

DRAFTING NOTE**CONSULTATION DRAFT — NOT ENACTED LAW**

Institutional risk	Legislative safeguard
Political prosecution or protected impunity	No external direction in an individual case; objective prosecution tests; recorded reasons; victim review; special prosecutor for conflicts.
Conflict between State advice and prosecution	Functionally separate Prosecution, Government Legal and Public Interest Services with protected heads, files and decisions.
Personal capture of the Office	Public merit shortlist, Assembly approval, one eight-year term, cause-based removal, transparent recusal and acting arrangements.
A new purge after dictatorship	Individualised vetting, notice, evidence, hearing, appeal and prohibition of collective or discriminatory exclusion.
Secret justice and unreviewable discretion	Published policies, case statistics, reasons where lawful, independent inspection, audit, administrative review and judicial review.
Excessive prosecutorial power	No judicial, police, detention or intelligence power; warrants and coercive measures remain for courts and authorised investigators.
Government lawyers defending illegality	Duty to the Constitution and State, not an office-holder; written illegality warnings; withdrawal; public-interest proceedings where necessary.

Draft status. This is an institution-building draft for constitutional, legislative, professional and public consultation. Before enactment it must be harmonised with the final Penal Code, Criminal Procedure Code, Civil Procedure Code, Police Law, Legal Profession Law, public-finance legislation, anti-corruption legislation, witness-protection law, access-to-information law and transitional-justice framework.

Article 54 of the Constitution states only that there shall be an Advocate General whose powers and duties shall be determined by law. Its placement in Chapter VI, Administration of Justice, supports an institution devoted to legality and justice rather than an ordinary political ministry. Article 42(7) permits the President, with National Assembly approval, to appoint persons whom another law requires the President to appoint. This draft uses that route after an independent merit process, public scrutiny and a reasoned approval hearing.

The Office combines functions commonly associated with an attorney-general while separating functions that create conflicts. The Advocate General is the State's principal legal adviser and constitutional guardian. A Director of Public Prosecutions controls individual criminal cases without political direction. A Solicitor-General leads noncriminal advice and representation. A Public Interest and Constitutional Compliance Service may act where an organ of State proposes or persists in illegality. The Office is accountable for legality, policy, resources and performance, but neither the executive nor the legislature may demand answers calculated to influence a particular case.

The transition provisions respond to the legacy of repression without permitting revenge, collective guilt or replacement of one political prosecution system with another. They require preservation of records, urgent review of detention and politically tainted cases, merit-based vetting with due process, protection of victims and witnesses, lawful investigation of grave violations, and transparent rebuilding of professional capacity.

DRAFTING REFERENCES — NOT PART OF THE ACT

[1] Constitution of Eritrea (1997), especially Articles 14-19, 23-24, 32, 39, 42-43 and 48-55. User-supplied constitutional text

[2] United Nations, Guidelines on the Role of Prosecutors (1990). Official source

[3] Venice Commission, Report on European Standards as Regards the Independence of the Judicial System: Part II – The Prosecution Service. Official source

[4] Constitution of Kenya, Articles 156-158. Official source

[5] Constitution of the Republic of South Africa, section 179. Official source

[6] Canada, Director of Public Prosecutions Act. Official source

DRAFT ACT

ACT NO. ____/2026

ADVOCATE GENERAL OF ERITREA ACT, 2026

AN ACT TO ESTABLISH THE OFFICE OF THE ADVOCATE GENERAL AND
PROVIDE FOR ITS INDEPENDENCE, ORGANIZATION, POWERS AND DUTIES

PREAMBLE

WHEREAS sovereign power is vested in the people and every exercise of public power must be authorised, limited and reviewable under the Constitution and law;

WHEREAS Article 54 of the Constitution establishes an Advocate General and directs that the powers and duties of that office be determined by law;

WHEREAS fair, independent and impartial prosecution is indispensable to liberty, equality, human dignity, public safety and confidence in the administration of justice;

WHEREAS the State requires candid legal advice and professional representation that serve the Constitution and long-term public interest rather than the personal or partisan interest of any office-holder;

WHEREAS Eritrea's transition from repression requires protection against both impunity and retaliatory justice, preservation of evidence, review of unlawful detention and prosecutions, and a professional legal service selected on merit;

NOW, THEREFORE, the National Assembly of Eritrea enacts as follows:

CHAPTER 1 PRELIMINARY PROVISIONS

Article 1 — Short title

This Act may be cited as the Advocate General of Eritrea Act, 2026.

Article 2 — Commencement

1. This Act enters into force on publication in the Official Gazette.
2. The transitional provisions take effect immediately and govern conversion of any existing prosecution, state-law or attorney-general functions into the Office established by this Act.

Article 3 — Constitutional authority

1. This Act gives effect to Article 54 of the Constitution and shall be interpreted consistently with the Constitution as a whole.
2. Appointment under this Act is made pursuant to Article 42(7) of the Constitution and the approval procedures of the National Assembly.
3. A power under this Act shall not be used to abridge a constitutional right except under clear law and a necessary, proportionate and reviewable measure.

Article 4 — Objects

1. Establish a strong, independent, impartial, accountable and professionally administered Office of the Advocate General.
2. Secure fair prosecution without political, personal, discriminatory or improper influence.
3. Provide candid legal advice and effective representation to the State under the Constitution and law.
4. Promote, protect and uphold the rule of law, human rights, public integrity and the public interest.
5. Rebuild confidence and professional capacity during the transition from repression.

Article 5 — Interpretation

1. “Advocate General” means the constitutional office-holder appointed under Article 31.
2. “Director” means the Director of Public Prosecutions appointed under Article 42.
3. “Government Legal Service” means the service established under Article 18.
4. “Office” means the Office of the Advocate General established under Article 7.
5. “prosecutor” means a legally qualified officer authorised to exercise a prosecution function under this Act.
6. “public authority” includes an organ of State, ministry, department, commission, public enterprise, local authority and person exercising public power.
7. “Solicitor-General” means the head of the Government Legal Service appointed under Article 44.

8. “victim” includes a person directly harmed by an offence and, where appropriate, a family member or lawful representative.

Article 6 — Application and relationship with other laws

1. This Act applies to the Office, its office-holders and staff, public authorities receiving its services, and persons exercising prosecution powers on behalf of the State.
2. The Criminal Procedure Code governs criminal proceedings except where this Act provides a stronger institutional safeguard consistent with the Constitution.
3. Nothing in this Act diminishes the jurisdiction or independence of a court, the lawful mandate of the police, the Judicial Service Commission, Auditor General, Electoral Commission, National Bank or another independent institution.

CHAPTER 2

ESTABLISHMENT, STATUS AND INDEPENDENCE

Article 7 — Establishment and name

1. There is established a body corporate known as the Office of the Advocate General of Eritrea.
2. The Office has perpetual succession, a common seal and capacity to contract, hold property, employ staff, institute or defend proceedings and perform every lawful act necessary for its mandate.
3. The Office is an institution in the administration of justice and is not a ministry, political office, police service, court or intelligence body.

Article 8 — Constitutional mission

1. The Office shall protect legality, fair administration of justice and the public interest through independent prosecution, constitutional and public-law action, government legal advice and representation.
2. Its client is the State under the Constitution and not the personal, electoral, commercial or partisan interest of an office-holder.

Article 9 — Institutional independence

1. The Office, Advocate General, Director, prosecutors and other protected decision-makers shall exercise their powers independently and without fear, favour or prejudice.
2. No person or authority may direct or improperly influence whether, whom, when or how to investigate for prosecution, prosecute, decline, discontinue, divert, settle or appeal in an individual criminal matter.
3. Lawful cooperation, general legislation and published prosecution policy do not create subordination.

Article 10 — Prohibition of interference

1. A person shall not threaten, induce, obstruct, punish, transfer, dismiss, disadvantage or offer a benefit to influence a protected decision.
2. A material attempt at interference shall be recorded and reported to the Advocate General, Inspector-General of the Office and, where appropriate, the National Assembly and a competent investigative authority.

Article 11 — Duty of public authorities

1. Every public authority shall respect and protect the independence, dignity, accessibility and effectiveness of the Office.
2. A public authority shall provide lawful information, access or assistance reasonably requested, or give prompt written reasons for refusal.

3. No authority may withhold budget, premises, security, records or routine cooperation to influence a decision.

Article 12 — Accountability without direction

1. The Office is accountable to the Constitution, courts, National Assembly and public for legality, stewardship, policy, administration and performance.
2. Accountability shall not permit questioning, instruction or retaliation concerning the merits or anticipated outcome of a pending individual case.
3. A court may review legality and rights in accordance with law without assuming the constitutional role of prosecutor or legal adviser.

Article 13 — Administrative and financial autonomy

1. The Office controls its lawful internal organisation, staffing, budget execution, information systems, security, procurement and records.
2. Its proposed budget shall be submitted directly to the National Assembly through the public budget process and shall appear as a distinct vote.
3. A reduction targeted to punish or influence lawful action is prohibited.

Article 14 — Head office and regional access

1. The head office shall be in Asmara.
2. The Advocate General shall establish regional prosecution and legal-service offices necessary for equal access, case continuity and timely justice.
3. Services shall be accessible in relevant languages and to persons with disabilities.

Article 15 — Seal and authentication

1. The form, custody and use of the seal shall be prescribed by regulation.
2. Electronic signatures, secure filing and authenticated digital records may be used in accordance with law.

CHAPTER 3

MANDATE AND FUNCTIONAL STRUCTURE

Article 16 — Core functions of the office

1. Conduct public prosecutions through the National Public Prosecution Service.
2. Serve as principal legal adviser to the State through the Government Legal Service.
3. Represent the State in civil, constitutional, administrative and international legal proceedings.
4. Promote constitutional compliance, defend the public interest and protect public assets.
5. Coordinate lawful mutual legal assistance, extradition, asset recovery and related international legal cooperation.
6. Publish policy, data and reports and promote public understanding of the rule of law.

Article 17 — National public prosecution service

1. There is established within the Office a National Public Prosecution Service headed by the Director of Public Prosecutions.
2. The Service has exclusive authority to institute and conduct prosecutions on behalf of the State except where another law expressly confers concurrent power subject to the safeguards of this Act.
3. The Service shall maintain functional, personnel, file and decision-making separation from government advice and civil representation.

Article 18 — Government legal service

1. There is established within the Office a Government Legal Service headed by the Solicitor-General.
2. The Service shall provide noncriminal legal advice, drafting support, transaction review and representation to public authorities.
3. A government lawyer's paramount professional duty is to the Constitution and law.

Article 19 — Public interest and constitutional compliance service

1. There is established a Public Interest and Constitutional Compliance Service headed by a Deputy Advocate General.
2. The Service may monitor proposed public action, issue compliance opinions, intervene with leave of court and institute proceedings authorised by this Act.
3. The Service shall not duplicate the adjudicative or investigative mandate of another constitutional institution.

Article 20 — International cooperation and asset recovery service

1. There is established a specialised service for extradition, mutual legal assistance, proceeds-of-crime litigation, international claims and recovery of public assets.

2. Its work shall comply with due process, applicable treaties, judicial authorisation, human rights and transparent accounting.

Article 21 — Victim and witness support service

1. There is established a service to inform victims, facilitate participation, assess protection needs and coordinate lawful assistance.
2. The Service shall not coach testimony, compromise defence rights or replace an independent witness-protection authority.

Article 22 — Professional responsibility and inspection directorate

1. There is established an operationally independent directorate headed by the Inspector-General of the Office.
2. It shall inspect case systems, investigate misconduct, audit compliance and protect whistleblowers, but shall not substitute its preferred merits decision for a lawful prosecutorial judgment.

Article 23 — Legal policy, research and training institute

1. The Office shall maintain a professional institute for induction, continuing education, prosecution policy, legal research, ethics and leadership development.
2. Training shall include constitutional rights, fair-trial duties, gender-based violence, children, disability, digital evidence, financial crime, international crimes and trauma-informed practice.

Article 24 — Separation of functions

1. A person who gave material confidential advice to a public authority in a matter shall not direct or conduct a criminal prosecution arising from the same matter.
2. Civil representation, public-interest review, prosecution and internal investigation files shall be separated by access controls and conflict screens.
3. A breach of a screen shall be recorded, remedied and independently reviewed.

Article 25 — No judicial or police power

1. The Office shall not adjudicate guilt, issue a warrant, impose punishment, operate a detention facility or exercise general police or intelligence command.
2. Coercive investigative measures require the authority and oversight prescribed by the Constitution and law.
3. A prosecutor may advise or lawfully direct an investigation only to the extent expressly authorised by law.

CHAPTER 4

ADVOCATE GENERAL: APPOINTMENT, TENURE AND REMOVAL

Article 26 — Office of Advocate General

1. The Advocate General is the constitutional head of the Office, guardian of its independence and principal legal adviser to the State.
2. The Advocate General shall not personally direct the merits of an individual prosecution except through the review mechanisms expressly provided by this Act.

Article 27 — Qualifications

1. A candidate must be an Eritrean citizen of recognised integrity, independence, courage and commitment to constitutional government.
2. The candidate must be qualified for appointment to the highest court or have at least fifteen years of substantial legal practice, judicial, prosecutorial, academic or public-law experience.
3. The candidate must demonstrate leadership, sound judgment, human-rights competence and freedom from improper political or financial dependence.

Article 28 — Disqualification

1. A person is ineligible if, during the preceding five years, that person served as a party officer, campaign manager, minister, elected political office-holder or senior officer of an armed, intelligence or security service.
2. A conviction for corruption, dishonesty, money laundering, obstruction of justice, abuse of office, serious violence or grave human-rights abuse is disqualifying unless lawfully set aside.
3. Undischarged bankruptcy, material tax default, concealed conflict or deliberate falsehood in the selection process is disqualifying.

Article 29 — Independent selection panel

1. For each vacancy an Independent Advocate General Selection Panel shall be constituted in accordance with Schedule 2.
2. The Panel is independent and shall conduct a public, merit-based, inclusive and reasoned process.
3. No appointing authority may alter the Panel's scoring or add a person to its final shortlist.

Article 30 — Public selection procedure

1. The vacancy shall be advertised nationally and to the Eritrean diaspora for at least thirty days.
2. Eligible candidates, disclosures and public interview schedules shall be published, subject to lawful privacy and security protection.

3. The Panel shall consider public submissions, verify qualifications and publish a reasoned shortlist of three candidates.

Article 31 — Appointment

1. The President shall nominate one person from the final shortlist and, with the approval of the National Assembly, appoint that person as Advocate General.
2. The responsible Assembly committee shall hold a public hearing and publish a reasoned report before the Assembly votes.
3. If approval is refused, the President shall nominate another person from the same shortlist; a new process begins only after the shortlist is exhausted.

Article 32 — Oath and assumption of office

1. Before assuming office, the Advocate General shall take the oath in Schedule 1 before the Chief Justice in public.
2. The appointee shall publish the required asset, interest and professional disclosures before exercising power.

Article 33 — Term

1. The Advocate General serves one nonrenewable term of eight years.
2. The term shall not coincide by design with a presidential or Assembly term and shall not be shortened by a change of government.
3. The Advocate General continues only for necessary caretaker functions for not more than ninety days after expiry if a successor has not assumed office.

Article 34 — Full-time service and remuneration

1. The Advocate General shall serve full-time and hold no other public office, legal practice, business management or paid employment.
2. Remuneration shall be prescribed by law, charged to the Office vote and shall not be reduced during the term except as part of a general nondiscriminatory measure.

Article 35 — Acting Advocate General

1. During temporary incapacity or a vacancy, the Solicitor-General acts for no more than one hundred and eighty days.
2. If the Solicitor-General is conflicted or unavailable, the most senior eligible Deputy Advocate General acts by operation of law.
3. An acting office-holder shall not make an irreversible senior appointment or institutional reorganisation except where strictly necessary.

Article 36 — Grounds for removal

1. The Advocate General may be removed only for proved serious misconduct, gross incompetence, incapacity, corruption, grave breach of the Constitution or this Act, or loss of a required professional qualification.
2. A disagreement over a lawful legal opinion, prosecution policy, individual case or unpopular decision is not a ground.

Article 37 — Removal tribunal

1. A removal petition shall be screened by the Chief Justice for a prima facie statutory ground and, if established, referred to an independent tribunal constituted under Schedule 3.
2. The Advocate General is entitled to notice, disclosure, counsel, a public hearing subject to necessary protection, examination of evidence and a reasoned decision.
3. The President may remove the Advocate General only after a tribunal finding and approval of the National Assembly.

Article 38 — Suspension

1. The President may suspend the Advocate General on the tribunal's reasoned recommendation where continued service creates a serious risk to evidence, safety or institutional integrity.
2. Suspension is on full remuneration, is reviewed every sixty days and ends when the proceeding ends.

Article 39 — Resignation and vacancy

1. The Advocate General may resign by written notice to the President, Chief Justice and Chairperson of the National Assembly.
2. A vacancy shall be declared publicly within seven days and the selection process shall begin within thirty days.

Article 40 — Post-service restrictions

1. For two years after leaving office, a former Advocate General shall not act for a person in a matter personally handled in office, lobby the Office, or accept employment creating a serious appearance of reward.
2. Permanent duties of confidentiality, conflict and protection of privileged information remain.

CHAPTER 5 SENIOR LEADERSHIP AND INSTITUTIONAL GOVERNANCE

Article 41 — Director of public prosecutions

1. The Director is the independent professional head of the National Public Prosecution Service and controls individual prosecution decisions.
2. The Director reports to the Advocate General on policy, administration and aggregate performance, but not for political approval of case merits.

Article 42 — Appointment and term of director

1. The President shall, with National Assembly approval, appoint the Director from a public shortlist prepared by the Panel in Schedule 2.
2. The Director must have at least twelve years of relevant legal experience and satisfies the integrity and independence requirements applicable to the Advocate General.
3. The Director serves one nonrenewable term of seven years and may be removed only through the tribunal procedure applicable to the Advocate General.

Article 43 — Deputy directors of public prosecutions

1. The Advocate General shall appoint two Deputy Directors from a merit shortlist prepared by the Legal Service Commission established under Article 49.
2. A Deputy Director serves one nonrenewable term of six years and is protected from removal except for cause after fair proceedings.

Article 44 — Solicitor-general

1. The Solicitor-General is the professional head of the Government Legal Service and principal deputy to the Advocate General for noncriminal matters.
2. The President shall, with National Assembly approval, appoint the Solicitor-General from a public shortlist prepared under Schedule 2.
3. The Solicitor-General serves one nonrenewable term of seven years and may be removed only through the protected tribunal procedure.

Article 45 — Deputy advocates general

1. The Advocate General may appoint, from open merit competition, Deputy Advocates General responsible for public interest, international cooperation, administration and other prescribed portfolios.
2. A Deputy serves a six-year term renewable once after independent performance review.

Article 46 — Inspector-general of the office

1. The Legal Service Commission shall appoint an Inspector-General after public competition for one nonrenewable six-year term.

2. The Inspector-General reports functionally to the Integrity and Audit Committee and administratively to the Advocate General.
3. Removal requires a reasoned finding by the Commission after a fair hearing.

Article 47 — Executive committee

1. An Executive Committee consists of the Advocate General, Director, Solicitor-General, Deputy Advocates General, Chief Operating Officer and Inspector-General as a nonvoting integrity participant.
2. It coordinates strategy, budget, capacity and cross-service risk but shall not vote on the merits of an individual prosecution or privileged client matter.

Article 48 — Integrity and audit committee

1. There shall be a committee chaired by an independent external member with expertise in audit, ethics or justice administration.
2. It oversees internal audit, risk, procurement integrity, complaints, whistleblower protection and implementation of inspection recommendations.
3. It shall not access case material beyond what is necessary and lawful for systemic assurance.

Article 49 — Legal service Commission

1. There is established an independent Legal Service Commission for merit recruitment, promotion, transfer, discipline and service conditions of prosecutors and state counsel.
2. Its composition and procedure are prescribed in Schedule 4 and shall include professional, public-service and independent public members.
3. It may not direct an individual case or legal opinion.

Article 50 — Strategic plan and annual priorities

1. The Advocate General shall publish a costed five-year strategic plan and annual implementation plan after consultation.
2. Priorities may address categories of harm and institutional delay but shall not identify a person for prosecution or protection.

Article 51 — Delegation

1. A statutory power may be delegated in writing to a qualified officer except appointment of senior protected office-holders, adoption of prosecution policy, approval of annual reports, or a power expressly made personal.
2. Delegation does not remove responsibility and shall be recorded in a public register except where lawful confidentiality is necessary.

Article 52 — Regional organisation

1. Regional directors shall be appointed on merit and are responsible for professional delivery within prescribed jurisdictions.
2. Transfers shall not be used to punish a lawful decision and are subject to reasoned review.

CHAPTER 6

PUBLIC PROSECUTION PRINCIPLES AND DECISIONS

Article 53 — Authority to prosecute

1. The Director may institute, undertake, continue, take over and, with required judicial permission, discontinue criminal proceedings on behalf of the State.
2. No consent of a political or administrative authority is required.
3. A prosecution is conducted in the name of the people and in the interests of justice.

Article 54 — Prosecution test

1. A prosecution may commence or continue only where admissible evidence provides a reasonable prospect of conviction and prosecution is required in the public interest.
2. Evidence sufficiency shall be assessed objectively, including credible exculpatory, reliability and admissibility concerns.
3. Public interest shall be assessed under published policy and never replace the minimum evidentiary threshold.

Article 55 — Improper considerations

1. A decision shall not be influenced by political opinion, ethnicity, region, language, gender, religion, disability, social or economic status, personal relationship, lawful criticism, media pressure or the identity of a powerful person.
2. Official position, wealth, military status or political connection shall neither confer immunity nor create a presumption of guilt.

Article 56 — Legality and consistency

1. Comparable cases shall be treated consistently while permitting reasoned attention to material differences.
2. The Director shall publish a prosecution policy and charging standard after consultation.
3. An unpublished quota, blacklist or political priority has no effect.

Article 57 — Duty of objectivity

1. A prosecutor is a minister of justice and not an advocate for conviction at all costs.
2. The prosecutor shall consider circumstances favourable and unfavourable to a suspect and shall correct a material error promptly.
3. Where the charge is unfounded, the prosecutor shall not initiate or continue it.

Article 58 — Human dignity and fair trial

1. A prosecutor shall respect the presumption of innocence, equality, dignity, privacy, liberty, counsel, silence and a fair, speedy and public hearing.

2. A prosecutor shall oppose arbitrary detention and disclose unlawful custody to the court at the earliest opportunity.

Article 59 — Disclosure

1. The prosecution shall provide timely disclosure of relevant material, including material capable of assisting the defence or undermining the prosecution, subject only to lawful court-supervised protection.
2. A prosecutor shall not suppress, alter, destroy or mischaracterise evidence.
3. Where essential material cannot fairly be disclosed, the prosecutor shall seek an appropriate court order or discontinue the charge.

Article 60 — Evidence obtained unlawfully

1. A prosecutor shall not knowingly rely on evidence obtained by torture, cruel, inhuman or degrading treatment or another grave rights violation, except against a person accused of that violation.
2. Suspected unlawful procurement shall be disclosed to the court and referred for independent investigation.

Article 61 — Charging decisions

1. Charges shall reflect the evidence and gravity of alleged conduct and shall not be multiplied to coerce a plea or punish exercise of a right.
2. A written charging record shall identify the evidentiary and public-interest basis in the secure case file.

Article 62 — Arrest and pre-trial detention

1. A prosecutor shall request arrest or detention only where lawful, necessary and proportionate and shall prefer summons or a less restrictive measure where adequate.
2. The prosecutor shall ensure presentation before a court within the constitutional period and shall not seek detention to obtain a confession or punish before trial.

Article 63 — Bail and release

1. A position on bail shall be based on individual risk supported by evidence.
2. Poverty, political opinion, peaceful expression or inability to provide an excessive financial condition is not by itself a lawful basis for detention.

Article 64 — Discontinuance

1. Proceedings may be discontinued only for lawful reasons recorded in writing and, after the accused has pleaded, with permission of the court.
2. The victim shall be informed and heard where practicable without conferring a veto.

3. Reasons may be withheld only to the minimum extent necessary for safety, privacy, an active investigation or fair trial.

Article 65 — Plea agreements

1. A plea agreement must be voluntary, informed, factually supported, proportionate and approved by a court.
2. A prosecutor shall not threaten an unsupported charge or unlawful detention to secure agreement.
3. Victims shall be consulted where practicable and the material terms shall be placed on the record.

Article 66 — Diversion and alternatives

1. Published policy may provide proportionate diversion, restorative justice or conditional discontinuance for suitable cases.
2. Serious violence, corruption, grave human-rights violations and coercive abuse of office require special written justification and victim safeguards before any alternative is considered.

Article 67 — Children and vulnerable persons

1. In matters involving a child, the child's best interests, age, development and rehabilitation shall receive primary consideration consistent with public safety and victim rights.
2. Special measures shall protect vulnerable witnesses and accused persons without compromising confrontation and fair-trial rights.

Article 68 — Victim participation and information

1. A victim is entitled to respectful treatment, information on material case stages, an opportunity to present relevant concerns and reasons for a final decision not to prosecute, subject to lawful protection.
2. A victim shall not bear the burden or cost of public prosecution.

Article 69 — Review of decisions

1. A suspect, accused person or victim materially affected by a decision may request internal review within the prescribed period.
2. The review shall be conducted by a prosecutor not involved in the original decision and may confirm, vary or remit the decision with reasons.
3. Internal review does not bar judicial review of legality or constitutional rights.

Article 70 — Private prosecution

1. Where the Director finally declines prosecution, a person with a substantial interest may seek leave of court to institute a private prosecution under the Criminal Procedure Code.

2. The court shall protect against harassment, conflict, inequality of arms and misuse for political or commercial ends.

Article 71 — Appeals

1. The prosecution may appeal only where authorised by law, supported by a reasonable legal basis and consistent with the prohibition on double jeopardy.
2. An appeal shall not be used to punish an acquitted person or delay release.

Article 72 — Prosecution of public officials

1. Allegations of corruption, abuse of power, obstruction, torture, disappearance, unlawful killing and other grave violations by public officials shall receive timely and impartial attention.
2. A chain of command, official instruction or state secrecy claim does not extinguish individual criminal responsibility under law.

Article 73 — No case quotas

1. No prosecutor shall be evaluated by conviction rate, detention rate, number of charges or revenue recovered alone.
2. Performance measures shall reward legality, preparation, fairness, timeliness, disclosure, victim service and professional judgment.

CHAPTER 7

INVESTIGATIONS, SPECIAL CASES AND INTERNATIONAL CRIME

Article 74 — Relationship with investigators

1. Police and other authorised investigators retain their statutory powers and professional responsibilities.
2. A prosecutor may request or direct a lawful investigative step where authorised by criminal procedure law, and an investigator shall comply or provide prompt written legal or operational reasons.
3. Disputes shall be escalated institutionally and may be referred to a court where rights or legality require.

Article 75 — Investigation plans and legal advice

1. In serious or complex cases a prosecutor may advise on legal elements, warrants, disclosure, evidence preservation and trial readiness.
2. Advice shall not authorise an unlawful method or convert the prosecutor into a witness or investigator.

Article 76 — Judicial authorisation

1. Search, interception, freezing, seizure and other coercive measures require prior judicial authorisation except a narrowly defined urgent power under law subject to prompt review.
2. Applications shall disclose material facts fairly, including known information adverse to the request.

Article 77 — Special prosecutor

1. A Special Prosecutor shall be appointed under Schedule 5 where the Advocate General, Director, Solicitor-General or a close associate is a subject, material witness or has a disqualifying conflict.
2. The Special Prosecutor has the Director's case powers and secure independent staff, budget and reporting lines for the assigned matter.
3. No person in the ordinary Office hierarchy may direct or remove the Special Prosecutor.

Article 78 — Matters concerning the President

1. Presidential immunity and impeachment requirements under Articles 41 and 43 of the Constitution shall be respected.
2. Immunity does not authorise destruction of evidence or prevent lawful preservation, confidential investigation or action against other persons where permitted.
3. Any charge against a serving President may proceed only through the constitutional process.

Article 79 — Election-related offences

1. Election-related investigations and prosecutions shall be assigned through an objective system insulated from party or candidate influence.
2. The Electoral Commission may refer suspected offences but shall not direct the prosecution decision.
3. Aggregate election-prosecution data shall be published promptly after protection of fair proceedings.

Article 80 — Serious human-rights violations

1. A specialised unit shall address torture, enforced disappearance, extrajudicial killing, conflict-related sexual violence, forced labour and other grave violations recognised by law.
2. Investigations shall be independent of an implicated institution and use victim-centred, trauma-informed and gender-sensitive methods.
3. No statutory limitation, amnesty or superior order shall be applied contrary to binding constitutional or international law.

Article 81 — International crimes

1. The Office may prosecute genocide, crimes against humanity, war crimes and other international crimes incorporated into Eritrean law.
2. Command or superior responsibility, immunities, limitation periods and defences shall be governed by the Constitution, implementing legislation and binding international law.

Article 82 — Mutual legal assistance and extradition

1. Requests shall be handled promptly, lawfully and with judicial oversight required by law.
2. Assistance shall be refused or conditioned where there is a substantial risk of torture, persecution, flagrant denial of fair trial or another prohibited consequence.
3. Political opinion shall not be disguised as an ordinary criminal ground.

Article 83 — Asset tracing and recovery

1. The Office may seek judicial freezing, restraint, confiscation, restitution and repatriation of criminal proceeds and unlawfully removed public assets.
2. Recovered assets shall be paid into the lawful public fund, independently audited and reported; the Office shall not finance itself from recoveries.

Article 84 — Protection of sources and witnesses

1. Applications for protection shall be based on individual risk and coordinated with an independent protection programme.

2. Relocation, anonymity or special measures require lawful authority and shall preserve defence rights.

Article 85 — Case allocation

1. Cases shall be allocated under objective, recorded criteria considering expertise, workload, geography, language, conflict and security.
2. A reassignment affecting a sensitive case requires written reasons and review by the Director or Special Prosecutor as applicable.

CHAPTER 8

GOVERNMENT LEGAL ADVICE AND REPRESENTATION

Article 86 — Principal legal adviser to the State

1. The Advocate General is the principal legal adviser to the State and Government on the Constitution, legislation, public administration, treaties, transactions, disputes and legal risk.
2. Advice shall be candid, independent, timely and directed to lawful options rather than justification of a predetermined result.

Article 87 — Duty to seek advice

1. A public authority shall seek written advice before submitting major legislation, regulations, treaties, sovereign borrowing, high-value contracts, concessions, guarantees, privatisations or measures materially affecting constitutional rights.
2. Thresholds and expedited procedures shall be prescribed by regulation.

Article 88 — Duty of candour by public authorities

1. A public authority requesting advice or representation shall disclose all material facts, documents, risks and adverse information.
2. Legal privilege shall not protect a false statement to counsel or concealment of crime, fraud or continuing illegality.

Article 89 — Legal opinions

1. A legal opinion shall identify the client authority, question, material assumptions, constitutional and statutory basis, risks and recommended lawful course.
2. An opinion binds government lawyers in the matter unless revised by the Advocate General, overruled by a court or displaced by valid law.
3. A public authority proposing to act contrary to a final opinion shall give written reasons to the Advocate General, who may take action under this Act.

Article 90 — Independence of advice

1. The President, Cabinet or another authority may request but shall not dictate the conclusion, suppress an opinion to facilitate illegality or retaliate against its author.
2. A lawyer shall record an attempted interference and may seek protected review.

Article 91 — Representation of the State

1. The Government Legal Service shall represent the State and public authorities in civil, constitutional, administrative, commercial and international proceedings unless independent counsel is required.

2. Representation does not permit misleading a court, advancing a frivolous position, concealing evidence or obstructing enforcement of a judgment.

Article 92 — Authority to conduct litigation

1. The Solicitor-General shall maintain standards for pleadings, evidence, settlement, appeals, outside counsel and litigation risk.
2. A public authority shall not retain outside counsel or concede, settle or abandon a material State claim without the approvals prescribed by regulation.

Article 93 — Unlawful conduct by a client authority

1. Where proposed conduct is clearly unlawful, counsel shall advise against it and identify lawful alternatives.
2. If the authority persists, the Advocate General may decline or withdraw representation, notify the responsible office-holder, seek a court determination or institute public-interest proceedings.
3. Withdrawal shall protect fair process, confidentiality and the public from avoidable harm.

Article 94 — State not office-holder as client

1. Legal services are provided to the institution of State and not to an official in a personal capacity.
2. An official accused of personal wrongdoing is not entitled to publicly funded representation unless law and an independent written assessment establish that representation concerns good-faith official conduct.

Article 95 — Conflicts in State representation

1. Where public authorities have materially adverse lawful interests, separate screened teams or independent counsel shall be appointed.
2. The Advocate General shall publish aggregate information on conflict appointments and expenditure.

Article 96 — Constitutional litigation

1. The Advocate General shall defend valid law and constitutional institutions while acknowledging binding precedent and material constitutional defect.
2. The Office shall not argue that executive convenience overrides an express right or final court order.

Article 97 — Friend of the Court and intervention

1. With leave of court, the Advocate General may intervene or appear as friend of the court where a matter substantially affects the Constitution, administration of justice, public finance or a diffuse public interest.

2. The Office shall disclose its interest and maintain independence from the parties.

Article 98 — Legislative and regulatory review

1. Draft legislation and regulations submitted for review shall be examined for constitutional authority, rights, clarity, enforceability, institutional competence, fiscal and litigation risk, and consistency with existing law.
2. A certificate of review is not a guarantee of constitutionality and shall identify unresolved material risks.

Article 99 — Treaties and international obligations

1. The Office shall advise on negotiation, signature, ratification, implementation and dispute implications of international agreements.
2. No legal opinion may substitute for National Assembly ratification where the Constitution requires it.

Article 100 — Public contracts and concessions

1. The Office shall review prescribed major contracts for authority, competition, beneficial ownership, fiscal exposure, dispute clauses, integrity safeguards and public value.
2. Legal review shall not replace procurement evaluation, technical due diligence or audit.

Article 101 — Settlement of claims

1. A settlement involving the State must be lawful, reasoned, proportionate, properly authorised and recorded.
2. A confidential term shall be used only where necessary and shall not conceal corruption, systemic illegality or misuse of public money.
3. Material settlements shall be reported in aggregate and individually where law permits.

Article 102 — Enforcement of judgments

1. The Office shall maintain a register of final judgments and settlement obligations against public authorities and monitor compliance.
2. No public authority may ignore, delay or evade a binding court order for budgetary, political or reputational convenience.
3. Persistent noncompliance shall be reported to the National Assembly and court.

Article 103 — Civil recovery and protection of public property

1. The Office may institute civil proceedings to recover public money, land, records or other assets unlawfully obtained, transferred or withheld.
2. Recovery action shall respect limitation, property, due process and innocent third-party rights.

Article 104 — Legal privilege and public interest

1. Legal professional privilege belongs to the State institution and shall be asserted only to protect lawful confidential advice and fair proceedings.
2. Privilege shall not be invoked to conceal completed illegality, corruption, grave rights abuse or a final legal conclusion whose publication is required by law.
3. The Advocate General may publish significant opinions in redacted form where the public interest in legal clarity outweighs residual harm.

Article 105 — Outside counsel

1. Outside counsel may be retained only for specialised need, conflict, capacity or demonstrable value under transparent, competitive and diverse selection.
2. Fees, scope, beneficial interests and performance shall be audited and published subject to privilege and case protection.

CHAPTER 9

RULE OF LAW, PUBLIC INTEREST AND CONSTITUTIONAL COMPLIANCE

Article 106 — Duty to uphold rule of law

1. The Advocate General shall promote, protect and uphold the rule of law and defend the public interest.
2. The Office shall act to secure lawful administration, equality before law, access to justice and obedience to court orders.

Article 107 — Constitutional compliance notice

1. Where the Advocate General reasonably concludes that proposed or continuing public action presents a serious constitutional or legal breach, a confidential compliance notice may require reconsideration within a stated period.
2. If the breach persists, the notice and response may be published with necessary redactions and proceedings may be instituted.

Article 108 — Public-interest proceedings

1. The Advocate General may institute civil or constitutional proceedings to restrain unlawful public action, protect public assets, enforce a constitutional duty or obtain authoritative interpretation.
2. The power shall be used on published criteria and not to displace a directly affected person's autonomy without good reason.

Article 109 — Protection of fundamental rights

1. The Office shall integrate the rights in Chapter III of the Constitution into prosecution policy, legal advice, litigation and institutional administration.
2. Where rights conflict, analysis shall address legality, necessity, proportionality, equality and effective remedy.

Article 110 — Access to Justice

1. The Office shall simplify public procedures, publish understandable guidance and coordinate referrals to legal aid, courts and competent institutions.
2. It shall not purport to act as personal counsel for a private party except where legislation expressly authorises representation.

Article 111 — Citizens' petitions and complaints

1. Any person may submit information concerning prosecution, public illegality, failure to comply with a judgment or conduct within the Office's mandate.
2. The Office shall acknowledge, triage, protect and respond within published service standards.

3. A complaint outside jurisdiction shall be referred where lawful and the complainant informed.

Article 112 — Systemic legal-risk report

1. The Advocate General shall annually identify recurring unlawful practices, unenforced judgments, defective laws, rights risks and material litigation exposure.
2. The report shall recommend reform without disclosing protected case information.

Article 113 — Law reform recommendations

1. The Office may submit evidence-based proposals to the National Assembly and Government for reform of criminal justice, public law and State legal services.
2. It shall consult affected institutions and avoid assuming the mandate of an independent law-reform body.

Article 114 — Public legal education

1. The Office shall publish accessible explanations of prosecution standards, rights of suspects and victims, State litigation, complaints and constitutional compliance.
2. Education shall be accurate, politically neutral and available through digital and nondigital means.

Article 115 — Cooperation with independent institutions

1. The Office shall cooperate by written arrangements with courts, the Judicial Service Commission, Auditor General, Electoral Commission, National Bank, human-rights bodies, anti-corruption bodies and public administration authorities.
2. Cooperation shall preserve each institution's independence, confidentiality and jurisdiction.

Article 116 — Noncompliance by a public authority

1. An unexplained refusal to provide lawful assistance, obey a final order or address a serious compliance notice shall be reported to the responsible authority and National Assembly.
2. The Office may seek mandamus, declaration, injunction, contempt or another lawful remedy.

Article 117 — No general supervisory power over society

1. The Office shall not supervise private associations, media, religious bodies, lawyers or citizens merely on the ground of public interest.
2. Any action affecting a private person requires specific legal authority, due process and judicial review.

CHAPTER 10

PROSECUTORS, STATE COUNSEL AND PROFESSIONAL SERVICE

Article 118 — Status of legal officers

1. Prosecutors and state counsel are professional officers of justice who owe duties to the Constitution, law, courts and public interest.
2. They shall maintain honour, competence, independence, fairness and dignity.

Article 119 — Merit appointment

1. The Legal Service Commission shall recruit through open competition based on integrity, qualification, ability and objective service needs.
2. Selection shall prohibit discrimination and improper preference while promoting professional, gender, regional and linguistic diversity.

Article 120 — Qualifications

1. A prosecutor or state counsel must hold a recognised legal qualification, be admitted or eligible for admission under Eritrean law and complete prescribed professional training.
2. Specialist and supervised trainee grades may be established by regulation.

Article 121 — Probation and confirmation

1. An initial appointment may include a reasonable probation period assessed on published professional criteria.
2. Confirmation, extension or nonconfirmation requires written reasons and an opportunity to respond.

Article 122 — Security of service

1. A legal officer shall not be dismissed, demoted, transferred or disadvantaged for a lawful, good-faith professional decision.
2. Discipline is permitted only for defined misconduct or incapacity through fair procedure and independent review.

Article 123 — Promotion

1. Promotion shall be based on competence, integrity, experience, judgment, training, service quality and leadership through a transparent competitive process.
2. Conviction rate, political favour, ethnicity, personal loyalty or fundraising shall not be criteria.

Article 124 — Remuneration and conditions

1. Conditions shall be adequate to protect independence, attract competence and reduce corruption risk.
2. Salary scales, pension, leave, security and regional hardship measures shall be prescribed publicly.

Article 125 — Code of professional conduct

1. The Advocate General shall, after consultation and Commission approval, issue a binding code consistent with Schedule 6.
2. The code shall address independence, impartiality, candour, conflicts, disclosure, confidentiality, public comment, gifts, political activity and post-service conduct.

Article 126 — Political neutrality

1. A legal officer shall not hold party office, campaign for a candidate, use office resources for politics or display partisan allegiance in official functions.
2. Lawful voting and private belief are protected.

Article 127 — Freedom of expression and association

1. A legal officer retains constitutional freedoms and may participate in professional discussion, legal education and lawful association.
2. Exercise shall respect confidentiality, fair proceedings, impartiality and the dignity of office.

Article 128 — Conflicts and recusal

1. An officer shall disclose a personal, financial, family, professional or political interest that could reasonably question impartiality.
2. Recusal and reassignment shall be recorded and reviewable; a supervisor shall not suppress a genuine conflict.

Article 129 — Gifts and benefits

1. An officer shall not solicit or accept a gift, favour, hospitality, employment promise or benefit connected to official work.
2. Permitted nominal protocol items shall be declared and handled under public rules.

Article 130 — Asset and interest declarations

1. Senior office-holders and designated sensitive officers shall file periodic declarations with an independent integrity authority.

2. Public summaries shall protect legitimate privacy while revealing material interests and compliance.

Article 131 — Continuing education

1. Each legal officer shall complete annual training relevant to assigned work, ethics and constitutional rights.
2. The Office shall support mentoring, peer review and professional accreditation.

Article 132 — Safety and wellbeing

1. The State shall provide proportionate security to officers and families facing work-related threat without compromising professional independence.
2. Trauma support, reasonable workload and wellbeing measures shall be available.

Article 133 — Discipline

1. Disciplinary offences and sanctions shall be defined by law or published code and applied proportionately.
2. The officer is entitled to notice, disclosure, representation, hearing, reasons and appeal to an independent tribunal.

Article 134 — Complaints against legal officers

1. The Inspector-General shall operate a secure, accessible complaint mechanism and may dismiss manifestly unfounded complaints with reasons.
2. A complaint about case merits shall be routed to prosecutorial or legal review rather than disguised as discipline.

Article 135 — Whistleblower protection

1. An officer or other person who in good faith reports illegality, interference, corruption, evidence suppression or serious risk is protected from retaliation.
2. Identity and information shall be protected to the fullest lawful extent and retaliation investigated promptly.

Article 136 — Professional associations

1. Prosecutors and state counsel may form or join professional associations to advance ethics, training and service conditions.
2. An association shall not direct an individual case or become a partisan instrument.

CHAPTER 11

INFORMATION, RECORDS, TRANSPARENCY AND ACCOUNTABILITY

Article 137 — Case management system

1. The Office shall maintain a secure electronic case and matter management system with unique identifiers, role-based access, deadlines, evidence and advice controls, decision logs and preservation rules.
2. The system shall support audit without exposing privileged, personal or operationally sensitive information.

Article 138 — File integrity

1. A case or advice file shall contain material evidence, submissions, decisions, reasons, approvals, disclosures, conflicts and court outcomes.
2. Deletion, alteration or removal outside an authorised retention process is prohibited and technically logged.

Article 139 — Records preservation

1. Records shall be retained under a public schedule approved by the national archival authority and shall be protected against destruction, concealment, unauthorised transfer and technological obsolescence.
2. Records concerning grave violations, constitutional history or major public assets shall receive enhanced preservation.

Article 140 — Confidentiality

1. Protected information shall be used only for lawful official purpose and disclosed only as authorised by law.
2. Confidentiality shall protect fair proceedings, victims, witnesses, children, personal data, legal privilege, investigations and security but shall not conceal misconduct or final public obligations.

Article 141 — Access to information

1. The Office is subject to access-to-information law and shall apply a presumption of disclosure with specific, necessary and proportionate exemptions.
2. A refusal shall identify the legal ground, foreseeable harm, severability analysis and review rights.

Article 142 — Proactive publication

1. The Office shall publish the information listed in Schedule 7 in accessible, searchable and reusable formats.

2. No publication shall prejudice a fair trial, safety, privacy, privilege or an active investigation.

Article 143 — Prosecution policy and directives

1. General prosecution policy and directives shall be written, reasoned, dated and published before or promptly after taking effect.
2. A secret directive affecting charging, persons or case outcomes is void.

Article 144 — Annual report

1. Within four months after each financial year, the Advocate General shall submit an annual report to the National Assembly and publish it.
2. The report shall cover mandate, independence threats, caseload, timeliness, outcomes, reviews, rights compliance, regional access, staffing, finance, procurement, complaints and reform.

Article 145 — Separate prosecution report

1. The Director shall publish an independently signed annual prosecution report that the Advocate General may comment on but not alter.
2. The report shall include reasons for major policy developments and aggregate decisions to prosecute, decline, divert and discontinue.

Article 146 — Appearances before National Assembly

1. The Advocate General, Director and Solicitor-General shall appear before the responsible committee on administration, budget, policy and aggregate performance.
2. They shall refuse a question where an answer would influence or prejudice an individual pending case and shall give the legal basis for refusal.

Article 147 — Public statements

1. Public communication shall be accurate, restrained, timely and consistent with the presumption of innocence and fair trial.
2. The Office shall not conduct a trial through media, disclose inadmissible accusations for reputational punishment or use communication for partisan advantage.

Article 148 — Statistics

1. The Office shall publish disaggregated statistics with definitions, limitations and privacy protection.
2. Statistics shall cover intake, charging, declination, diversion, detention positions, case age, trial outcomes, appeals, victim services, reviews and complaints.

Article 149 — Research access

1. De-identified records may be made available for legitimate research under ethics, security and data-protection controls.
2. No researcher receives privileged advice or information creating material risk to a person or proceeding.

Article 150 — Independent inspection

1. At least every three years, an independent panel shall inspect institutional independence, prosecution quality, disclosure, delay, rights, conflicts and management.
2. The report and remedial plan shall be published with necessary lawful redactions.

Article 151 — Auditor-general

1. The Auditor General shall audit the revenues, expenditure, procurement, assets and financial systems of the Office.
2. Audit shall not revisit lawful case merits or require disclosure beyond what is necessary for financial legality and integrity.

Article 152 — Internal audit and risk

1. A professionally independent internal audit function shall report to the Integrity and Audit Committee.
2. The Office shall maintain enterprise, litigation, information-security, corruption and continuity risk registers.

Article 153 — Procurement transparency

1. Procurement shall be competitive, justified, audited and published with beneficial ownership, evaluation, award, variation and performance information.
2. Sensitive procurement may use a lawful protected process subject to independent audit.

Article 154 — Performance standards

1. The Office shall publish service standards for case screening, disclosure, review, advice, litigation, complaints and public requests.
2. Delay beyond a standard requires notice, reason and corrective action where practicable.

CHAPTER 12

FINANCE, ADMINISTRATION, SECURITY AND COOPERATION

Article 155 — Annual budget

1. The Advocate General shall prepare a needs-based budget showing prosecution, legal service, regional access, transition, protection, technology and training requirements.
2. The approved budget and quarterly execution shall be published in aggregate.

Article 156 — Chief operating officer

1. The Legal Service Commission shall appoint a professionally qualified Chief Operating Officer through open competition.
2. The officer manages finance, human resources, facilities, procurement and technology subject to the Advocate General's lawful direction and independent audit.

Article 157 — Accounts and financial controls

1. The Office shall maintain accounts under public-sector standards, segregation of duties, commitment control and asset registers.
2. No case outcome, settlement or recovery may be exchanged for institutional funding.

Article 158 — Information security

1. The Office shall implement risk-based cybersecurity, encryption, identity management, backup, incident response and independent testing.
2. A material breach shall be contained, investigated and reported to affected persons and oversight authorities where lawful.

Article 159 — Physical security

1. Security arrangements shall protect persons, evidence, files, premises and continuity while respecting dignity, access and professional independence.
2. Security personnel shall not inspect privileged content or monitor legal decisions without lawful authority.

Article 160 — Business continuity

1. The Office shall maintain tested plans for disaster, conflict, cyberattack, epidemic, mass casualty, loss of premises and interruption of courts or communications.
2. Emergency arrangements shall preserve constitutional custody review and urgent access to justice.

Article 161 — Interagency agreements

1. Cooperation with domestic authorities shall be governed by published or appropriately registered agreements defining purpose, authority, information protection, cost and accountability.
2. An agreement cannot create a power absent from law.

Article 162 — International cooperation agreements

1. The Office may cooperate with foreign prosecution and legal authorities and international organisations under law and treaty.
2. Cooperation shall preserve sovereignty, human rights, reciprocity, confidentiality and independent decision-making.

Article 163 — Technical assistance

1. The Office may receive transparent technical assistance while retaining sovereign control and avoiding donor direction of individual cases.
2. Material funding, advisers, deliverables and vendor interests shall be disclosed.

Article 164 — Languages and interpretation

1. The Office shall provide interpretation and translation necessary for fair proceedings, effective advice and public access.
2. A person shall not suffer disadvantage because of language or literacy.

Article 165 — Equality and inclusion

1. Employment and service delivery shall promote equality, reasonable accommodation and access for women, minorities, persons with disabilities, remote communities and other disadvantaged persons.
2. Special measures shall be evidence-based and consistent with merit and the Constitution.

CHAPTER 13

REVIEW, REMEDIES, OFFENCES AND LIABILITY

Article 166 — Administrative reconsideration

1. A person directly affected by a final administrative decision of the Office may request reconsideration by an uninvolved officer.
2. Reconsideration shall be prompt, reasoned and shall not delay urgent court access.

Article 167 — Judicial review

1. A final decision is subject to judicial review for constitutionality, legality, procedural fairness, improper purpose, discrimination, irrationality or abuse of power.
2. The court shall grant an effective remedy while respecting the lawful scope of professional prosecutorial discretion and privilege.

Article 168 — Review of failure to prosecute

1. A victim or directly affected person may seek review of a final refusal to prosecute after exhausting internal review, unless exhaustion would be futile or cause irreparable harm.
2. The reviewing court may require lawful reconsideration and reasons but shall not itself prosecute.

Article 169 — Compensation and civil remedies

1. A person harmed by unlawful Office conduct may pursue compensation, declaration, injunction or another remedy under applicable law.
2. Good-faith institutional error does not extinguish an effective remedy for a constitutional violation.

Article 170 — Obstruction and interference offences

1. Intentional interference with a protected decision, retaliation, bribery, threat, destruction or falsification of evidence, unauthorised disclosure, impersonation or obstruction is an offence under applicable criminal law.
2. Penalties shall be harmonised before enactment and shall be proportionate to culpability and harm.

Article 171 — False complaints and statements

1. Knowingly fabricating material evidence or making a deliberately false sworn allegation to cause prosecution is an offence under applicable law.
2. A complaint is not punishable merely because it is mistaken, unproved, withdrawn or made in good faith.

Article 172 — Institutional liability

1. Proceedings concerning official conduct shall ordinarily be brought against the Office or State as provided by law.
2. The Office may settle a valid claim transparently and take recourse against a bad-faith wrongdoer after due process.

Article 173 — Personal immunity

1. An officer is not personally liable for an act done honestly, reasonably and within lawful duty.
2. Protection does not extend to corruption, malice, knowing illegality, grave negligence, rights abuse or conduct outside official function.

Article 174 — Contempt and enforcement

1. The Office may seek judicial enforcement of a lawful summons, disclosure obligation, preservation order, judgment or cooperation duty.
2. No administrative officer of the Office may impose contempt punishment.

Article 175 — Limitation and preservation

1. A limitation period shall be applied consistently with the Constitution, criminal and civil law and binding international obligations.
2. The Office shall take timely preservation action and shall not manipulate delay to create immunity.

CHAPTER 14

TRANSITIONAL JUSTICE AND INSTITUTIONAL TRANSITION

Article 176 — Continuity and conversion

1. Any lawful existing prosecution and State legal functions continue provisionally and vest in the appropriate Service on commencement.
2. Continuity does not validate an unlawful detention, prosecution, instruction, appointment, file or practice.

Article 177 — First selection panel and appointments

1. Within thirty days, the first Selection Panel shall be constituted and shall begin the appointment processes for the Advocate General, Director and Solicitor-General.
2. Interim office-holders exercise only continuity and urgent protective powers.

Article 178 — Preservation of Justice records

1. From commencement, every public authority and person controlling prosecution, detention, police, security, military, court or State legal records shall preserve them against destruction, alteration, concealment or removal.
2. A court may issue urgent preservation, inventory and access orders on application by an authorised independent institution.

Article 179 — Opening institutional audit

1. Within six months after the Advocate General assumes office, an independent audit shall identify assets, liabilities, personnel, contracts, files, archives, detention-linked matters, information systems and security risks transferred to the Office.
2. The public report shall protect persons and active proceedings while identifying missing or destroyed records.

Article 180 — Urgent detention and pending-case review

1. A special review team shall immediately identify persons held without charge, beyond constitutional time, without accessible court order, for peaceful expression or association, or under a manifestly defective case.
2. The prosecutor shall seek release, lawful court review or prompt charge based on sufficient admissible evidence.
3. The review shall not delay habeas corpus or transfer the burden of proving lawful detention to the detainee.

Article 181 — Legacy prosecution review

1. Within eighteen months, the Director shall review pending and prescribed concluded cases credibly alleged to have been politically motivated, discriminatory, fabricated, torture-dependent or grossly unfair.
2. Available remedies include discontinuance, consent to bail, nonopposition to appeal, correction of record, referral for compensation or investigation of wrongdoing.
3. A review shall respect judicial independence and finality while using lawful appellate and extraordinary remedies.

Article 182 — Grave-violations unit

1. A screened multidisciplinary unit independent from implicated agencies shall preserve and assess evidence of grave human-rights violations and serious corruption.
2. Case selection shall follow published criteria of gravity, responsibility, evidentiary feasibility, victim need and representativeness rather than political identity.

Article 183 — Transitional vetting

1. Existing prosecutors and state counsel shall undergo individual integrity and competence review under Schedule 8.
2. No person shall be excluded solely by former institutional membership, ethnicity, region, political belief, conscription or unproved allegation.
3. Notice, disclosure, hearing, counsel, reasons and independent appeal are required.

Article 184 — Interim service and safeguards

1. A person may continue provisionally where necessary for continuity unless an individual risk assessment justifies temporary reassignment or suspension.
2. Interim measures shall be least restrictive, time-limited and reviewed promptly.

Article 185 — Victims and affected communities

1. Transition policy and case priorities shall be informed by accessible consultation with victims, families, women, former detainees, minority communities and civil society.
2. Consultation shall not predetermine guilt or replace evidence and fair trial.

Article 186 — Coordination with transitional-Justice bodies

1. The Office shall cooperate with any lawful truth, reparation, missing-persons, vetting or reconciliation body while preserving prosecutorial independence and fair-trial rights.
2. Information-sharing, use immunity and confidentiality shall be governed by clear law and written protocol.

Article 187 — No retaliatory Justice

1. No person shall be investigated, charged, dismissed or deprived of rights merely because of former office, party association, family, region, ethnicity or political opinion.
2. Individual responsibility must be established through lawful evidence and fair procedure.

Article 188 — No impunity bargain contrary to law

1. A political agreement, administrative instruction or secret assurance shall not bar accountability for conduct where a bar would violate the Constitution or binding international law.
2. Any amnesty, immunity or use-immunity question shall be determined under clear law, judicial supervision and victims' rights.

Article 189 — Recovery of public assets in transition

1. The Office shall inventory major State claims and cooperate in lawful recovery of assets transferred through corruption, coercion or abuse.
2. Recovery shall not become collective confiscation and shall protect due process and bona fide third parties.

Article 190 — Staff transition and capacity

1. Staff shall transfer on fair terms subject to lawful vetting, classification, training and workforce planning.
2. The Office shall prioritise rapid induction in constitutional rights, disclosure, custody review, ethics, digital security and independent decision-making.

Article 191 — Three-year roadmap

1. Within one hundred and twenty days after the senior office-holders assume office, the Advocate General shall publish a costed three-year transition roadmap using Schedule 9.
2. Progress, delay, risk and corrective action shall be reported quarterly.

CHAPTER 15 GENERAL AND FINAL PROVISIONS

Article 192 — Regulations

1. The Advocate General may, after consultation and subject to this Act, make regulations concerning administration, services, records, fees, procedures and public access.
2. A regulation shall be reasoned, gazetted and subject to judicial review.
3. A prosecution policy is not a regulation but must satisfy publication and legality requirements.

Article 193 — Emergency directions

1. The Advocate General or Director may issue a temporary direction necessary to protect life, liberty, evidence, fair trial, continuity or institutional independence.
2. It shall be written, no broader than necessary, reviewed within fourteen days and expire within ninety days unless replaced through ordinary law or policy.

Article 194 — Repeal and amendment of inconsistent instruments

1. An inconsistent administrative directive, secret circular, contract or practice has no effect to the extent of inconsistency with this Act and the Constitution.
2. Existing statutes remain in force subject to constitutional interpretation and express harmonisation.

Article 195 — Independent statutory review

1. The National Assembly shall commission an independent public review three years after full commencement and every seven years thereafter.
2. The review shall assess independence, appointments, prosecution fairness, State legal service, rights, transition, resources, accountability and public confidence without revisiting case merits for political preference.

Article 196 — Harmonisation before enactment

Before enactment, the National Assembly shall harmonise criminal-procedure powers, police directions, private prosecution, special prosecution, professional admission, privileges, penalties, court jurisdiction, asset recovery, witness protection, transitional justice and public-finance provisions with the final sector laws.

SCHEDULE 1

OATH OF ADVOCATE GENERAL AND SENIOR PROTECTED OFFICE-HOLDERS

I, _____, solemnly swear or affirm that I will uphold and defend the Constitution of Eritrea; serve the people and the State under law; perform my duties independently, impartially and without fear, favour, prejudice or improper direction; protect human dignity, fair trial and the public interest; refuse and report interference; disclose conflicts; preserve lawful confidentiality; and exercise power only for the purpose for which it was entrusted.

SCHEDULE 2

INDEPENDENT ADVOCATE GENERAL SELECTION PANEL

Composition: a retired judge or senior independent lawyer nominated by the Chief Justice, who chairs; a nominee of the Judicial Service Commission; a nominee of the Auditor General with public-integrity expertise; a nominee of recognised Eritrean law faculties; a nominee of the independent legal profession; a nominee selected through an open process by human-rights and access-to-justice organisations; and a nominee selected through an open process by women's professional organisations.

No member may be a serving party officer, minister, legislator, candidate, security commander, applicant or close associate of an applicant. Membership, interests, recusals, scoring framework and expenses shall be published.

The Panel shall advertise, verify, receive public comment, conduct public interviews, score against published criteria and submit three ranked and reasoned names. Five affirmative votes are required. The President may once return a shortlist only for a stated material eligibility or procedural defect; the Panel's reconsidered shortlist is final.

SCHEDULE 3

REMOVAL TRIBUNAL

The tribunal consists of a retired judge nominated by the Chief Justice, who chairs; a senior lawyer nominated by the independent legal profession; and a person of recognised public-integrity or human-rights expertise selected jointly by the Auditor General and Judicial Service Commission.

Members must be independent of the complainant, subject, President, Assembly leadership and any affected case. Proceedings shall provide notice, disclosure, counsel, evidence, examination, public hearing subject to protective orders, a clear-and-convincing proof standard and a reasoned report.

The tribunal may find the allegation unproved, recommend a proportionate nonremoval remedy where lawful, or recommend removal. Its report shall be published with necessary redactions and is subject to judicial review for legality and fairness.

SCHEDULE 4

LEGAL SERVICE COMMISSION

The Commission consists of the Advocate General as nonvoting institutional member; the Director; the Solicitor-General; one prosecutor and one state counsel elected by their peers; one nominee of the Judicial Service Commission; one nominee of the Public Service Administration; one nominee of the independent legal profession; and two independent public members, at least one a woman, selected through open competition.

Independent members serve staggered four-year terms renewable once. A majority of voting members, including at least two independent public or professional members, is required for a decision.

The Commission controls merit recruitment, promotion, transfer, discipline, service standards and protected senior appointments assigned by this Act. It publishes rules, vacancies, criteria, aggregate decisions and annual performance information while protecting applicants and proceedings.

SCHEDULE 5

APPOINTMENT AND INDEPENDENCE OF A SPECIAL PROSECUTOR

On a certified conflict, a panel of the Chief Justice's nominee, Auditor General's nominee and chair of the independent legal profession shall appoint a qualified Special Prosecutor after an expedited merit process.

The written mandate shall identify jurisdiction, reporting, resources, security and term without predetermining outcome. The Special Prosecutor controls assigned prosecution decisions and may recruit screened staff and independent investigators as law permits.

Removal before completion is only for incapacity or serious misconduct after a fair hearing by the appointing panel. A public completion report shall explain disposition and expenditure without prejudicing rights or protected proceedings.

SCHEDULE 6

CORE CODE OF PROFESSIONAL CONDUCT

Act independently, impartially, consistently, expeditiously and with respect for dignity and rights; seek justice rather than victory; and comply promptly with court orders.

Assess favourable and unfavourable material; disclose as law requires; never fabricate, suppress or knowingly misuse evidence; refuse evidence procured through grave rights abuse.

Avoid discrimination, political activity in office, gifts, conflicts, retaliatory action, improper public comment and personal use of confidential information.

Record material decisions and reasons; report interference and serious misconduct; cooperate with lawful review, inspection and audit; correct error and withdraw from an unsustainable position.

SCHEDULE 7

MINIMUM PROACTIVE PUBLICATION

The Act, regulations, prosecution policy, charging and disclosure guidance, codes, delegations, service standards and cooperation frameworks.

Leadership vacancies, shortlists, hearings, appointments, terms, acting arrangements, interests, recusals and removal outcomes where lawful.

Annual and prosecution reports, strategic and implementation plans, independent inspections, audit findings, budget execution and procurement records.

Aggregate caseload, charging, declination, diversion, discontinuance, detention, timeliness, outcomes, appeals, victim service, complaints, discipline and regional-access data.

Significant redacted legal opinions, constitutional compliance notices, systemic legal-risk reports, judgment-compliance register and material settlement information where lawful.

Transition roadmap, preservation and opening-audit reports, legacy-review statistics, vetting outcomes and progress on safeguards.

SCHEDULE 8

TRANSITIONAL VETTING STANDARDS

Grounds: proved personal participation in grave rights abuse, corruption, deliberate evidence fabrication or suppression, politically directed prosecution, serious professional dishonesty, or manifest incompetence incompatible with office.

Evidence: reliable and corroborated information assessed individually; no adverse finding solely from anonymous allegation, institutional membership, ethnicity, region, family, conscription or political belief.

Procedure: written notice, meaningful disclosure, reasonable time, counsel, opportunity to present and challenge evidence, impartial panel, reasoned decision and independent appeal.

Outcomes: confirmation, training, supervised service, reassignment, proportionate discipline, temporary exclusion or removal. Criminal evidence is referred to an independent prosecutor and the presumption of innocence is preserved.

SCHEDULE 9

THREE-YEAR TRANSITIONAL MILESTONES

Deadline from senior appointments	Minimum deliverable
30 days	Interim ethics, independence, case-allocation, detention-review, record-preservation, security and continuity controls.
90 days	Core leadership and Legal Service Commission constituted; first public prosecution policy and service standards.
120 days	Costed three-year roadmap; staffing, regional access, technology, protection, training and consultation plans.
6 months	Opening institutional audit; detention inventory; public case-management, complaint and judgment-compliance registers operational.
9 months	Merit recruitment framework; transitional vetting underway; disclosure and victim-service standards implemented.
12 months	First annual and prosecution reports; serious-cases, State litigation and public-contract diagnostics completed.
18 months	Legacy pending-case review substantially completed; regional offices and electronic case management phased in.
24 months	Grave-violations, asset-recovery and complex-crime capacity independently assessed; corrective plan published.
30 months	Independent quality, rights, integrity, cybersecurity and public-confidence assessment completed.
36 months	Public transition report, unresolved-risk statement and next five-year institutional strategy.

Adopted by the National Assembly of Eritrea at Asmara this ____ day of _____, 2026.

THE NATIONAL ASSEMBLY OF ERITREA