer criminal cases being handled by a subordinate prosecutor to another prosecutor, if this is necessary in order to ensure prompt court proceedings, balance the workload, make use of special expertise, or for another special reason. This requires the consent of the prosecutor handling the criminal case.

## **Chapter 4**

### **Miscellaneous provisions**

## **Section 22**

### **Right of access to information**

Notwithstanding secrecy provisions, prosecutors have the right to obtain, free of charge, any information and documents that are necessary for performing their official duties from authorities and bodies assigned to perform a public function, unless disclosing such information or documents to prosecutors or using such information as evidence is prohibited or restricted by law.

Prosecutors have the right to obtain any information that is necessary for performing their official duties notwithstanding business, banking or insurance secrecy binding on members, auditors, board members and employees of an organisation. Prosecutors have the right to obtain any information concerning fines and their enforcement that is necessary for the consideration of charges from the register of fines maintained by the Legal Register Centre.

Prosecutors do not, however, have the right of access referred to in subsection 1, if the authority or body assigned to perform a public function has obtained the information under a permit for purposes of scientific research, statistical compilations or preparation of plans or studies.

## **Section 23**

### **Non-disclosure obligation and right to remain silent**

The provisions of chapter 7, sections 1 and 5 of the Police Act (872/2011) on the non-disclosure obligation of the members of police staff and their duty to disclose information also apply to the staff of the National Prosecution Authority.

A prosecutor has the right to remain silent regarding such information referred to in chapter 7, section 3, subsection 1 of the Police Act that the prosecutor has obtained in the course of his or her duties as the head of investigation referred to in chapter 2, section 4 of the Criminal Investigation Act.

The provisions on the prosecutor's non-disclosure obligation and right to remain silent when validating a European Investigation Order are laid down in the Act on the Implementation of the Directive Regarding the European Investigation Order in Criminal Matters (430/2017).

Provisions on the obligation of the staff of the National Prosecution Authority to testify in a trial regardless of the non-disclosure obligation referred to in subsection 1 or the right to remain silent referred to in subsection 2 are laid down in chapter 17, section 12, subsection 3 of the Code of Judicial Procedure.

## **Section 24**

### **Disqualification**

A prosecutor is disqualified if:

- 1) the prosecutor or a person close to him or her is a party to the matter;
- 2) the prosecutor or his or her close relative can be expected to experience a particular gain or loss in the case;
- 3) the prosecutor or a person close to him or her serves as a counsel for or represents a party or a person who can be expected to experience a particular gain or loss in the case;
- 4) the prosecutor is employed by or, in relation to the matter under consideration, works on the commission of a party or a person who can be expected to experience a particular gain or loss in the case;
- 5) the prosecutor is a member of the board of directors, the board of administration or a comparable body or is the managing director or holds an equivalent position in a corporation, foundation or body governed by public law which is a party or can be expected to experience a particular gain or loss in the case;
- 6) a circumstance other than those referred to in paragraphs 1–5 is conducive to giving a justified reason to doubt the impartiality of the prosecutor in the case.

The persons close to a prosecutor are those specified in section 28, subsections 2 and 3 of the Administrative Procedure Act (434/2003).

Even when disqualified, a prosecutor may undertake measures that cannot be delayed. The prosecutor shall notify the person who is responsible for appointing a deputy for him or her of the disqualification.

## **Section 25**

### **Standby**

The Prosecutor General may make appropriate arrangements for prosecutors to be on standby outside of office hours.

The Chief District Prosecutor may designate a prosecutor to be on standby during office hours, if this is necessary to ensure that the prosecutor can be reached in the event that a decision is needed on urgent cases falling within his or her power of decision.

While on standby, a prosecutor designated by the Prosecutor General to be on standby is competent to decide on measures in a case assigned to another prosecutor, if the measure cannot be delayed.

## **Section 26**

### **Serving as an attorney or counsel**

The provisions of chapter 15, section 3 of the Code of Judicial Procedure concerning the right of public officials and legally trained members of a general court of law to serve as an attorney or counsel in a trial also apply to prosecutors.

Provisions on the prosecutor's obligation to pursue a civil claim of an injured party are laid down in chapter 3, section 9 of the Criminal Procedure Act (689/1997).

## **Section 27**

### **Hearing of charges for offences in office**

Charges against the Prosecutor General and the Deputy Prosecutor General for offences in office are brought in the Supreme Court. The Chancellor of Justice or the Parliamentary Ombudsman serves as the prosecutor in such a case.

Charges against a State Prosecutor, a Chief District Prosecutor, a District Prosecutor and a Junior Prosecutor for offences in office are brought in a court of appeal. Such a case is prosecuted by the Chancellor of Justice or the Parliamentary Ombudsman or by a prosecutor assigned by the Chancellor of Justice or the Parliamentary Ombudsman.

## **Section 28**

### **Consideration of liability claims against the National Prosecution Authority**

Provisions on the consideration of liability claims against the National Prosecution Authority are laid down in the Act on Tort Liability of the State (978/2014).

## **Section 29**

### **Further provisions**

Further provisions on the language skills required of prosecutors, on the qualifications and appointment of other public officials employed by the National Prosecutor Authority than prosecutors, and on decision-making concerning administrative complaints are issued by government decree.

Further provisions on the organisation of the National Prosecution Authority, the prosecution districts, the personnel, prosecutors' administrative duties and their assignment, the duties and designation of a Deputy Head of Prosecution District, appointment of prosecutors to a fixed-term public-service position, and the power of decision in matters related to public-service positions of personnel may be issued by government decree.

## **Section 30**

### **Rules of procedure of the National Prosecution Authority**

Provisions on the work arrangements within the National Prosecution Authority are laid down in the rules of procedure of the National Prosecution Authority. The rules of procedure are confirmed by the Prosecutor General. The rules of procedure may contain provisions on the performance of the public officials' duties, their deputies, assignment of criminal matters within a prosecution district, organisation of prosecutors' duties, consideration of matters, and other questions related to the administration of the National Prosecution Authority that are necessary for organising the operations of the Authority.

## **Chapter 5**

### **Entry into force**

## **Section 31**

### **Entry into force**

This Act enters into force on 1 October 2019.

This Act repeals the Act on the Prosecution Service (439/2011), hereinafter *the repealed act*.

## **Section 32**

### **Reference provision**

The provisions laid down elsewhere in the law concerning public prosecutors apply to prosecutors.

The provisions laid down elsewhere in the law concerning the former Office of the Prosecutor General (in Finnish: *Valtakunnansyyttäjänvirasto*) continue to apply to the Office of the Prosecutor General referred to in this Act (in Finnish: *valtakunnansyyttäjän toimisto*).

The provisions laid down elsewhere in the law concerning the former local prosecution offices, District Prosecutors-in-Charge and District Prosecutors (in Finnish: *kihlakunnansyyttäjä*) apply to the prosecution districts, Chief District Prosecutors and District Prosecutors (in Finnish: *aluesyyttäjä*) referred to in this Act.

Any reference to the repealed act in other acts or provisions issued under them shall be considered to refer to the corresponding provisions of this Act.

### **Section 33**

#### **Transitional provisions concerning duties**

Upon the entry into force of this Act, any matters pending at the local prosecution offices and the Office of the Prosecutor General, any agreements and commitments concluded by the local prosecution offices and the Office of the Prosecutor General, and any rights and obligations arising from them are transferred to the National Prosecution Authority.

### **Section 34**

#### **Transitional provisions concerning personnel**

Provisions on the position of the personnel are laid down in chapter 2 of the State Civil Servants Act.

Upon the entry into force of this Act, the posts at the local prosecution offices and at the Office of the Prosecutor General become joint posts of the National Prosecution Authority. Changing the posts in the manner referred to in this subsection does not require the consent of the public official appointed to the post.

Upon the entry into force of this Act, the posts of District Prosecutors-in-Charge at the local prosecution offices cease to exist and their public-service relationships are terminated without notice. The District Prosecutors-in-Charge are transferred to posts of District Prosecutors, which are placed in the prosecution districts and units in accordance with the placement of the posts

upon the entry into force of this Act. The posts of District Prosecutors under the repealed act (in Finnish: *kihlakunnansyyttäjä*) are converted into posts of District Prosecutors under this Act (in Finnish: *aluesyyttäjä*), and the posts are placed in the prosecution districts and units in accordance with the placement of the posts upon the entry into force of this Act.

Such posts of District Prosecutors under the repealed act (in Finnish: *kihlakunnansyyttäjä*) regarding which the appointed person is, upon the entry into force of this Act, designated to perform the duties of a Senior Specialised Prosecutor for an indefinite term become posts of Senior Specialised Prosecutors upon the entry into force of this Act. Such posts of District Prosecutors under the repealed act (in Finnish: *kihlakunnansyyttäjä*) that have been established for the purpose of performing the duties of Senior Specialised Prosecutors also become posts of Senior Specialised Prosecutors.