

Organic Law of the People's Procuratorates of the People's Republic of China

(Adopted at the Second Session of the Fifth National People's Congress on July 1, 1979, promulgated by Order No.4 of the Chairman of the Standing Committee of the National People's Congress on July 5, 1979 and effective as of January 1, 1980; amended according to the Decision on the Revision of the Organic Law of the People's Procuratorates of the People's Republic of China adopted at the Second Meeting of the Standing Committee of the Sixth National People's Congress on September 2, 1983)

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Chapter I General Provisions

Article 1 The people's procuratorates of the People's Republic of China are state organs for legal supervision.

Article 2 The People's Republic of China shall establish the Supreme People's Procuratorate, the people's procuratorates at various local levels, military procuratorates and other special people's procuratorates. (Amended on September 2, 1983)

The people's procuratorates at various local levels shall be divided into:

- (1) people's procuratorates of provinces, autonomous regions, and municipalities directly under the Central Government;
- (2) branches of the people's procuratorates of provinces, autonomous regions, and municipalities directly under the Central Government, and people's procuratorates of autonomous prefectures and of cities directly under the provincial governments; and
- (3) people's procuratorates of counties, cities, autonomous counties and municipal districts. People's procuratorates at the provincial or county level may, according to work requirements and upon the approval of the standing committee of the people's congress at the corresponding level, set up people's procuratorates as their agencies in industrial and mining areas, agricultural reclamation areas, forest zones, etc. (A paragraph is deleted here on September 2, 1983) The establishment, organization and functions and powers of special people's procuratorates shall be stipulated separately by the Standing Committee of the National People's Congress.

Article 3 People's procuratorates at all levels shall each have a chief procurator, a number of deputy chief procurators and procurators. The chief procurator exercises unified leadership over the work of the procuratorates.

The leading officials of the Supreme People's Procuratorate are the Procurator-General and Deputy Procurators-General. –Trans.

People's procuratorates at all levels shall each set up a procuratorial committee. The procuratorial committee shall apply the system of democratic centralism and, under the direction of the chief procurator, hold discussions and make decisions on important cases and other major issues. In the case of the chief procurator disagreeing with the majority's opinion over a decision on an important issue, the matter may be reported to the standing committee of the people's congress at the corresponding level for final decision.

Article 4 The people's procuratorates shall, through exercising their procuratorial authority, suppress all treasonous activities, all activities to dismember the State and other counterrevolutionary activities, and strike at counterrevolutionaries and other criminals, so as to safeguard the unification of the country, the system of proletarian dictatorship and the socialist legal system; to maintain public order and order in production, education, scientific research and other work, and in the life of the people; to protect the socialist property owned by the whole people and by the collectives of the working masses, and the private property lawfully

owned by citizens; to protect the citizens' rights of the person and their democratic and other rights; and to ensure the smooth progress of the socialist modernization.

The people's procuratorates, through procuratorial activities, educate the citizens to be loyal to their socialist motherland, to consciously observe the Constitution and other laws and to actively fight against illegal activities.

Article 5 People's procuratorates at all levels shall exercise the following functions and powers:

- (1) to exercise procuratorial authority over cases of treason, cases involving acts to dismember the State and other major criminal cases severely impeding the unified enforcement of State policies, laws, decrees and administrative orders;
- (2) to conduct investigations on criminal cases directly handled by themselves;
- (3) to review cases investigated by public security organs and determine whether to approve arrest, to prosecute or to exempt from prosecution; and to exercise supervision over the investigatory activities of public security organs, to determine whether they conform to law;
- (4) to initiate public prosecutions on criminal cases and support such prosecutions; and to exercise supervision over the judicial activities of people's courts, to determine whether they conform to law; and
- (5) to exercise supervision over the execution of judgments and orders in criminal cases and over the activities of prisons, detention houses and organs in charge of reform through labour, to determine whether such execution and activities conform to law.

Article 6 People's procuratorates shall, in accordance with law, protect the citizens' right to lodge complaints against State functionaries who break law and shall investigate the legal responsibility of those persons who infringe upon other citizens' right of the person, and their democratic and other rights.

Article 7 People's procuratorates must, in executing their work, persistently seek truth from facts, follow the mass line, heed the opinions of the masses and subject themselves to the supervision by the masses; make investigation and study, laying stress on evidence rather than readily giving credence to oral statements, and strictly forbidding the obtainment of confessions by compulsion; and correctly differentiate and handle contradictions between the enemy and the people, and those among the people themselves.

The functionaries of the people's procuratorates at all levels must pay high regard to actual facts and law, be faithful to the socialist cause and serve the people wholeheartedly.

Article 8 In the exercise of procuratorial authority by people's procuratorates at all levels, the law shall be applied equally to all citizens, and no privileges shall be allowed.

Article 9 The people's procuratorates shall exercise procuratorial authority independently, in accordance with the provisions of law, and shall not be subject to interference by any administrative organ, public organization or individual.

Article 10 The Supreme People's Procuratorate shall be responsible and report on its work to the National People's Congress and its Standing Committee. The people's procuratorates at various local levels shall be responsible and report on their work to the people's congresses and their standing committees at corresponding levels.

The Supreme People's Procuratorate shall direct the work of the people's procuratorates at various local levels and of the special people's procuratorates; the people's procuratorates at higher levels shall direct the work of those at lower levels.

Chapter II Procedures for People's Procuratorates in Exercising Their Functions and Powers

Article 11 If a people's procuratorate finds and confirms that a criminal act has been committed, it shall place the case on file for investigation in accordance with the procedure provided by law, or transfer it to a public security organ for investigation. If, upon conclusion of the investigation, the people's procuratorate deems it necessary to investigate criminal responsibility, it shall initiate a public prosecution in the people's court, or it

shall rescind the case, if it deems it unnecessary to investigate criminal responsibility.

Article 12 The arrest of any citizen, unless decided on by a people's court, must be subject to the approval of a people's procuratorate.

Article 13 A people's procuratorate shall review the cases for which a public security organ requests prosecution and decide whether to initiate public prosecution, to exempt from prosecution or not to initiate prosecution. It may remand a case to the public security organ for supplementary investigation, if the main facts of the crime are not clear or the evidence is insufficient.

If a people's procuratorate discovers violations of law in the investigatory activities of a public security organ, it shall instruct that public security organ to rectify them.

Article 14 If a public security organ considers that there is an error in a decision of a people's procuratorate to disapprove arrest, not to initiate prosecution or to grant exemption from prosecution on the cases transferred by it to the people's procuratorate, it may request reconsideration by the people's procuratorate, and may also request review by the people's procuratorate at the next higher level. The higher-level people's procuratorate shall make a timely decision and instruct the lower-level people's procuratorate and the public security organ to execute it.

Article 15 In legal proceedings instituted by a people's procuratorate, the chief procurator or a procurator shall attend the court session, in the capacity of State prosecutor, to support the prosecution and exercise supervision over the court proceedings, and to determine whether they conform to law.

Article 16 If a people's court considers that the main facts of a crime are not clear or the evidence is insufficient or there are violations of law in a case in which the people's procuratorate has initiated prosecution, it may remand the case to the people's procuratorate for supplementary investigation or notify it to make corrections.

Article 17 If a local people's procuratorate discovers any error in a judgment or order of a people's court at the corresponding level in a case of first instance, it shall lodge a protest in accordance with the procedure of appeal.

Article 18 If the Supreme People's Procuratorate discovers some definite error in a legally effective judgment or order of a people's court at any level, or if a people's procuratorate at a higher level discovers some definite error in a legally effective judgment or order of a people's court at a lower level, it shall lodge a protest in accordance with procedures of judicial supervision.

People's procuratorates must send personnel to appear in court when cases are heard, in accordance with procedures of judicial supervision.

Article 19 If the people's procuratorates discover violations of law in the execution of judgments or orders in criminal cases, they shall notify the executing organs to correct them.

If the people's procuratorates discover violations of law in the activities of prisons, detention houses or organs in charge of reform through labour, they shall notify the organs responsible to correct them.

Chapter III The Organizational Structure and the Appointment and Removal of Personnel of People's Procuratorates

Article 20 The Supreme People's Procuratorate shall establish a number of procuratorial departments and other professional agencies as needed. The people's procuratorates at various local levels may respectively establish corresponding procuratorial divisions, sections and other professional agencies. (Amended on September 2, 1983)

Article 21 The Procurator-General of the Supreme People's Procuratorate shall be elected and removed by the National People's Congress.

The Deputy Procurators-General, members of the procuratorial committee and procurators of the Supreme People's Procuratorate shall be appointed and removed by the Standing Committee of the National People's Congress upon the recommendation of the Procurator-General of the Supreme People's Procuratorate.

Article 22 The chief procurators of the people's procuratorates of provinces, autonomous regions, and municipalities directly under the Central Government and their branches shall be elected and removed by the people's congresses of provinces, autonomous regions, and municipalities directly under the Central Government; the deputy chief procurators, members of procuratorial committees and procurators shall be appointed and removed by the standing committees of the people's congresses at corresponding levels upon the recommendation of the chief procurators of the provinces, autonomous regions, and municipalities directly under the Central Government.

The appointment and removal of the chief procurators of the people's procuratorates of provinces, autonomous regions, and municipalities directly under the Central Government shall be reported to the Procurator-General of the Supreme People's Procuratorate for submission to the Standing Committee of the National People's Congress for approval. (Amended on September 2, 1983)

Article 23 The chief procurators of people's procuratorates of autonomous prefectures, cities directly under the provincial governments, counties, cities and municipal districts shall be elected and removed by the people's congresses at corresponding levels; the deputy chief procurators, members of procuratorial committees and procurators shall be appointed and removed by the standing committees of the people's congresses at corresponding levels upon the recommendation of the chief procurators.

The appointment and removal of the chief procurators of the people's procuratorates of autonomous prefectures, cities directly under the provincial governments, counties, cities and municipal districts shall be reported to the chief procurators of the people's procuratorates at the next higher level for submission to the standing committee of the people's congress at the corresponding level for approval. (Amended on September 2, 1983)

Article 24 The chief procurators, deputy chief procurators, members of procuratorial committees and procurators of people's procuratorates set up in industrial and mining areas, agricultural reclamation areas and forest zones by people's procuratorates at the provincial or county level shall be appointed and removed by the standing committee of the people's congress at the corresponding level upon the recommendation of the chief procurators of the dispatching people's procuratorates.

Article 25 The term of office of the chief procurators of people's procuratorates at all levels shall be the same as that of the people's congresses at corresponding levels.

Article 26 The Standing Committee of the National People's Congress and the standing committees of the people's congresses of provinces, autonomous regions, and municipalities directly under the Central Government may, upon proposals put forward by the Procurator-General and chief procurators of people's procuratorates at the corresponding level, replace the chief procurators, deputy chief procurators and members of the procuratorial committees of people's procuratorates at lower levels.

Article 27 People's procuratorates at all levels shall have a number of assistant procurators and clerks. With the approval of the chief procurator, an assistant procurator may act in the function of a procurator. The clerks shall be responsible for keeping case records and other related matters.

The assistant procurators and clerks shall be appointed and removed by the chief procurators of people's procuratorates at all levels.

People's procuratorates at all levels may install judicial police as needed.

Article 28 The organizational structure and staff size of the people's procuratorates at all levels shall be stipulated separately by the Supreme People's Procuratorate.

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