



**THE CHANCELLOR
OF JUSTICE
GUARDIAN OF LAW**

THE CHANCELLOR OF JUSTICE



OVERSEES THE LEGALITY
OF THE GOVERNMENT'S ACTIONS
AND, UPON REQUEST, PROVIDES
LEGAL OPINIONS TO THE
PRESIDENT OF THE REPUBLIC
AND THE GOVERNMENT



SUPERVISES THE AUTHORITIES,
CIVIL SERVANTS, AND OTHER
PERSONS PERFORMING PUBLIC
TASKS TO ENSURE THAT THEY
OBEY THE LAW AND FULFIL
THEIR OBLIGATIONS



MONITORS THE IMPLEMENTATION
OF FUNDAMENTAL AND
HUMAN RIGHTS



The highest guardians of law in Finland are the Chancellor of Justice and the Parliamentary Ombudsman. The Chancellor of Justice is responsible for supervising the actions of authorities, civil servants and other persons performing public tasks to ensure that they comply with the law, and for seeing that fundamental rights and liberties as well as human rights are upheld.

The Deputy Chancellor of Justice and his substitute share the Chancellor of Justice's power of decision. They take decisions independently and with the same authority as the Chancellor.

The Chancellor of Justice provides legal information and opinions to the President of the Republic and to the Government upon request. He also submits an annual report on his activities to the Parliament and the Government. The Chancellor of Justice is the head of the Office of the Chancellor of Justice.

The basic provisions on the status and duties of the Chancellor of

Justice are laid down in the Finnish Constitution. More detailed provisions on the duties of the Chancellor are given in the Act on the Chancellor of Justice, the Decree on the Office of the Chancellor of Justice, and the Rules of Procedure of the Office of the Chancellor of Justice. The Chancellor of Justice, the Deputy Chancellor of Justice and his substitute are all appointed by the President of the Republic.



SUPERVISING THE GOVERNMENT

The Chancellor of Justice oversees the legality of the decisions and other actions of the Government, its members, and the President of the Republic, having due regard to fundamental rights and liberties as well as human rights.

The Chancellor of Justice attends Government plenary sessions and Presidential sessions to ensure that matters are handled in a lawful manner. Each year about 2,000 matters are decided at Government plenary sessions and about 1,000 at Presidential sessions.

The matters discussed or decided at Government sessions include Government Bills and budget proposals for presentation to the Parliament, Government statements, reports and annual reports, Government decrees and most of the senior appointments to public office. The President of the Republic presents Government Bills and draft budgets to the Parliament, ratifies Acts of Parliament and issues Presidential decrees, which normally concern international relations. Other matters that require a presidential decision include international co-operation, the most important appointments to public office, and requests concerning pardons. The decisions taken by the President of the Republic usually follow the Government's recommendation.

Decision-making at Government sessions requires a formal presentation of the matter for decision. A public official draws up a presentation agenda for this purpose. The agenda includes a draft resolution and the grounds for the resolution.





In practice, the Chancellor of Justice oversees the legality of these proposed actions by reviewing the presentation agenda documents in advance. This examination focuses on legal issues and not the appropriateness of the resolutions or other political considerations.

When reviewing the documents, the Chancellor of Justice pays particular attention to:

- conformity of Government Bills with the Constitution
- possible conflict of a Presidential or Government decree with an Act of Parliament
- powers of Government plenary sessions
- national procedure for matters decided by the European Union that require a Government resolution
- legality of appointments to public office
- impartiality and disqualification issues
- equality issues.

In Finland, the actions of the highest bodies of Government are based on a strict observance of legality: assiduous compliance with the Constitution and other laws is a priority. Every effort is made to have any possible errors corrected before the relevant session of the Government. The Chancellor of Justice has a duty to point out to public officials and members of the Government any official act that is at variance with the law. In practice, such instances occur very seldom. Under the Constitution, the Chancellor's supervisory duty extends also to the actions of the President.

The Parliament oversees the legality of the actions of the members of the Government as well as the legality of the actions of the Chancellor of Justice, the Deputy Chancellor of Justice and his substitute.

SUPERVISING OTHER AUTHORITIES

Under the Finnish Constitution, the Chancellor of Justice has a duty to ensure that courts of law, other authorities, civil servants, public employees, and other persons performing public tasks obey the law and fulfil their obligations. When performing this duty, the Chancellor of Justice also monitors the implementation of fundamental and human rights.

The Chancellor of Justice investigates complaints received from the general public and examines notifications and proposals from authorities, taking action where necessary.

The Chancellor may also initiate investigations on his own initiative. News items in the media or alleged incidents of unlawfulness, for example, may give rise to an investigation.

SUPERVISING ADVOCATES

Under the Act on Advocates, the Chancellor of Justice has a duty to supervise the actions of advocates, although primary responsibility for their supervision lies with their own organization, namely the Finnish Bar Association. State-employed public legal aid counsels are also subject to supervision by the Chancellor of Justice in the same way as advocates.

The supervision by the Chancellor of Justice is designed to ensure that advocates fulfil their obligations. He is, however, not empowered to intervene in the work of an advocate or to order disciplinary sanctions. The Chancellor may instead, on the basis of a complaint or at his own instigation, initiate disciplinary proceedings in the Finnish Bar Association against an advocate or a public legal aid council. The Chancellor also examines all the Association's decisions in matters concerning advocate supervision.

COMPLAINTS PROCEDURE

In practice, legality supervision consists mainly of rulings by the Chancellor of Justice on complaints lodged by citizens concerning the actions of authorities, civil servants, and other persons performing public tasks.

The Chancellor of Justice can be contacted whenever it is felt that an authority, a civil servant or other person performing a public task has acted erroneously or infringed someone's rights, or if an advocate or public legal aid adviser has neglected his obligations. The Chancellor

can also be contacted if a complainant believes that the fundamental and human rights guaranteed by the Constitution have not been upheld.

Complaints should be submitted in writing and should include:

- the name of the civil servant, authority or public-sector entity whose actions the complaint concerns
- an explanation of the action considered erroneous by the complainant
- the name, address and signature of the complainant.

Relevant documentation may be attached to the complaint. The documents will be returned with the decision, or earlier if requested. The Chancellor of Justice will not investigate a complaint that concerns a matter more than five years old, unless there is special reason to do so.

Referendaries acquire any necessary additional documentation for the investigation or decision concerning the complaint and prepare the case. The Chancellor of Justice is entitled to obtain all the information and documents he needs from any authority, even when these are of a confidential nature. Where necessary, the Chancellor of Justice may request a police investigation.

The complainant is usually given the opportunity to provide a response. A written decision on the complaint will be sent by mail.

If it is deemed that an unlawful or erroneous action has taken place, the Chancellor of Justice may:

- issue a reprimand to the official or body that has acted erroneously
- issue instructions on proper procedure
- in the most serious cases, order charges to be brought against the party concerned.

The Chancellor of Justice is not authorized to annul or amend a decision taken by an authority or order compensation to be paid, but if a clear error is noted, the Chancellor will strive to have it corrected.

When necessary, the Chancellor of Justice may use his authority to recommend the amendment of legal provisions or regulations, or to initiate proceedings to annul a court ruling or proceedings for some other extraordinary appeal.

An investigation by the Chancellor of Justice in itself may result in the authority or public official correcting the error.

The services of the Office of the Chancellor of Justice are free of charge to the complainant.

THE PAST AND PRESENT OF LEGALITY CONTROL

The position of Chancellor of Justice was established in late 18th century, when Finland was still part of the Swedish kingdom. After Finland was annexed to the Russian Empire in 1809 as an autonomous Grand Duchy, its legal order continued to be based on the constitutional provisions and other legislation of the Swedish period. The duties of the Chancellor of Justice were entrusted to the new office of the Procurator, who assisted the Governor-General in supervising compliance with the law.

When Finland declared independence in 1917 the title of Procurator reverted to that of Chancellor of Justice and the Deputy Procurator became the Deputy Chancellor of Justice. The basic provisions concerning the Chancellor of Justice were incorporated into the 1919 Constitution Act of Finland. The first Chancellor of Justice of the newly independent Finland was a former Speaker of Parliament Mr Pehr Evind Svinhufvud, who later went on to become the third President of the Republic of Finland. Today, the basic provisions on the duties of the Chancellor of Justice, the Deputy Chancellor of Justice and his substitute are a part of the Finnish Constitution. The new Constitution came into force in 2000.





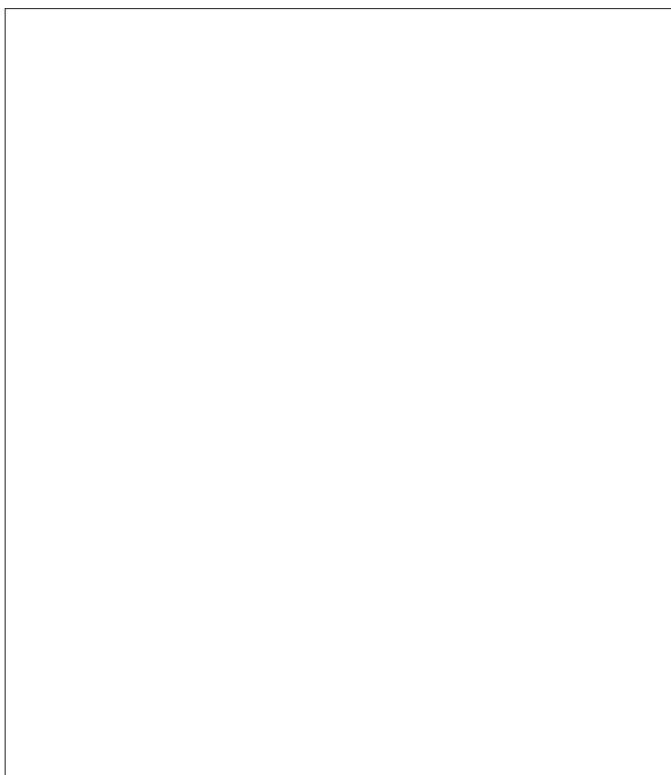
The Chancellor of Justice and the Parliamentary Ombudsman

The Chancellor of Justice and the Parliamentary Ombudsman, whose position was founded in 1919, have largely similar powers in supervising the actions of authorities, civil servants and other persons performing public tasks. Their fields of responsibility differ in that only the Chancellor examines complaints concerning the actions of advocates and public legal aid councils. The Office of the Chancellor of Justice is responsible for the supervision of Government plenary sessions and Presidential sessions. The Chancellor of Justice, the Deputy Chancellor of Justice or his substitute is always present at Government plenary sessions and Presidential sessions.

For the most part, the Chancellor of Justice assigns complaints concerning the Defence Forces, the Frontier Guard, arrests, imprisonments, or prisons and other closed institutions to the Ombudsman for examination. Complaints lodged by prisoners are also usually dealt with by the Ombudsman. The Chancellor of Justice and the Parliamentary Ombudsman may refer complaints to each other for examination, if it is felt that the transfer will expedite the examination, or there are other special grounds for the transfer.

THE OFFICE OF THE CHANCELLOR OF JUSTICE

The Office of the Chancellor of Justice prepares matters for decision by the Chancellor of Justice and performs other functions that fall within the purview of the Chancellor of Justice. Annually the office receives some 1,400 complaints concerning the actions of civil servants or other persons performing a public task. 10-20% of the complaints examined lead to an action by the Chancellor of Justice. The action most commonly taken by the Chancellor is to issue instructions or guidelines on proper procedure for future reference.



The Office of the Chancellor of Justice supervises the actions of the Government mainly by way of weekly presentation agenda review meetings. The proposals due to be presented in the next Government plenary session and the Presidential session are examined during these meetings.

The Parliament supervises the actions of the Office of the Chancellor of Justice. The Constitution provides that the Chancellor of Justice submit an annual report on his activities and observations on how the law has been obeyed. In Parliament the annual report is examined by the Committee for Constitutional Law. The Committee then submits a memorandum on the annual report for discussion by the Parliament's plenum.

The Office of the Chancellor of Justice has a staff of some 35 persons, the majority of whom hold degrees in law.

The Office operates independently within Government premises and is divided into three departments.



The Administrative Unit

- handles matters concerning the Office's internal administration and finance
- is responsible for staff training matters
- produces the Annual Report of the Chancellor of Justice
- manages publicity and communications
- Secretary General is the head of the unit and acts as the substitute of the Deputy Chancellor of Justice

The Department for Government Affairs

- assists the Chancellor of Justice in supervising the actions of the Government and in preparing statements
- handles matters concerning the supervision of advocates and public legal aid advisers
- deals with international matters and matters concerning national preparation of EU issues

The Department for Legal Supervision

- handles complaints and other legality control matters
- deals with bringing charges against public officials
- prepares opinions that fall within the Department's jurisdiction
- assists the Department for Government Affairs where necessary

OFFICE OF THE CHANCELLOR OF JUSTICE

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