

Act on Conciliation in Criminal and Certain Civil Cases
(1015/2005)

Chapter 1 — **General provisions**

Section 1 — *Scope of application*

- (1) For the purposes of this Act, conciliation in criminal cases (*conciliation*) means a non-chargeable service in which a crime suspect and the victim of that crime are provided the opportunity to meet confidentially through an independent conciliator, to discuss the mental and material harm caused to the victim by the crime and, on their own initiative, to agree on measures to redress the harm.
- (2) Conciliation may also be used in civil cases in which at least one of the parties is a natural person. Civil cases other than those concerning claims for damages based on a crime may, however, only be referred to conciliation if the dispute is of a minor nature, taking into account the subject and the claims put forward in the case. What is provided on conciliation in criminal cases in this Act applies, as appropriate, to conciliation in civil cases.

Section 2 — *General conditions for conciliation*

- (1) Conciliation may be carried out only between parties that have personally and voluntarily expressed their agreement to conciliation and are capable of understanding the meaning of conciliation and the solutions arrived at in the conciliation process. Before the parties agree to conciliation, they must be explained their rights in relation to conciliation and their position in the conciliation process. Each party has the right to withdraw its agreement at any time during the conciliation process.
- (2) Underage persons must give their agreement to conciliation in person. In addition, an underage person's participation in conciliation requires that his/her custodian or other legal representatives agree to it. Legally incompetent adults may participate in conciliation if they understand the meaning of the case and give their personal agreement to conciliation.

Section 3 — *Issues dealt with through conciliation*

- (1) Conciliation may deal with crimes that are assessed as eligible for conciliation, taking into account the nature and method of the offence, the relationship between the suspect and the victim and other issues related to the crime as a whole. Crimes involving underage victims must not be referred to conciliation if the victim needs special protection because of the nature of the crime or because of his/her age. If a crime cannot be referred to conciliation, issues

related to compensation of the damage caused by it must not be referred to conciliation either.

- (2) Civil cases may be referred to conciliation if dealing with them through conciliation can be considered expedient.
- (3) Even if a case is dealt with and decided by a police or prosecuting authority or in a court of law, this does not preclude conciliation.

Section 4 — *Definitions*

For the purposes of this Act:

- 1) *conciliation office* means an operating unit with the duty of providing conciliation services in a particular area under section 8;
- 2) *conciliator* means a person with appropriate training who handles individual conciliation duties under the supervision and monitoring of the conciliation office;
- 3) *person in charge of conciliation services* means a person whose duty it is to be responsible for planning, developing and appropriately implementing conciliation services within the operating area of the conciliation office and of acting as conciliator where necessary; and
- 4) *conciliation advisor* means a person with the duty of supervising and monitoring the work of the conciliators and acting as conciliator where necessary.

Chapter 2 — **Arrangement of conciliation and compensation of expenses**

Section 5 — *General management, supervision and monitoring*

The general management, supervision and monitoring of conciliation services fall within the jurisdiction of the Ministry of Social Affairs and Health.

Section 6 — *Advisory board on conciliation in criminal cases*

The advisory board on conciliation in criminal cases, appointed for a period of three years at a time by the Government for the purposes of national supervision, monitoring and development of conciliation services, acts under the auspices of the Ministry of Social Affairs and Health, and further provisions on its duties and composition are laid down by Government decree.

Section 7 — *Obligation to provide services*

Each State Provincial Office is obliged to arrange conciliation services and ensure that they are available in appropriately implemented form in all parts of the province.

Section 8 — *Service provision*

- (1) In arranging the provision of conciliation services, the State Provincial Office may make:
 - 1) a commission agreement referred to in section 2(2) of the Local Government Act (365/1995) with the municipality concerned, under which the municipality undertakes to ensure that the service is provided within its own area or, in addition, in the areas of other municipalities or parts thereof as agreed under section 9; or
 - 2) an agreement with some other public or private service provider under which the service provider undertakes to ensure that the service is provided in an area agreed on under section 9.
- (2) If the services cannot be provided in a certain area under subsection 1, the State Provincial Office concerned must provide the services in that area with the help of hired personnel or in some other manner it considers appropriate.

Section 9 — *Agreement on service provision*

An agreement on the provision of conciliation services must include agreement on at least:

- 1) the area in which the service referred to in the agreement is arranged;
- 2) the amount of compensation payable from government funds in compliance with the grounds laid down in section 12(3) and the payment of the compensation;
- 3) the person in charge of conciliation services, the other personnel in the conciliation office and the number of conciliators;
- 4) the training arranged for persons involved in conciliation;
- 5) the duration of the agreement; and
- 6) the termination of the agreement.

Section 10 — *Competence requirements for persons engaged in the provision of conciliation services*

- (1) Persons in charge of conciliation services and conciliation advisors must have an appropriate academic degree. If there is a special reason, other persons with good knowledge of conciliation services and of related planning and supervision may be accepted for these duties. Persons who have completed introductory training in conciliation services and otherwise have the education, skill and experience required for the appropriate handling of the duties may also act as conciliators.
- (2) Further provisions on the competence requirements for persons referred to in subsection 1 may be given by Government decree.

Section 11 — *Provision of further training*

The State Provincial Offices must ensure that further training for persons engaged in the provision of conciliation services nationally and regionally is provided.

Section 12 — *Compensation from government funds*

- (1) Expenses incurred in arranging conciliation services are compensated from government funds. The aggregate amount of compensation payable from government funds is confirmed annually at a level which corresponds to the average expenses estimated to arise from maintaining conciliation offices, appropriate service provision and training for persons engaged in the provision of conciliation services.
- (2) The aggregate amount of compensation is divided among the State Provincial Offices for use in covering expenses referred to in subsection 1. The division is based on the number of inhabitants, the surface area and the crime situation in each province.
- (3) Service providers are entitled to receive compensation payable from government funds on the basis of calculation criteria to cover their expenses referred to in subsection 1. The amount of compensation is determined on the basis of the number of inhabitants, the surface area and the crime situation in the service provider's operating area.
- (4) Further provisions on the division of compensation referred to in subsection 2, on determining the compensation referred to in subsection 3 and on payment of the compensation to the State Provincial Offices in cases referred to in section 8(2) are given by Government decree.

Chapter 3 — **Conciliation procedure**

Section 13 — *Referral to conciliation*

- (1) Conciliation may be proposed by the crime suspect, the victim, the police or prosecuting authority or some other authority. If the suspect or the victim is underage, his/her custodian or other legal representative has the right to propose conciliation. In cases involving a legally incompetent adult, the person supervising his/her interests may also propose conciliation.
- (2) However, only the police or prosecuting authority has the right to propose conciliation if the crime involves violence that has been directed at the suspect's spouse, child, parent or other comparable near relation.
- (3) When the police or prosecuting authority assesses that a case at hand is eligible for conciliation as laid down in section 3(1), it must inform the suspect and the victim of the crime of the possibility of conciliation and refer them to conciliation, unless otherwise provided in subsection 2 of this section. If the suspect or the victim of the crime is underage, the information on the possibility of conciliation must also be given to his/her custodian or other legal representative. In cases involving a legally incompetent adult, the information must always be given to both the person him/herself and the person looking after his/her interests.

Section 14 — *Place of conciliation*

- (1) Proposals concerning conciliation are processed by the conciliation office in whose area one of the parties lives and in which the conciliation can take place flexibly, giving due consideration to the circumstances of the partners. Proposals may also be processed by the office in whose area the crime has taken place.
- (2) Parties can always submit a proposal concerning conciliation to the conciliation office in whose area they live. If the conciliation office receiving the proposal decides not to deal with it, it must transfer the case without delay to an office it deems suitable for processing the proposal under subsection 1.
- (3) If no agreement is reached between conciliation offices in the matter of deciding which of the offices referred to in subsection 1 will process the conciliation proposal, the proposal shall be processed by a conciliation office designated by the State Provincial Office, provided that the conciliation offices are located in the same province. If the conciliation offices are located in different provinces, the designation will be made by the Ministry of Social Affairs and Health.

Section 15 — *Investigating the conditions for conciliation and deciding on conciliation*

Before deciding to start conciliation, the conciliation office must ensure that the conditions for conciliation laid down in section 2 are fulfilled and must assess the eligibility of the case for conciliation. If the case concerned is a civil case, the conciliation office must also assess whether it is expedient to resort to conciliation. The person in charge of conciliation services in the conciliation office decides on whether to accept a case for conciliation.

Section 16 — *Duties of the conciliation office in connection with the conciliation procedure*

When a conciliation office accepts a case for conciliation, it must:

- 1) nominate a conciliator for the conciliation process who is suitable for the task on the basis of his/her experience and personal characteristics and is not disqualified in the manner referred to in the Administrative Procedure Act (434/2003);
- 2) with the relevant parties' agreement, obtain documents necessary for conciliation from the police or prosecuting authority, courts of law or other parties;
- 3) ensure the provision of an interpreter or translator if a party does not have a command of the language to be used in conciliation or because of a sensory or speech defect or some other reason cannot understand the discussions held in the conciliation process or be understood in it; and
- 4) after conciliation, inform the police or prosecuting authority of the conciliation process and its outcome, notwithstanding the provisions on secrecy.

Section 17 — *Duties of the conciliator*

Conciliators must:

- 1) arrange conciliation meetings between the parties;
- 2) conduct the conciliation without bias and respecting all parties;
- 3) help the parties to find mutually satisfactory solutions concerning the crime in order to redress the mental and material harm the victim has suffered because of the crime;
- 4) give the parties information on available legal assistance and other services;
- 5) draw up a document on the agreement reached by the parties in the conciliation process and verify it with a signature; and
- 6) after conciliation, submit a report on the conciliation process to the conciliation office.

Section 18 — *Arrangement of conciliation*

- (1) Conciliation takes place without an audience. The parties must participate in the conciliation process in person. In conciliation meetings, the parties are allowed to use assistants or support persons if this does not endanger the undisturbed progress of the conciliation process. If one of the parties is underage, the conciliation must be arranged in a way that allows the person the opportunity to receive support from his/her custodian or other legal representative. The presence of a custodian or some other legal representative in conciliation meetings can be prohibited only if it is clearly against the interests of the underage person. Custodians or other legal representatives of parties under 15 years of age cannot, however, be prohibited from participating in conciliation meetings.
- (2) If agreement on the participation of an assistant, a support person or a custodian or legal representative of an underage person in the conciliation process cannot be reached between the conciliator, the parties to the conciliation process and the legal representative of the underage person, the matter will be decided by the person in charge of conciliation services in the conciliation office.
- (3) Conciliators may also arrange conciliation meetings with one party in the absence of other parties, provided that all parties agree to this.

Section 19 — *Interruption of conciliation*

- (1) Conciliation offices must interrupt conciliation immediately if a party withdraws its agreement or if there is reason to suspect that the agreement has not been given voluntarily. Conciliation must also be interrupted if there is a justified reason to suspect that a party to the conciliation process cannot understand the meaning of conciliation and the solutions to be made in the process or if continuation of the conciliation process is clearly against the interests of a party that is underage.
- (2) Conciliation offices may interrupt conciliation if, for reasons other than those referred to in subsection 1, it emerges that there is no basis for successful conciliation.

Section 20 — *Secrecy and the confidentiality obligation*

- (1) The provisions of the Act on the Openness of Government Activities (621/1999) apply to the publicity of documents held by conciliators or conciliation offices and to the confidentiality obligation of conciliation office personnel or other persons participating in the handling of conciliation cases.
- (2) Notwithstanding provisions of section 14 of the Act on the Openness of Government Activities, conciliation offices shall decide on access to information contained in documents that are held by the conciliator or the conciliation office. The provisions of section 29 of the Act on the Openness of Government Activities apply to the right of conciliation offices to grant State Provincial Offices access to information contained in secret documents.
- (3) In conciliation offices, the person in charge of conciliation services shall decide on issues referred to in this section. The provisions of section 33 of the Act on the Openness of Government Activities apply to appeals concerning such decisions.

Chapter 4 — **Miscellaneous provisions**

Section 21 — *Prohibition on testifying and on referring to information*

- (1) Conciliators must not testify about anything they have learnt in their duties concerning a conciliation case unless particularly weighty reasons require the questioning of a conciliator.
- (2) In later phases of dealing with a case, a party to the conciliation process must not, without the consent of the other party, refer to what the latter has presented during the process in order to reach agreement.

Section 22 — *Dealing with disputes concerning agreements made on the arrangement of conciliation*

Disputes concerning agreements on the arrangement of conciliation made in accordance with section 9 are dealt with as administrative litigation cases by an administrative court as provided in the Administrative Judicial Procedure Act (586/1996).

Section 23 — *Appeals*

Appeals against decisions made by State Provincial Offices or the Ministry of Social Affairs and Health under section 14(3) and by conciliation offices under section 15(1), 18(2) or 19 are submitted to an administrative court as provided in the Administrative Judicial Procedure Act.

Section 24 — *Conciliation office's notification obligation*

A conciliation office must, without delay, notify the police or prosecuting authority of a decision by which it has refused to accept a case for conciliation or has interrupted the conciliation.

Section 25 — *Non-chargeability of documents obtained for conciliation*

Conciliation offices are entitled to obtain documents necessary for conciliation from police and prosecuting authorities and courts of law free of charge.

Section 26 — *Entry into force*

- (1) This Act enters into force on 1 January 2006.
- (2) Services referred to in this Act must be arranged in accordance with section 7 and provided in accordance with section 8 as of 1 June 2006.
- (3) Measures necessary for the implementation of the Act may be undertaken before the Act's entry into force.