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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**SERBIA**

**REVISED DRAFT LAW**

**ON THE PUBLIC PROSECUTOR'S OFFICE**

**REVISED DRAFT LAW**  
**~~Draft Law~~ on the Public Prosecutor's Office**

**I. GENERAL PROVISIONS**

**Subject of the Law**

**Article 1**

This law regulates the organisation and competence of public prosecutor's offices, the conditions, the procedure for the election and termination of office of the holders of public prosecutor's function, the rights and duties of holders of public prosecutor's function, the evaluation of the work of the chief public prosecutor and public prosecutor, the disciplinary responsibility of the holders of the public prosecutor's function, the performance of administrative duties in public prosecutor's offices and judicial administration, provision of funds for the work of public prosecutor's offices and other issues of importance for the work of public prosecutor's offices.

**The Public Prosecutor's Office**

**Article 2**

The public prosecutor's office is a unique and autonomy state authority that prosecutes perpetrators of criminal and other punishable offences and exercises other authorities that protect the public interest determined by law.

The public prosecutor's office exercises its authorities on the basis of the Constitution, ratified international treaties, laws, generally accepted rules of international law and other general acts, adopted in accordance with the law.

**Establishment and Organisation of the Public Prosecutor's Office**

**Article 3**

The highest public prosecutor's office in the Republic of Serbia is the Supreme public prosecutor's office.

The seat of the Supreme public prosecutor's office is in Belgrade.

The establishment, seats and territorial jurisdictions of other public prosecutor's offices are governed by a special law.

**Role and Management of the Public Prosecutor's Office**

**Article 4**

The public prosecutor's function is performed by the Supreme public prosecutor, chief public prosecutors and public prosecutors.

The Supreme public prosecutor heads the Supreme public prosecutor's office.

The chief public prosecutor heads the public prosecutor's office.

The Supreme public prosecutor and the chief public prosecutor have hierarchical authorities in the management of the public prosecutor's offices in relation to the actions of the lower chief public prosecutors and public prosecutors in a specific case.

The Supreme public prosecutor and the chief public prosecutor represent the public prosecutor's office they manage.

**The Autonomy of the Public Prosecutor's Office**

## Article 5

The public prosecutor's office is autonomy in the exercise of its authority.

No one outside the public prosecutor's office may influence the public prosecutor's office and the holders of public prosecutor's functions in proceedings and decision-making in an individual case.

## Prohibition of Undue Influence

### Article 6

With a view to preserving the authority and impartiality of the Public Prosecutor's Office, any undue influence on a holder of the public prosecution function in performing his/her public prosecution function, especially any form of threat and coercion against the holder of the public prosecution function, use of the public position, media and public appearance that influence the actions of the Public Prosecutor's Office, is prohibited. Any other undue influence on the Public Prosecutor's Office and pressure on a participant in a procedure before the Public Prosecutor's Office is prohibited.

The undue influence referred to in paragraph 1 of this Article may not be considered to be use of the law-prescribed rights of participants in a procedure, reporting on the work of the Public Prosecutor's Office in line with the regulations governing public information, and expert analysis of actions of the Public Prosecutor's Office in a finally ended procedure.

~~Any undue influence on the work of the public prosecutor's office and on the handling of cases by the executive and legislative authorities, by using a public position, means of public information or in any other way that could threaten the independence of the work of the public prosecutor's office, is prohibited.~~

The Supreme public prosecutor, the chief public prosecutor and the public prosecutor shall be obliged to reject any action that present undue influence on the autonomy of the work of public prosecutor's office, as well as to report such influence on the High Prosecutorial Council.

The holder of the public prosecutor function may submit a request for protection against undue influence on the High Prosecutorial Council.

The method of submission and the procedure against the request for protection against undue influence are prescribed by the act of the High Prosecutorial Council.

## Features of the Public Prosecutor's Office

### Article ~~7~~6

The public prosecutor's office has a seal that contains the name and seat of the public prosecutor's office and the name and coat of arms of the Republic of Serbia, in accordance with a special law.

The name of the public prosecutor's office, coat of arms and the flag of the Republic of Serbia must be displayed on the building of the public prosecutor's office.

The Supreme public prosecutor, the chief public prosecutor and the public prosecutor have official identification cards and badges that they use in performing their function.

The form, appearance, and method of use of the official identification cards and badges are regulated in more detail by the Act on administration in the public prosecutor's office.

## Official Language and Script

### Article ~~8~~7

The Serbian language and the Cyrillic script are officially used in the public prosecutor's office. Other languages and scripts are used in accordance with the law.

### The Duty to Submit Files to the Public Prosecutor's Office

#### Article ~~98~~

The courts, other bodies of the Republic of Serbia, bodies of autonomous provinces and local self-government units, city municipalities, public authority holders, legal and natural persons shall be obliged to submit to the public prosecutor's office, at their request, the files, and notifications necessary for taking actions in accordance with a law. for which they are competent.

If the public prosecutor's office is bound by a legal deadline for action, the files shall be delivered without delay.

### Duty to Provide Information and Explanations to the Public Prosecutor's Office

#### Article ~~109~~

Everyone is obliged to immediately provide the public prosecutor's office, upon the request, with the explanations and data they need to take actions in accordance with they are authorised to do by law. The public prosecutor's office shall be obliged to receive submissions and statements on matters within its competence and may request supplements and explanations regarding the received submissions and statements.

### Public Notification

#### Article ~~114~~0

The public prosecutor's office informs the public about the state of criminality and other phenomena it observes in its work, in accordance with the law and the act on administration in the public prosecutor's office.

The public prosecutor's office may notify the public about certain cases in which it proceeds within the limits of its authorities determined by law and in accordance with the interests of the procedure, respecting the presumption of innocence and taking into account the protection of the personal data, privacy and dignity of the participants in the procedure.

### Principles of Performing the Public Prosecutor's Function

#### Article 12

#### ~~Article 14~~

The holders of the public prosecutor's function ~~are~~shall be obliged to perform their function autonomy, professionally, conscientiously, impartially, fairly and without unnecessary delay, respecting the presumption of innocence and the rights of parties in the procedure, ~~particularly~~ taking into account the protection of the human rights, particularly the rights of the injured and the prevention of discrimination on any basis.

## II. THE ORGANISATION OF A PUBLIC PROSECUTOR'S OFFICE

### 1. Types and Relationship of Public Prosecutor's Offices

#### Types of Public Prosecutor's Offices

#### Article 13

~~Article 12~~

The public prosecutor's office of the Republic of Serbia consists of the Supreme public prosecutor's office, appellate public prosecutor's offices, higher public prosecutor's offices, basic public prosecutor's offices, and the public prosecutor's offices with special jurisdiction.

The public prosecutor's offices of special jurisdiction are the Public prosecutor's office for organised crime and the Public prosecutor's office for war crimes. Other prosecutor's offices with special jurisdiction may be established by law.

The Supreme public prosecutor's office, the Public prosecutor's office for organised crime and the Public prosecutor's office for war crimes are established for the territory of the Republic of Serbia.

The Public prosecutor's office for organised crime and the Public prosecutor's office for war crimes are based in Belgrade.

The appellate public prosecutor's office is established for the area of the appellate court.

The higher public prosecutor's office is established for the territory of the higher court.

~~The~~<sup>The</sup> basic public prosecutor's office is established for the territory of one or more basic courts.

The establishment, seats and territorial jurisdictions of the appellate, higher and basic public prosecutor's offices are regulated by a separate law.

The public prosecutor's office may have departments outside its seat, as well as special departments that are formed to prosecute certain criminal offences, in accordance with the law.

The Public prosecutor's office for organised crime may have departments outside its seat, in accordance with a special law.

## Relationship Between Public Prosecutor's Offices

### Article ~~14~~<sup>13</sup>

The basic public prosecutor's office is lower than the higher public prosecutor's office.

The higher public prosecutor's office is lower compared to the appellate public prosecutor's office.

The public prosecutor's office of special jurisdiction and the appellate public prosecutor's office are lower in relation to the Supreme public prosecutor's office.

## 2. Hierarchical Authorities Responsibility

### Article ~~15~~<sup>14</sup>

The chief public prosecutor is responsible for the work of the public prosecutor's office and reports to the Supreme public prosecutor and directly to the high chief public prosecutor in accordance with the law.

Public prosecutors report to the chief public prosecutor in accordance with the law.

## General Mandatory Instructions of the Supreme Public Prosecutor

### Article ~~16~~<sup>15</sup>

The Supreme public prosecutor issues general mandatory instructions for actions of all chief public prosecutors aimed at achieving legality, efficiency and uniformity in the procedure.

General mandatory instructions may be issued by the Supreme public prosecutor at the proposal of the Supreme public prosecutor's collegium.

General mandatory instructions are published on the website of the Supreme public prosecutor's office, unless its publication threatens national security interests.

### Mandatory Instructions for Work and Procedure in Individual Cases

#### Article 1746

The immediately higher chief public prosecutor may issue mandatory instructions to a lower chief public prosecutor for proceeding in a specific case if there is doubt about the effectiveness or legality of their actions, or that of the directly lower public prosecutor. The Supreme public prosecutor may issue such instructions to each chief public prosecutor.

The chief public prosecutor may issue mandatory instructions to the public prosecutor for work and procedure in an individual case if there is doubt about the efficiency or legality of their actions or due to the implementation of the instructions from Paragraph 1 of this Article.

The mandatory instruction for work and procedure in an individual case shall be issued in written form and must contain the reason and explanation for its issuance.

Exceptionally from Paragraph 3 of this Article the Supreme public prosecutor and the chief public prosecutor may issue an oral mandatory instruction if it is necessary to undertake actions that cannot be delayed. In that case, the mandatory instruction for work and procedure in an individual case in written form is delivered within three days from the day of issuing the oral instruction.

### Objection

#### Article 1847

The lower chief public prosecutor and the public prosecutor who believes that the mandatory instruction for work and procedure in an individual case is illegal or unfounded may submit an objection with reasoning to the Commission referred to in Article 22 of this law~~High Prosecutorial Council~~ within three days from the day of receipt of the written instruction.

The objection is submitted through the chief public prosecutor who issued the mandatory instruction for work and procedure in an individual case and who is obliged to review the mandatory instruction within three days of receiving the objection.

The chief public prosecutor who issued the mandatory instruction for work and procedure in an individual case may repeal their mandatory instruction for work and procedure in an individual case before the objection is submitted. If the chief public prosecutor does not repeal their mandatory instruction for work and procedure in an individual case, they shall be obliged to deliver the objection to the Commission referred to in Article 22 of this law~~High prosecutorial council~~ on the next working day after the expiry of the deadline from Paragraph 2 of this Article.

The chief public prosecutor and the public prosecutor who declared the objection shall be obliged to take actions according to the mandatory instruction for work and procedure in an individual case~~instructions~~ that cannot be delayed.

The Commission referred to in Article 22 of this law is obliged to decide on the objection~~High Prosecutorial Council decides~~ within ~~ten~~15 days from the day of receipt ~~thereof~~~~the objection~~, at a session that is closed to the public.

~~Five elective members of the High Prosecutorial Council from among the public prosecutors elected by the holders of the public prosecutor's function shall participate in the decision-making on the complaint against the mandatory instructions for work and action in a specific case.~~

## Acting Upon the Mandatory Instructions

### Article 18

If the Commission referred to in Article 22 of this law~~High Prosecutorial Council~~ does not accept ~~the an~~ objection ~~to against~~ the mandatory instruction, the chief public prosecutor, or the public prosecutor who ~~filed submitted~~ the objection, ~~is shall be~~ obliged to proceed upon act according to the mandatory instruction for work and procedure in the specific case.

### Right to Insight

### Article 19

The mandatory instruction for work and procedure in an individual case, an objection to the mandatory instruction for work and procedure in an individual case, an act of the chief prosecutor on repealing the mandatory instruction for work and procedure in an individual case, and a decision of the Commission referred to in Article 22 of this law on the objection to mandatory instruction for work and procedure in an individual case are a constituent part of the public prosecutor's file.

An insight in the acts referred to in Paragraph 1 of this Article may be made by participants in a procedure after the final end of the procedure in which mandatory instruction for work and procedure in an individual case was issued.

The restriction from Paragraph 2 of this Article does not relate to holders of the public prosecution function.

## Devolution

### Article 19

### Article 20

The immediately higher public prosecutor's office may, in order to conduct the procedure more efficiently or for other important reasons, in a specific case, undertake all actions for which the lower public prosecutor's office is authorised, on the basis of a reasoned decision of the immediately higher chief public prosecutor (decision on devolution). -

The lower chief public prosecutor who believes that the decision of the immediately higher chief public prosecutor is unfounded may file an objection with the Commission referred to in Article 22 of this law~~High Prosecutorial Council~~ within three days from the date of receipt of the decision. Until the decision on the objection is made, the lower public prosecutor's office cannot take action in the case.

The objection shall be submitted through the chief public prosecutor who made the decision, who is obliged to review the decision they made within three days of receiving the objection.

The chief public prosecutor who made the decision may repeal the decision before the objection is submitted. If the chief public prosecutor does repeal their decision, he shall be obliged to deliver the objection to the Commission referred to in Article 22~~High Prosecutorial Council~~ on the next working day after the expiry of the deadline from Paragraph 3 of this Article.

The Commission referred to in Article 22 of this law~~High Prosecutorial Council~~ is obliged to decide on the objection within ~~ten~~45 days from the day of receipt ~~thereof. of the~~ objection.

If the Commission referred to in Article 22 of this law does not accept the objection to the decision on devolution, the lower chief prosecutor who filed the objection is obliged to proceed upon the decision on devolution.



## Substitution

~~Article 20~~Article 21

The immediately higher chief public prosecutor may, by a reasoned decision, authorise a lower public prosecutor's office to proceed in matters under the competence of another lower public prosecutor's office, when the competent public prosecutor's office is prevented from legal or factual reasons to act in the case (decision on substitution). -

Exceptionally, the Supreme public prosecutor may, by a reasoned decision, authorise the Public prosecutor's office for organised crime to act in an individual case from the jurisdiction of another public prosecutor's office for more efficient proceedings or for other important reasons. Against the decision referred to in Paragraphs 1 and 2 of this Article, the competent chief public prosecutor may file an objection to the Commission referred to in Article 22 of this law~~High Prosecutorial Council~~ within three days.

The objection shall be submitted through the chief public prosecutor who made the decision, who is then obliged to review the decision within three days of receiving the objection.

The chief public prosecutor who made the decision may repeal the decision before the objection is delivered. If the chief public prosecutor does not repeal his/her decision, he/she shall be obliged to deliver the objection to the Commission referred to in Article 22 of this law~~High Prosecutorial Council~~ on the next working day after the expiry of the deadline from Paragraph 3 of this Article.

The Commission referred to in Article 22 of this law~~High Prosecutorial Council~~ is obliged to decide within ~~ten~~45 days from the day of receipt of the objection.

If the Commission referred to in Article 22 of this law does not accept the objection to the decision on substitution, the competent chief public prosecutor who filed the objection is obliged to proceed upon the decision on substitution.

The Commission for deciding on objections to mandatory instruction for work and procedure in an individual case, objection to the decision on substitution and objection to the decision on devolution

Article 22

On objection to mandatory instruction for work and procedure in an individual case, objection to a decision on substitution and objection to a decision on devolution decides the Commission of the High Prosecutorial Council.

The Commission referred to in Paragraph 1 of this Article consists of five members elected by the High Prosecutorial Council from the ranks of the public prosecutors, for a period of five years without a possibility for re-election.

The member of the High Prosecutorial Council cannot be the member of the Commission from the Paragraph 1 of this Article.

The way of work and decision making in the Commission from Paragraph 1 of this Article is governed by an act of the High Prosecutorial Council.

Insight into the Cases File of the Lower Public Prosecutor's Office

~~Article 21~~Article 23



For the exercise of hierarchical authorities, the Supreme public prosecutor has the right to have an insight into each case file, and the immediately higher chief public prosecutor has the right to have an insight into each case of the lower public prosecutor.

The request for insight shall be submitted to the lower chief public prosecutor, who, upon receiving the request, immediately submits the case file to the immediately higher chief public prosecutor.

### Responsibility of the Supreme Public Prosecutor

#### Article ~~24~~<sup>22</sup>

The Supreme public prosecutor is responsible for the work of the Public prosecutor's office and reports to the National Assembly.

The Supreme public prosecutor does not report to the National Assembly regarding proceedings in individual cases.

The Supreme public prosecutor submits to the National Assembly a regular annual report on the work of the Public prosecutor's office in the Republic of Serbia and the reports requested by the competent committee of the National Assembly. The reports submitted by the Supreme public prosecutor to the National Assembly must not contain information about the actions of the public prosecutor's office in a specific case.

### 3. Competences

#### Substantive Jurisdiction

#### Article ~~23~~<sup>25</sup>

#### ~~Article 23~~

The substantive jurisdiction of the public prosecutor's office is determined in accordance with the provisions of the laws that apply to determining the substantive jurisdiction of the court, unless otherwise specified by law.

#### Local Jurisdiction

#### Article ~~26~~<sup>24</sup>

The local jurisdiction of the public prosecutor's office shall be determined in accordance with the law regulating the seats and areas of public prosecutor's offices.

#### Conflict of Jurisdiction

#### Article ~~27~~<sup>25</sup>

A conflict of jurisdiction between public prosecutor's offices is resolved by the public prosecutor's office that is superior to all the public prosecutor's offices that are in conflict of jurisdiction.

The conflict of jurisdiction between public prosecutor's offices of special jurisdiction among themselves and the conflict of jurisdiction between public prosecutor's offices of special jurisdiction and other public prosecutor's offices are resolved by the Supreme public prosecutor's office.

#### General Jurisdiction

#### Article ~~28~~<sup>26</sup>

The holder of the public prosecutor's office proceeds within the boundaries of the subject-matter and local jurisdiction of the public prosecutor's office.

For the prosecution of criminal offences, economic offences and misdemeanours, the holder of the public prosecutor's office proceeds before the court and other state authority, taking actions for which he/she is authorised by law.

The holder of the public prosecutor's office proceeds in litigation, administrative, enforcement, non-litigation and other proceedings, performing actions for which they are authorised by special laws.

#### Request for Postponement and Suspension of Execution

~~Article 27~~

Article 29

The Supreme public prosecutor's office may request a postponement or suspension of the execution of the decision when it considers that there are reasons to challenge a decision made in a court or other procedure with an extraordinary legal remedy.

The request shall be submitted to the authority that allows the execution of the decision, and if the execution has begun - to the authority that implements it, together with proof that an extraordinary legal remedy has been filed.

#### Consequences of the Adoption of the Request for the Postponement and Suspension of Execution

Article ~~30~~<sup>28</sup>

In case of the approval of the request referred to in Article ~~29~~<sup>27</sup> of this law, the postponement or suspension of execution lasts until the adoption of the decision on the extraordinary legal remedy.

The decision on the postponement of execution ceases to be valid if the Supreme public prosecutor's office does not file an extraordinary legal remedy within 30 days of receipt of the decision.

#### Jurisdiction of the Supreme Public Prosecutor's Office

Article 31

~~Article 29~~

The Supreme public prosecutor's office is responsible for:

- 1) acting before the Supreme court, as well as before the Constitutional court and other courts and authorities in accordance with the law.;
- 2) filing extraordinary legal remedies in accordance with the law.;
- 3) monitoring and directing the work of the public prosecutor's offices, supervising the implementation of general mandatory instructions and monitoring and studying the practice of the public prosecutor's offices and courts.;
- 4) performing the tasks pertaining to the international cooperation of significance for the public prosecutor's office.;
- 5) performing other competences specified by law.

#### Jurisdiction of the Appellate Public Prosecutor's Office

Article ~~323~~<sup>30</sup>

The appellate public prosecutor's office is competent to act before the appellate court and other courts and authorities in the manner prescribed by the law, as well as to monitor and direct the basic and higher public prosecutor's offices from their territory to achieve unified procedure.

The appellate public prosecutor's office located at the seat of the commercial appellate court is competent to act before that court.

Jurisdiction of Public Prosecutor's Offices of Special Jurisdiction

Article ~~333~~<sup>4</sup>

The public prosecutor's office for organised crime and the public prosecutor's office for war crimes are competent to act before the competent courts of the first and second instance and to perform other tasks in accordance with the law.

Jurisdiction of the Higher Public Prosecutor's Office

Article ~~343~~<sup>2</sup>

The higher public prosecutor's office is competent to act before the higher court and other courts and authorities in the manner prescribed by the law and to monitor and direct the regional basic public prosecutor's offices with the objective of achieving the unified procedure.

Jurisdiction of the Basic Public Prosecutor's Office

Article ~~353~~<sup>3</sup>

The basic public prosecutor's office is competent to act before the basic court and other courts and authorities in the manner prescribed by the law.

Transfer of Jurisdiction

Article ~~363~~<sup>4</sup>

If the public prosecutor's office cannot exercise jurisdiction, the Supreme public prosecutor may transfer the jurisdiction to another public prosecutor's office of the same or higher level.

The transfer of jurisdiction lasts until the conditions for the work of the competent public prosecutor's office are met.

Deciding on an Exemption Request

Article ~~373~~<sup>5</sup>

The decision on the exemption of the public prosecutor is brought by the chief public prosecutor, and the decision on the exemption of the chief public prosecutor is brought by the immediately superior chief public prosecutor.

The decision on the exemption of a public prosecutor of the Supreme public prosecutor's office is brought by the Supreme public prosecutor.

The decision on the exemption of the Supreme public prosecutor is brought by the High Prosecutorial Council, according to the opinion obtained from the collegium of the Supreme public prosecutor's office.

The Supreme Public Prosecutor is exempted from deciding on his/her exemption.

#### 4. Administration in Public Prosecutor's Office Administration Management in Public Prosecutor's Office

~~Article 36~~

Article 38

The Supreme public prosecutor and the chief public prosecutor head the administration in the public prosecutor's office and are responsible for the proper and timely work of the public prosecutor's office in accordance with the law and the Act on administration in the public prosecutor's office.

The Supreme public prosecutor and the chief public prosecutor determine the organisation and work of the public prosecutor's office, decide on the rights based on the work of public prosecutors and on the labour relations of civil servants and officers in the public prosecutor's office, remove irregularities in the work of the public prosecutor's office, take care of the independence, reputation and efficiency of the public prosecutor's office, provide for the impartial allocation of cases to public prosecutors and perform other tasks for which they are authorised by law or other regulations.

##### Plan and Programme of Work of the Public Prosecutor's Office

~~Article 39~~ 37

In managing the administration of the public prosecutor's office, the Supreme public prosecutor and the chief public prosecutor adopt the plan and programme of work of the public prosecutor's office, which content is regulated in more detail by the Act on the administration of the public prosecutor's office.

The plan and programme of work contains the decision on the Annual schedule of work in the public prosecutor's office.

The public prosecutor may file an objection to the decision on the Annual schedule to the High Prosecutorial Council, within three days from the date of the announcement of the schedule to the collegium of the public prosecutor's office.

The objection shall be submitted through the chief public prosecutor, who may, in accordance with the submitted objection, reverse the decision on the Annual work schedule.

If the chief public prosecutor does not accept the objection, he/she has to submit the objection, with a reason for the rejection of the objection, to the High Prosecutorial Council within three days from the day of receipt of the objection.

The High Prosecutorial Council is obliged to decide on the objection within 15 days from the date of submission of the objection.

##### Replacement of the Supreme Public Prosecutor and Chief Public Prosecutor

~~Article 38~~

Article 40

A Supreme public prosecutor and the chief public prosecutor who is absent or prevented from managing the public prosecutor's office shall be replaced by the public prosecutor determined in the Annual work schedule.

##### Acting Supreme Public Prosecutor and Chief Public Prosecutor

~~Article 41~~ 39

If the function of the Supreme public prosecutor and chief public prosecutor ends, the High Prosecutorial Council appoints an acting Supreme public prosecutor and acting chief public prosecutor until the Supreme public prosecutor and chief public prosecutor take office, for a maximum of one year.

The same person cannot be re-appointed as the acting Supreme public prosecutor, or acting chief public prosecutor in the same public prosecutor's office.

During the performance of the function of the Supreme public prosecutor and the chief public prosecutor, the public prosecutor has equal rights and obligations as the Supreme public prosecutor, i.e., the chief public prosecutor.

## 5. Judicial Administration

### Jobs of the Judicial Administration in the Public Prosecutor's Office

#### Article 42

The judicial administration ensures the execution of laws and other regulations related to the organization and work of the public prosecutor's office.

The jobs of the judicial administration are performed by the High Prosecutorial Council and the ministry competent for judiciary.

The jobs of the judicial administration performed by the High Prosecutorial Council are as follows: supervision of application of the act on the administration in the public prosecutor's office; specifying general guidelines for internal arrangement of the public prosecutor's office; adoption of instruction on compiling reports on the work of the public prosecutor's office; monitoring the work of the public prosecutor's office; statistic and analytical data processing on the work of the public prosecutor's office, for increase of quality and efficiency of work of the public prosecutor's office; adoption of by-laws from its jurisdiction; giving opinion on the rulebook on internal organisation and job classification in the public prosecutor's office; ensuring true, timely and complete notification of the public of the work of the public prosecutor's office; keeping a personal file for holders of the public prosecutor function, and other tasks as defined by law.

The jobs of the judicial administration performed by the ministry competent for judiciary are as follows: supervision of application of the act on the administration in the public prosecutor's office; statistical and analytical data processing on the work of the public prosecutor's office, for monitoring application of regulations in the areas normatively regulated by the ministry, or areas of drafting regulations, of strategic, planning and programming acts; giving consent to the rulebook on internal organisation and job classification in the public prosecutor's office; regulation, development and maintenance of the judiciary information system; taking care of accommodation conditions, equipping and security of the public prosecutor's office; development and implementation of capital projects and other programmes for judiciary authorities and other tasks specified by law.

When performing the jobs of the judiciary administration within the meaning of the provision from Paragraph 4 of this Article, the ministry competent for judiciary does not encroach the autonomy of holders of the public prosecutor's function and the public prosecutor's office, nor the performance of tasks of administration in the public prosecutor's office under jurisdiction of the chief public prosecutor.

## Personal Files

#### Article 43

~~Article 40~~

The High Prosecutorial Council keeps personal files on the holders of the public prosecutor's functions.

Personal data contained in the personal file may only be used for the purpose of implementing this law and may only be processed in accordance with the law governing personal data protection.

The method of submitting the data required for keeping personal files and recording the data in the personal files is prescribed by the High Prosecutorial Council.

#### Content of the Personal File

##### Article ~~44~~41

The personal file of the holder of the public prosecutor's office contains the name, surname, parents' name, unique master citizen number, place and date of birth, place of residence, level of education, success in studies, internship, bar exam, career progress, date of completion of service, referral to work in another public prosecutor's office, removal from office, disciplinary measures, termination of office, published professional or scientific papers, evaluation of work, participation in professional development programmes, knowledge of foreign languages and other special knowledge, and other data related to the work and position.

Authorities that have data to be entered in the personal file are obliged to submit such data at the request of the High Prosecutorial Council.

The form and manner of keeping the personal files referred to in Paragraph 1 of this Article shall be prescribed by the High Prosecutorial Council.

#### Act on Administration in Public Prosecutor's Offices

##### Article ~~45~~42

The Act on administration in the public prosecutor's office particularly regulates:

- 1) the internal arrangement and organisation of the work of the public prosecutor's office;
- 2) the relationship of the public prosecutor's office towards other state bodies, citizens and the public;
- 3) the use of features of the public prosecutor's office, official language and script;
- 4) informing the public about the work of the public prosecutor's office;
- 5) the uniform and timely handling of cases;
- 6) monitoring and studying the public prosecutor's practice and case law;
- 7) the handling of complaints and petitions regarding the work of holders of public prosecutor's functions and staff in the public prosecutor's office;
- 8) data confidentiality protection;
- 9) maintaining registers, auxiliary records, directories and other records;
- 10) the handling of cases and items of value;
- 11) the keeping of statistics;
- 12) the handling of documents;
- 13) practice for trainees;
- 14) the behaviour of the staff in the public prosecutor's office in relation to the parties;
- 15) other issues of importance for the work of the public prosecutor's office.

The act on administration in public prosecutor's offices is adopted by the minister responsible for judiciary, according to the opinion obtained from the High Prosecutorial council and the Supreme public prosecutor.

The Act on administration in public prosecutor's offices is published in the "Official Gazette of the Republic of Serbia".

#### Supervision Over the Implementation of the Act on Administration in Public Prosecutor's Offices

##### Article 4643

Supervision over the implementation of the Act on administration in public prosecutor's offices is conducted by the High Prosecutorial Council and the ministry responsible for judiciary.

The High Prosecutorial Council supervises the implementation of the Act on administration in public prosecutor's offices in connection with the tasks referred to in Article 4542, Paragraph 1, items 1) – 6), 13) of this law, and the ministry responsible for judiciary in connection with the tasks referred to in Article 4542, Paragraph 1, items 8), 10) and 14) of this Law.

The High Prosecutorial Council and the ministry responsible for judiciary jointly supervise the implementation of the Act on administration in public prosecutor's offices in connection with the tasks referred to in Article 4542, Paragraph 1, items 7), 9), 11), 12) and 15) of this law.

The High Prosecutorial Council and the ministry responsible for judiciary may request reports and data from public prosecutor's offices in the performance of supervision tasks.

The person who supervises has to meet the requirements for election as a public prosecutor in the prosecutor's office whose work he/she supervises.

#### Types of Supervision

##### Article 4744

Supervision is conducted in accordance with the annual supervision plan adopted by the High Prosecutorial Council, i.e. the minister responsible for judiciary by the end of the calendar year for the following year (regular supervision).

The annual supervision plan lists the public prosecutor's offices in which, according to the outcome of the supervision conducted during the calendar year, it is necessary to repeat the supervision in order to determine the implementation of the prescribed measures (control supervision).

An extraordinary supervision can be conducted at the proposal of the Supreme public prosecutor, the directly senior chief public prosecutor, the president of the High Prosecutorial Council or the minister responsible for justice.

#### Types of Supervision

##### Article 4845

Field supervision is conducted by direct inspection of public prosecutor's cases, registers, documents, data, conditions and modes of work of the supervised public prosecutor's office.

The chief public prosecutor of the supervised public prosecutor's office shall be obliged to facilitate the smooth execution of supervision by providing appropriate workspace and technical devices to the person performing the supervision, and also by providing access to the public prosecutor's cases, registers, acts, documents and data that are the subject of the supervision.



During the field supervision, statements may be taken from the holders of public prosecutor's function and staff of the public prosecutor's office.

Office supervision shall be carried out by reviewing the acts, data and documents submitted by the supervised public prosecutor's office and by inspecting the system for automatic case management.

The person performing field or office supervision must be granted unhindered access to the automatic case management system.

#### Record of the Performed Supervision

~~Article 46~~

Article 49

After the supervision, a report is prepared and submitted to the chief public prosecutor of the supervised public prosecutor's office, the immediately higher chief public prosecutor, the Supreme public prosecutor, the High Prosecutorial Council if the supervision was carried out by the ministry responsible for judiciary, i.e. the minister if the supervision was carried out by the High Prosecutorial Council.

The record shall contain the factual situation determined during the supervision, the measures proposed to eliminate the observed deficiencies and irregularities, and the deadlines for the implementation of such measures.

The record form is an integral part of the act on administration in the public prosecutor's office.

The chief public prosecutor of the supervised public prosecutor's office shall be obliged to declare in writing about the content of the record, no later than 15 days from the day of receipt of the record.

The immediately higher chief public prosecutor shall be obliged to inform the Supreme public prosecutor and the supervising body about the measures taken to remedy the observed deficiencies, the deadlines for remedying the deficiencies, as well as the reasons for the deficiencies and omissions, within 30 days upon delivery of the record of performed supervision.

If the deficiencies are not eliminated within the set deadlines, the supervising authority shall file a disciplinary complaint against the chief public prosecutor of the supervised public prosecutor's office.

#### ~~5. Judicial Administration~~

##### ~~Tasks of the Judicial Administration in the Prosecutor's Office~~

~~Article 47~~

~~The judicial administration includes tasks that ensure the performance of work in the public prosecutor's offices, especially the provision of material, financial, spatial and other conditions for the work of public prosecutor's offices, providing financial resources for the professional training of chief public prosecutors, public prosecutors and the staff of the public prosecutor's office, prescribing standards for space and equipment at the public prosecutor's office, giving consent to the act on the internal organisation and systematisation of the public prosecutor's office and other tasks.~~

#### ~~Jurisdiction of Judicial Administration~~

~~Article 48~~

~~The tasks of the judicial administration is carried out by the ministry responsible for judiciary, with the exception of the tasks of the judicial administration related to the provision of financial conditions for the work of public prosecutor's offices and the professional development of the holders of public prosecutor's function, which is performed by the High Prosecutorial Council, in accordance with the provisions of this law.~~

~~The ministry responsible for judiciary may request reports and data from public prosecutor's offices in the performance of its judicial administration tasks.~~

### III. POSITION OF THE HOLDER OF THE PUBLIC PROSECUTOR'S FUNCTION

#### 1. Fundamental Rights and Obligations

##### Autonomy

##### Independence

##### Article 49

##### Article 50

The holder of the public prosecutor's function is autonomy of the executive and legislative power in handling and decision-making in an individual case.

The holder of the public prosecutor's function shall be obliged to preserve confidence in their independence in work.

##### Impartiality

##### Article 50

##### Article 51

The public prosecutor's function is performed in the public interest to ensure the implementation of the constitution and the laws, which must ensure the respect and protection of human rights and fundamental freedoms.

The holder of the public prosecutor's function shall be obliged to act and decide impartially, and also to preserve confidence in the impartiality of their work.

##### Code of Ethics

##### Article 51

##### Article 52

The holder of the public prosecutor's function proceeds in accordance with the Code of Ethics, which is adopted by the High Prosecutorial Council, with a purpose of promoting the dignity of the public prosecutor's function and reputation of holders of the public prosecutor's function and the public prosecutor's office~~prosecutorial council.~~

The Ethics Committee ensures compliance with the Code of Ethics.

The Code of Ethics closely regulates the principles of legality, independence, impartiality, proportionality, expertise, responsibility, commitment, and dignity. All public authorities and public high-level officials are obliged by their actions and conduct to reflect trust in the independence and impartiality of holders of the public prosecutor's function and the public prosecutor's office.

##### Publicity of Work

##### Article 53

~~Article 52~~

The work of the public prosecutor's office and the holder of the public prosecutor's function is public, unless otherwise provided by the law.

## Prohibition of Political Activity

Article ~~54~~53

The holder of the public prosecutor's function cannot be a member of a political party.

The holder of the public prosecutor's function shall be obliged to refrain from public expression of political views and participation in public debates of a political nature, unless it concerns issues related to public prosecutor's office, constitutionality and legality, human rights and fundamental freedoms.

The holder of the public prosecutor's function shall be obliged to refrain from participating in the political activities of political entities.

## Financial Position

Article ~~55~~54

The holders of the public prosecutor's function have the right to a salary and pension in accordance with the dignity of the public prosecutor's function and ~~degree of~~ responsibility of ~~the~~ holders of the public prosecutor's function.

The holders of the public prosecutor's function have the right to a salary and pension that guarantee their autonomy and material security.

This law regulates the salary of the holders of public prosecutor's function.

## Rights Ensuing from Employment

Article ~~56~~55

The holders of the public prosecutor's function shall exercise their employment rights in accordance with the regulations governing the employment rights of elected persons, unless otherwise provided by this law.

## Immunity

~~Article 56~~Article 57

The holders of the public prosecutor's function cannot be held accountable for the opinion given or the decision made in connection with the performance of the function, unless they commit a criminal act of violation of the law by a judge or public prosecutor.

The holders of the public prosecutor's function cannot be deprived of their liberty in proceedings initiated due to a criminal offence committed in connection with the exercise of the public prosecutor's function, without the approval of the High Prosecutorial Council.

## Liability for Damage

Article 58~~Article 57~~

The Republic of Serbia shall be responsible for the damage caused by holders of the public prosecutor's function through illegal or improper work.

When a final decision of the Constitutional Court, a legally binding court decision, i.e. a settlement before a court has established that the damage was caused intentionally, the Republic of Serbia can claim compensation of the amount paid from the holders of the public prosecutor's function.

#### The right to Association

Article ~~59~~<sup>58</sup>

Holders of the public prosecutor's office, assistant prosecutors and interns have the right to join professional associations in order to protect their interests and preserve independence in the work of the public prosecutor's offices.

The right of professional association also includes the participation in the activities of professional associations during working hours, if this does not interfere with the work of the public prosecutor's office.

#### Professional Training

Article ~~60~~<sup>59</sup>

Holders of the public prosecutor's function have the right and obligation to professional training at the expense of the Republic of Serbia, in the manner regulated by law.

#### 2. Term of office

##### Duration of Function of the Public Prosecutor

Article ~~61~~<sup>60</sup>

The public prosecutor's function of the public prosecutor is permanent and ends from reasons prescribed by the Constitution and this law.

##### Duration of Function of the Chief Public Prosecutor

Article ~~62~~<sup>61</sup>

The chief public prosecutor is elected from among chief public prosecutors or public prosecutors, i.e. among the persons who meet the prescribed conditions for election, for a period of six years and may not be elected again as chief public prosecutor in the same public prosecutor's office.

The chief public prosecutor whose position ends at his/her personal request or if he/she is not elected as the chief public prosecutor in another public prosecutor's office, continues to perform the function of a public prosecutor that he/she held before the election as the chief public prosecutor.

If a chief public prosecutor or a public prosecutor of a lower public prosecutor's office was elected as the chief public prosecutor of a higher level, after the termination of function of the chief public prosecutor, he/she continues to perform the function of a public prosecutor in the public prosecutor's office of a higher level that he/she managed.

If the chief public prosecutor did not perform the public prosecutor's function before the election, after the termination of such function, he/she continues to perform the public prosecutor's function in the public prosecutor's office in which he/she performed the function of the chief public prosecutor.

The decision on the continuation of the function from Paragraphs 2 to 4 of this Article is adopted by the High Prosecutorial Council.

Before the expiry of the term for which they were elected or before the end of their career, the function of the chief public prosecutor may only be terminated under the conditions and for the reasons stipulated by this law.

#### Continuation of Office

##### Article ~~63~~62

If the public prosecutor's office is abolished, the chief public prosecutor, i.e. the public prosecutors, continue to perform their function as public prosecutors in the public prosecutor's office that took the authority of the discontinued public prosecutor's office.

If several public prosecutors' offices have assumed the jurisdiction of the discontinued public prosecutor's office, the holders of the public prosecutor's function continue to exercise the function in the public prosecutor's offices which have taken the jurisdiction on the basis of the decision of the High Prosecutorial Council.

Against the decision of the High Prosecutorial Council from Paragraph 2 of this Article an appeal to the Constitutional court may be lodged within 15 days from the day of delivery of the decision, which excludes the right to submit a constitutional appeal.

#### 3. Removal from Function Reasons for Removal

##### ~~Article 63~~

##### Article 64

The holders of the public prosecutor's function are removed from the public prosecutor's function if they are detained.

The holders of the public prosecutor's function may be removed from the public prosecutor's function when proceedings for determining the reason for their dismissal or criminal proceedings for the offence for which they may be dismissed have been initiated.

#### Deciding on Removal

##### ~~Article 64~~

##### Article 65

The decision to remove the holders of the public prosecutor's function is made by the High Prosecutorial Council.

The Supreme public prosecutor is excluded from decision-making if it is decided on his/her removal.

#### Right to Appeal with the Constitutional Court

##### ~~Article 65~~

##### Article 66

Against the decision of the High Prosecutorial Council on the removal of the holder of the public prosecutor's function, an appeal may be filed with the Constitutional court within three days from the date of delivery of the decision, which excludes the right to file a constitutional appeal. ~~The appeal does not delay the execution of the decision.~~

The appeal does not delay the execution of the decision.

#### Duration of Removal

~~Article 66~~

Article 67

The removal from the function lasts until the termination of detention, the final conclusion of the procedure for determining the reason for dismissal of the holder of the public prosecutor's office~~dismissal procedure~~ or the final termination of the criminal procedure.

The High Prosecutorial Council may reverse the removal decision before the termination of the procedure for determining the reason for dismissal of the holder of the public prosecutor's office~~dismissal procedure~~.

#### 4. Permanent Transfer and Temporary Assignment Permanent Relocation

Article 68

~~Article 67~~

The public prosecutor may be permanently transferred to another public prosecutor's office of the same level, with their written consent, based on the decision of the High Prosecutorial Council.

The public prosecutor may be permanently transferred to another public prosecutor's office of the same level without their consent if the number of public prosecutors is reduced in the public prosecutor's office, based on the decision of the High Prosecutorial Council.

An appeal to the Constitutional court may be lodged against the decision of the High Prosecutorial Council under Paragraph 2 of this Article, which excludes the right to submit a constitutional appeal.

The public prosecutor continues to perform their duties permanently in the public prosecutor's office to which they were transferred.

#### Temporary assignment

Article ~~69~~68

The public prosecutor may, for justified reasons, with their written consent, be ~~temporarily~~temporary assigned to another public prosecutor's office of the same or lower level for a maximum of three years~~one year~~, without the possibility of re-assignment to the same public prosecutor's office.

Exceptionally from Paragraph 1 of this Article, the public prosecutor of appellate or higher public prosecutor's office, with his/her written consent, if fulfils legal conditions for election to public prosecutor's office to which is temporary assigned, may be temporary assigned to the Supreme public prosecutor or public prosecutor's office of special jurisdiction for a maximum of three years~~one year~~, without the possibility of re-assignment to the same public prosecutor's office.

The decision on temporarily assignment is made by the Supreme public prosecutor. The decision must be reasoned~~High Prosecutorial Council~~.

The Assignment to the High Prosecutorial Council, the Ministry in Charge of Judiciary, Judicial Academy or an International Organisation

Article ~~70~~69

A public prosecutor may be assigned to perform professional tasks in the High Prosecutorial Council, the ministry in charge of judiciary, the Judicial Academy and an international judicial organisation.

The assignment referred to in Paragraph 1 of this Article shall be made at the proposal of the head of the body, i.e. the institution or organisation to which the public prosecutor is assigned, based on the obtained opinion of the chief public prosecutor where the public prosecutor performs his/her function, with the written consent of the public prosecutor.

The assignment can last for a maximum of three years, that is maximum of six years in international organisation, without the possibility of re-assignment to the same authority, institution or organisation from Paragraph 1 of this Article.

The decision on assignment is made by the High Prosecutorial Council.

#### 5. The Incompatibility of the Public Prosecutor's Function with other Functions, Jobs or Private Interests Relationship of other Functions, Jobs or Private Interests with the Public Prosecutor's Function

##### Article ~~71~~<sup>70</sup>

The holder of the public prosecutor's function cannot hold office in other bodies of the Republic of Serbia, the autonomous province, units of local self-government, city municipalities or public offices, unless otherwise provided by the law, be engaged in public or private paid business, nor provide legal services or give legal advice for a fee.,

Other functions, jobs or private interests that are contrary to the reputation and autonomy of the public prosecutor's office are also incompatible with the public prosecutor's function.

The High Prosecutorial Council determines other functions and tasks that are in conflict with the dignity, i.e. which violate the reputation and autonomy of the public prosecutor's office.

The holder of the public prosecutor's function may, outside of working hours, engage in teaching, artistic and scientific activities, for a fee, without special approval.

In cases specified by law, the holder of the public prosecutor's function may, during working hours, perform teaching and scientific activities.

During working hours, the public prosecutor may, with the approval of the Supreme public prosecutor or the chief public prosecutor, participate in the work of professional bodies formed in accordance with special regulations and working groups for the drafting of laws and other acts.

#### Procedure for Deciding on Incompatibility

##### Article ~~72~~<sup>74</sup>

The public prosecutor shall be obliged to notify the High Prosecutorial Council and the chief public prosecutor in writing about another function, job or private interest that may be incompatible with his/her function.

The notification from Paragraph 1 of this Article may be submitted to the High Prosecutorial Council by any other person.

The High Prosecutorial Council initiates and leads the decision-making process on the incompatibility of the public prosecutor's function with other function, job or private interest in accordance with the act of the High Prosecutorial Council



The High Prosecutorial Council informs the holder of the public prosecutor's function, the chief public prosecutor and the immediately higher chief public prosecutor, about the existence of incompatibility of function, job or private interest with the public prosecutor's function.

#### Implementation of Other Regulations

#### ~~Article 72~~

#### Article 73

The holders of public prosecutor's function are public officials in the sense of the law that regulates the prevention of corruption and have all the obligations imposed on public officials as stipulated by such law.

#### 6. Financial Position

##### Basic Salary

#### ~~Article 73~~

#### Article 74

The salary of the chief public prosecutor and the public prosecutor is determined based on the basic salary.

The basic salary is determined by multiplying the coefficients for the calculation and payment of salaries with the base for the calculation and payment of salaries.

The base for calculation and payment of the salaries of chief public prosecutors and public prosecutors is equal to the base for the calculation and payment of the salaries of judges.

The coefficient for the calculation and payment of the salary shall be determined by classifying each public prosecutor into one of five salary groups.

The basic salary, according to this law, is a value that does not include a percentage for the evaluation of years of service.

The chief public prosecutor and public prosecutor cannot receive a pension under special regulations in addition to their salary.

##### Salary Groups

#### Article 75

#### ~~Article 74~~

Public prosecutors and the Supreme public prosecutor are classified into salary groups, which are expressed in coefficients.

The first salary group includes public prosecutors of the basic public prosecutor's offices. The second salary group includes public prosecutors of higher public prosecutor's offices and public prosecutor's offices of special jurisdiction. The third salary group includes the public prosecutors of appellate public prosecutor's offices. The fourth salary group includes public prosecutors of the Supreme public prosecutor's office.

The Supreme public prosecutor is in the fifth salary group.

##### Coefficients

#### Article ~~76~~<sup>75</sup>

The first salary group has the coefficient of 3.00.

The second salary group has the coefficient of 3.50.

The third salary group has the coefficient of 4.00.

The fourth salary group has the coefficient of 5.00.

The fifth salary group has the coefficient of 6.00.

## The Basic Salary of the Chief Public Prosecutor

### Article ~~77~~<sup>76</sup>

The basic salary of the chief public prosecutor is equal to the basic salary of the president of the court of general jurisdiction before which the chief public prosecutor acts.

The basic salary of the chief public prosecutor of special jurisdiction is equal to the salary of the president of the higher court before which the relevant chief prosecutor acts.

### Salary in Case of Permanent Transfer, i.e. Temporary Assignment and Increase of Basic Salary

### Article ~~78~~<sup>77</sup>

A public prosecutor who is permanently transferred, i.e. temporarily assigned to another public prosecution office, the High Prosecutorial Council, the ministry responsible for judiciary, the Judicial Academy or an international organisation in the field of justice, has the right to the basic salary of the public prosecutor of that public prosecutor's office, i.e. the basic salary in the High Prosecutorial Council, the ministry responsible for judiciary, the Judicial Academy or the international organisation to which he/she was permanently transferred, or temporarily assigned, if it is more favourable for him/her.

The basic salary of a public prosecutor who works in a public prosecutor's office in which more than 10% of the public prosecutor's positions are unfilled shall be increased from 10% to 50%, in proportion to the number of unfilled positions, based on the decision of the High Prosecutorial Council.

The positions of public prosecutors who are temporarily released from the execution of the public prosecutor's function, i.e. whose public prosecutor's function is inactive due to election, appointment, or temporary assigned to other public prosecution office, the High Prosecutorial Council, the ministry responsible for judiciary, the Judicial Academy or an international organisation, shall be considered unfilled positions of public prosecutors in the cases prescribed by law.

The basic salary of a chief public prosecutor or a public prosecutor who handles criminal cases with an element of organised crime and war crimes, may be increased by up to 100%, based on the decision of the High Prosecutorial Council.

### Compensation of Salary

### Article ~~79~~<sup>78</sup>

The holders of the public prosecutor's function have the right to salary compensation during absence from work and to compensation for expenses in cases prescribed by law, as well as the right to compensation for unused vacation, under the same conditions and in the same scope of rights as other employees of the public prosecutor's office.

## IV. ELECTION

### 1. Jurisdiction and Conditions for the Election of Holders of the Public Prosecutor's Function

#### Jurisdiction for Election

### ~~Article 79~~

### Article 80

The Supreme public prosecutor is elected by the National Assembly, at the proposal of the High Prosecutorial Council, for a term of six years.

The chief public prosecutor is elected by the High Prosecutorial Council for a six-year term.

The public prosecutor is elected by the High Prosecutorial Council for a permanent function in a public prosecutor's office.

The number of public prosecutors for each public prosecutor's office is determined by the High Prosecutorial Council.

#### General Appointment Requirements

~~Article 80~~

#### Article 81

A citizen of the Republic of Serbia who meets the general requirements for work in state bodies, who has graduated from law school, passed the bar exam, who is professional and worthy of exercising the public prosecutor's office, may be elected as the holder of the public prosecutor's function .

#### Required Experience

~~Article 81~~

#### Article 82

A person who, in addition to the general requirements, has work experience in the legal profession after passing the bar exam, may be chosen as the holder of the public prosecutor's function , namely:

- 1) Four years for the basic chief public prosecutor and three years for the basic public prosecutor;
- 2) Seven years for the higher chief public prosecutor and six years for the higher public prosecutor;
- 3) Ten years for the appellate chief public prosecutor and the chief public prosecutor of special jurisdiction and nine years for the appellate public prosecutor and the special jurisdiction public prosecutor;
- 4) Twelve years for the Supreme public prosecutor and eleven years for the public prosecutor of the Supreme public prosecutor's office.

#### Other Appointment Requirements

~~Article 82~~ Article 83

Other requirements for the appointment at a public prosecutor's function include expertise, qualifications and worthiness.

Expertise implies the possession of the theoretical and practical knowledge necessary for the performance of the public prosecutor's function.

Qualifications imply skills that enable the effective application of specific legal knowledge in solving the public prosecutor's cases.

Worthiness implies moral qualities that holders of the public prosecutor's function should possess and the conduct in accordance with such qualities. Moral qualities are: honesty, conscientiousness, fairness, dignity, perseverance and exemplary behaviour, and behaviour in accordance with these qualities which implies the preservation of the reputation of the public

prosecutor's office inside and outside the service, awareness of social responsibility, maintaining independence and impartiality, reliability and dignity in the service and outside of it and assuming responsibility for the internal organisation and a positive image of the Public prosecutor's office in the public.

The criteria and standards for assessing the expertise, competence and worthiness of the candidates and the selection procedure are regulated in more detail by an act of the High Prosecutorial Council.

#### Determining the Expertise and Competence of the Candidates for the Holder of the Public Prosecutor's Function who are Elected for the First Time

##### Article ~~84~~<sup>83</sup>

In the process of selecting the holders of the public prosecutor's function, the candidate who is elected to the position in the public prosecutor's office for the first time is particularly checked for expertise and competence.

The expertise and competencies of the candidate are verified in an exam organised by the High prosecutorial council.

Success in the exam is expressed in grades from 1 to 5.

A candidate for public prosecutor in the basic public prosecutor's office and who has completed initial training at the Judicial Academy is not required to take an exam organised by the High Prosecutorial Council, but the final grade on initial training at the Judicial Academy is used as a measure of expertise and competence.

The High Prosecutorial Council prescribes the programme and method of taking the exam, which verifies the expertise and competencies of the candidate.

#### Prohibition of Discrimination

##### Article ~~85~~<sup>84</sup>

During the selection and nomination of candidates for the public prosecutor's function, discrimination on any basis is prohibited.

When selecting the chief public prosecutors and public prosecutors, account is taken of the national composition of the population, the appropriate representation of members of national minorities and knowledge of professional legal terminology in the language of the national minority that is in official use in the court.

#### 2. Procedure for the Election of the Chief Public Prosecutor and the Public Prosecutor Publication of a Public Competition for the Election of the Chief Public Prosecutor and the Public Prosecutor

##### Article ~~86~~<sup>85</sup>

Public competition for the selection of the chief public prosecutor and public prosecutor shall be published by the High Prosecutorial Council.

The public competition for the election of the chief public prosecutor is announced no later than three months before the expiry of the function of the chief public prosecutor, or no later than 15 days from the date of adoption of a decision for termination of the function of the chief public prosecutor due to the termination of the public prosecutor's function, due to election for the holder of the public prosecutor's function in another public prosecutor's office, termination of the function at one's personal request, termination of the function due to the

dissolution of the public prosecutor's office, or due to dismissal of the chief public prosecutor from the function.

The public competition for the election of the public prosecutor is announced no later than six months before the termination of the public prosecutor's function of the public prosecutor due to the completion of his/her working life, or no later than 15 days from the cessation of the public prosecutor's function if the public prosecutor's function has been terminated for another reason regulated by law.

The public competition for the election of the chief public prosecutor and public prosecutor is published in the "Official Gazette of the Republic of Serbia", other media with national coverage on the territory of the Republic of Serbia, and on the website of the Supreme Prosecutorial Council.

### Submission of Applications

#### Article ~~87~~<sup>86</sup>

Applications are submitted to the High Prosecutorial Council within 15 days from the date of announcement of the public competition in the "Official Gazette of the Republic of Serbia".

The candidate for chief public prosecutor, along with the application for the selection competition, also submits a programme for improving the work of the public prosecutor's office for which he/she is running, which is published on the website of the High Prosecutorial Council, together with data from the candidate's professional biography.

The High Prosecutorial Council by its decision establishes a three-member commission that determines the timeliness, admissibility and completeness of submitted applications.

Untimely, non-admissible and incomplete applications are rejected by the commission by virtue of a conclusion. The commission also rejects the application by its conclusion if the report from the criminal record, which was submitted together with the application, indicates that the candidate was sentenced to six months in prison.

An objection to the conclusion may be submitted to the High Prosecutorial Council within three days from the day of delivery of the conclusion .

Timely, admissible and complete applications are submitted by the commission to the High Prosecutorial Council for further procedure.

### Obtaining Data and Opinions

#### Article ~~88~~<sup>87</sup>

The High Prosecutorial Council obtains the data and opinions on the expertise, professional competence and worthiness of the candidate.

Data and opinions are obtained from authorities and organisations where the candidate worked in the legal profession.

For candidates who worked in the public prosecutor's office, the data is obtained from the personal file of the candidate, and the opinion of the collegium of the public prosecutor's office where the candidate worked must be obtained.

For candidates from among the chief public prosecutors and public prosecutors, the grades obtained in the work evaluation procedure are taken into account.

During the selection of candidates from among the chief public prosecutors and public prosecutors, other activities of importance for the performance of the public prosecutor's function may be taken into account.

For candidates who work as assistant public prosecutors, a performance evaluation must be obtained.

For candidates who have not performed a public prosecutor's function before, the High Prosecutorial Council will particularly evaluate the type of work they performed after passing the bar exam.

Before the election, a candidate has the right to review complete documentation and the opinions which are the basis for the decision on his/her election.

#### Interview with Candidates

##### Article ~~89~~<sup>88</sup>

Before bringing a decision on the election, the High prosecutorial council conducts an interview with the registered candidate aiming to determine the candidate's communication skills, readiness to perform the public prosecutor's function and the professional integrity of the candidate.

The interview referred to in paragraph 1 of this Article is conducted and evaluated in accordance with the Act of the High prosecutorial council that governs the procedure for candidate selection.

#### Publicity of Work

##### Article ~~90~~<sup>89</sup>

In the procedure for the election of chief public prosecutors and public prosecutors, the publicity of the work is ensured, which is regulated in more detail by an act of the High Prosecutorial Council.

#### Ranking List of Candidates

##### Article ~~91~~<sup>90</sup>

For the election of the chief public prosecutor and public prosecutor, the High Prosecutorial Council prepares a ranking list of candidates based on the expertise, competence and worthiness of the candidates.

The ranking list under Paragraph 1 of this Article shall be published on the website of the High Prosecutorial Council.

#### Decision on the Election for the Function of Chief Public Prosecutor and Public Prosecutor

##### Article ~~92~~<sup>91</sup>

The High Prosecutorial Council makes a decision on the election to the position of Chief Public Prosecutor and Public Prosecutor, which must be reasoned.

The decision referred to in Paragraph 1 of this Article shall be published in the "Official Gazette of the Republic of Serbia", and on the website of the High Prosecutorial Council.

#### The Right of Appeal to the Constitutional Court Against the Decision on the Election for the Function of Chief Public Prosecutor and Public Prosecutor

##### Article ~~93~~<sup>92</sup>

Against the decision on election to the function of chief public prosecutor and public prosecutor, the candidate may file an appeal to the Constitutional court within 15 days from the day of publication of the decision in the "Official Gazette of the Republic of Serbia", which excludes the right to submit a constitutional appeal.

The Constitutional court is obliged to provide a decision on an appeal to the Constitutional court within 30 days from the expiration of the deadline for filing an appeal to the Constitutional court.

The Constitutional court may reject the appeal to the Constitutional court as unsubstantiated and confirm the decision on the election of the chief public prosecutor and public prosecutor or approve the appeal to the Constitutional court and cancel the decision on the election of the chief public prosecutor and the public prosecutor.

The decision from Paragraph 1 of this Article with reasoning is published in the "Official Gazette of the Republic of Serbia".

### 3. Procedure for Nomination and Election of the Supreme Public Prosecutor Nomination of Candidates for the Election of the Supreme Public Prosecutor

#### Article ~~94~~ ~~93~~

The candidates for the election of the Supreme public prosecutor are proposed by the High Prosecutorial Council on the basis of the candidate's expertise, competence and worthiness, and according to the criteria and standards prescribed by the High Prosecutorial Council in accordance with the law.

The public competition for nominating a candidate for the election of the Supreme public prosecutor is announced by the High Prosecutorial Council no later than six months prior to the expiry of the mandate of the Supreme public prosecutor. ▸

If the function of the Supreme public prosecutor ends before the expiry of the term for which he/she was elected, the High Prosecutorial Council announces a public competition for the election of the Supreme public prosecutor within 15 days from the date of the decision on the termination of office.

The candidate for the Supreme public prosecutor, along with the application for the selection competition, has to submit the programme of organisation and improvement of the work of the Public prosecutor's office, which is published on the website of the High Prosecutorial Council, together with data from the candidate's professional biography.

In the process of nominating candidates for the election of the Supreme public prosecutor, the High Prosecutorial Council conducts an interview with the candidates, with the participation of experts and general public.

The High Prosecutorial Council proposes to the National Assembly one candidate for the position of Supreme public prosecutor. The proposal of the High Prosecutorial Council must be reasoned.

The provisions of Articles ~~81~~~~80~~ to ~~93~~~~92~~ of this law are accordingly applied in the procedure of nominating candidates for the election of the Supreme public prosecutor, which is carried out by the High Prosecutorial Council.

The procedure for nominating the candidates for the election of the Supreme public prosecutor is regulated in more detail by an act of the High Prosecutorial Council.

### Selection of Candidates for the Supreme Public Prosecutor

#### Article ~~95~~ ~~94~~



The President of the National Assembly convenes a session for the election of the Supreme public Prosecutor. The session is convened no earlier than 15 days after receiving the proposal for election. The session must be held and concluded within 30 days from the date of convening the session.

The National Assembly elects the proposed candidate for the Supreme public prosecutor, with the votes of three-fifths of all members of the Parliament.

If the National Assembly fails to elect the proposed candidate within 30 days from the day of convening the session, the Supreme public prosecutor shall be chosen, from among all the candidates who meet the conditions for election, by a committee consisting of the President of the National Assembly, the President of the Constitutional Court, the President of the Supreme Court, the Supreme Public Prosecutor and the Ombudsman, by majority vote.

The committee referred to in Paragraph 3 of this Article, before the election at a public session with the participation of the general and professional public, considers the applications of all candidates who meet the conditions for election and conducts an interview with them.

The commission referred to in Paragraph 3 of this Article shall be obliged to make a decision on the election of the Supreme public prosecutor after the expiry of 10 days from the expiry of the deadline referred to in Paragraph 3 of this Article.

If the commission fails to make a decision within 60 days from the expiry of the 10-day period from Paragraph 5 of this Article, the election procedure is to be repeated.

Expert and administrative task for the needs of the commission referred to in Paragraph 3 of this Article are carried out by the National Assembly.

The commission referred to in paragraph 3 of this Article adopts the Rules of Procedure for its work.

#### 4. The Oath and Taking Office Taking the Oath

##### Article ~~96~~<sup>95</sup>

Before assuming the function, the holder of the public prosecutor function takes an oath.

The Supreme public prosecutor takes the oath before the National Assembly.

A chief public prosecutor and a public prosecutor take the oath before the High Prosecutorial Council before taking office.

The chief public prosecutor and the public prosecutor who are elected from among the chief public prosecutors and public prosecutors are not under the obligation to retake the oath.

##### Oath

##### Article ~~97~~<sup>96</sup>

Text of the oath reads as follows: "I swear on my honour that I will perform the public prosecutor's function dedicatedly, conscientiously and impartially and that I will protect the constitutionality and legality, human rights and civil and basic freedoms".

##### Taking office

##### Article ~~98~~<sup>97</sup>

The holders of the public prosecutor's function take the function at a ceremonial session of the collegium of the public prosecutor's office for which they were elected.

It is considered that the Supreme public prosecutor has not been elected if, without a justified reason, he/she does not take the function within 30 days from the day of the election in the National Assembly

It is considered that the chief public prosecutor and the public prosecutor have not been elected if, without justified reason, he/she does not take the function within 30 days of the expiration of the deadline referred to in Article ~~93~~<sup>92</sup>, Paragraph 1 of this Law, that is, from the date of the publication of the Constitutional court decision on rejecting the appeal to Constitutional court on the decision on election to the public prosecutor function.

The decision on not taking the public prosecutor's function from ~~Paragraphs 2~~<sup>Paragraphs 2</sup> and 3. of this Article brings the High Prosecutorial Council.

The decision from Paragraph 4 of this Article may be appealed to the Constitutional Court, which excludes the right to submit a constitutional appeal.

## V. TERMINATION OF OFFICE

### 1. Reasons for the Termination of Office

#### Article ~~99~~<sup>98</sup>

The position of public prosecutor ends if the holder of the position so requests, if his/her citizenship in the Republic of Serbia ceases, if he/she permanently loses his/her ability for the performance of the public prosecutor's function~~to work~~ or if he/she is dismissed.

The public prosecutor's function ends when they finish their career.

The function of the chief public prosecutor ends if the public prosecutor's office is abolished.

### Termination of Function at Personal Request

#### Article ~~100~~<sup>99</sup>

The holder of the public prosecutor's function submits a written request for the termination of the function to the High Prosecutorial Council.

The request may be withdrawn before the decision of the High Prosecutorial Council on termination of function is brought .

If the request for the termination of function is not decided within 30 days from the date of submission of the request, it is deemed that the public prosecutor's function has ended after the expiry of the period of 30 days from the date of submission of the request.

### End of Career

#### Article ~~101~~<sup>101</sup> ~~100~~

Public prosecutor's function terminates when he/she completes working age, by the force of the law.

The working age of a public prosecutor ends when a public prosecutor reaches 65 years of age, with the exception of the public prosecutor of the Supreme public prosecutor's office, who can perform the function of public prosecutor until he turns 67 years of age.

### Permanent Loss of the Working Ability to Perform Public Prosecutor's Function

#### Article 102 ~~Article 101~~

For the holder of the public prosecutor's function the function terminates if the expert commission of the competent authority determines that he/she has permanently lost the working ability to exercise the public prosecutor's function due to a health condition.

The decision to refer to a mandatory medical examination for the assessment of the working ability of the holder of the public prosecutor's function is brought by the High Prosecutorial Council ex-officially or at the proposal of the chief public prosecutor, the directly superior chief public prosecutor and the holder of the public prosecutor's function himself.

## 2. Dismissal

### Reasons for Dismissal

~~Article 102~~

Article 103

Holder of the public prosecutor's function shall be dismissed if he/she is sentenced by a final court decision for a criminal offence to a prison sentence of at least six months or if in ~~at the disciplinary~~ procedure for determining the reason for his/her dismissal it is established that he/she has committed a serious disciplinary offence which, according to the opinion of the High Prosecutorial Council, seriously damages the reputation of the public prosecutor's ~~function~~office and the trust of the public in public prosecutor's office.

The chief public prosecutor is also dismissed when he/she reaches 65 years of age. The Supreme public prosecutor is also dismissed when he/she reaches 67 years of age.

### ~~Jurisdiction and the Initiation of the Procedure~~

~~Article 103~~

~~The High Prosecutorial Council initiates and conducts the procedure for Determining Reasons determining the reasons for the Dismissal of Holders of the Public Prosecutor's Function Due to Final Conviction dismissal of the holder of a Crime the public prosecutor's function, ex officio.~~

### ~~Proceedings before the High Prosecutorial Council~~

Article 104

The High Prosecutorial Council ~~initiates determines the facts and~~ conducts ex officio the decides in a procedure for determining that is closed to the public.

~~The High Prosecutorial Council shall be obliged to conduct the procedure and make a decision within 30 days from the date of delivery of the act initiating the dismissal procedure.~~

~~The decision of the High Prosecutorial Council, which determined the reasons for the dismissal of the holder of the public prosecutor's function, due to final conviction for a crime to imprisonment of at least six months must be reasoned.~~

The procedure referred to in Paragraph 1 of this Article may be also initiated at a proposal Position of the chief public prosecutor of the public prosecutor's office where the public prosecutor performs the public prosecutor's function.

The procedure referred to in Paragraph 1 of this Article for determining the reasons for dismissal may be also initiated at a proposal of the Supreme public prosecutor.

The court of first instance at which the criminal proceedings were conducted against the holder of the public prosecutor's office is obliged to provide forthwith the final conviction verdict

to the High Prosecutorial Council and the chief public prosecutor of the public prosecutor's office where the holder of the public prosecutor's function performs the public prosecutor's function or to the Supreme public prosecutor, if the procedure against the holder of the public prosecutor's function was conducted in the Supreme Public Prosecutor's Office.

Procedure for Determining Reasons for the Dismissal of Holders of the Public Prosecutor's Function Due to Committed Serious Disciplinary Offence in the Proceeding

Article 105

The High Prosecutorial Council establishes the facts concerning whether a serious disciplinary offence of the holder of the public prosecutor's function determined by a final decision is such that it damages seriously the reputation of the public prosecutor's function or public trust in the public prosecutor's office.

The procedure referred to in Paragraph 1 if this Article is initiated *ex officio* by accompanying documents and the High Prosecutorial Council or at a proposal of the Disciplinary Commission.

The High Prosecutorial Council is obliged to conduct the procedure and adopt a decision within 90 days from the date of initiation of the procedure for determining the reasons for dismissal of the holder of the public prosecutor's function, and to provide explanations and evidence for their allegations either directly, or through a representative.

The holder of the public prosecutor's function has the right to present his/her allegations orally before the High Prosecutorial Council.

The Supreme Public Prosecutor is exempted from decision-making in the procedure referred to in paragraph 1 of this article if the procedure was initiated against him.

The decision of the High Prosecutorial Council adopted in the procedure from Paragraph 1 of this Article must be reasoned.

Position of the Holder of the Public Prosecutor's Function in a Procedure for Determining Reasons for His/her Dismissal Due to Committed Serious Disciplinary Offence

3. Decision on the Termination of Function  
Jurisdiction and Initiation of Proceeding for Termination of Function

Article 106

In the procedure referred to in Article 105 of this law, the holder of the public prosecutor's function has the right to immediately be notified of the reasons for initiation of a procedure, get acquainted with the subject, the accompanying documentation is initiated and during the procedure, and to provide explanation and evidence of his/her allegations on his/her own or through a proxy.

The holder of the public prosecutor's function has the right to expose orally his/her allegations to the High Prosecutorial Council, *ex officio*.

The procedure from Article 105 of this law is urgent, it is carried out with all guarantees of a fair trial, close reasons for the public, unless termination of the holder of the public prosecutor's function concerning whom the Supreme public prosecutor and submits a proposal to the procedure takes place requests that the National Assembly for the procedure is public purpose of deciding on the termination of the office.

### 3.

#### Rendering of Decision on the Termination of Function

##### Jurisdiction for Adoption of Decision

##### Article 107

The decision on ~~the~~ termination of the public prosecutor's function of the Supreme ~~public prosecutor~~ Public Prosecutor is ~~adopted~~ rendered by the National Assembly, at ~~the~~ proposal of the High Prosecutorial Council, after the conducted procedure in which the reason for -

~~The decision on the~~ termination of the public prosecutor's office of the Supreme public prosecutor is determined.

In the procedure for determining the proposal for the termination of the public prosecutor's function of the Supreme Public Prosecutor, the Supreme Public Prosecutor is excluded from decision-making.

~~The decision on termination of the public prosecutor's office of the function of the chief public prosecutor and the public prosecutor is~~ adopted ~~rendered~~ by the High Prosecutorial Council, after the conducted procedure in which the reason for termination of the public prosecutor's office is determined.

The procedure referred to in Paragraphs 1 and 3 of this Article is initiated and conducted ex officio by the High Prosecutorial Council.

The public prosecutor's function ~~is terminated~~ ends on the ~~date~~ day specified by the High Prosecutorial Council, or ~~decision of the National Assembly states in its decision~~ or the High Prosecutorial Council, except in ~~the case from referred to in Article 99, Paragraph 3 and Article 100 paragraph 3 and Article 101~~ of this law.

The decision on termination of the public prosecutor's function must be reasoned and is published in the "Official Gazette of the Republic of Serbia" and on the website of the High Prosecutorial Council, and the decision on termination of the public prosecutor's office of the Supreme public prosecutor is published on the website of the National Assembly, ~~i.e. the High Prosecutorial Council.~~

#### Appeal to the Constitutional Court

##### Article 108

Against the decision of the National Assembly or the High Prosecutorial Council on the termination of function, the Supreme public prosecutor, chief public prosecutor or the public prosecutor may submit an appeal to the Constitutional court within 30 days from the date of delivery of the decision, which excludes the right to constitutional appeals.

By its decision, the Constitutional court may reject the appeal or accept the appeal and cancel the decision on the termination of function .

The decision of the Constitutional court is final and is published in the "Official Gazette of the Republic of Serbia".

## VI. EVALUATION OF THE WORK OF THE CHIEF PUBLIC PROSECUTOR AND THE PUBLIC PROSECUTOR

### Concept

#### Article 109

The evaluation of the work of the chief public prosecutor and the public prosecutor is the basis for election and mandatory training.

The evaluation is performed on the basis of published, objective, unique and comprehensive criteria that are based on qualitative and quantitative indicators.

The evaluation of the work of chief public prosecutors and public prosecutors is performed on the basis of the following basic criteria: expert knowledge and ability to its application; the ability of analytical opinion and resolving legal issues; ability to make decisions within appropriate deadlines; discussion and listening skills; oral and written expression and argumentation ability; ability to organize and manage public prosecutor's work; undertaking additional works and duties.

Criteria and indicators for the evaluation, method and procedure of evaluating the work of the chief public prosecutor and the public prosecutor are regulated in more detail by the act of the High Prosecutorial Council.

The work of the Supreme public prosecutor and the public prosecutors of the Supreme public prosecutor's office is not subject to evaluation.

#### The Period for Which the Evaluation of Work is Performed

#### Article 110

The work of the chief public prosecutor and public prosecutor is regularly evaluated once every three years.

Exceptionally, based on the decision of the High Prosecutorial Council, the work of the chief public prosecutor and the public prosecutor may be evaluated on an extraordinary basis.

#### Work Evaluation Grades

#### Article 111

The evaluation of work is expressed as a grade.

The grades are: "extremely successfully performs the public prosecutor's function", "successfully performs the public prosecutor's function", "satisfactorily performs the public prosecutor's function" and "unsatisfactorily performs the public prosecutor's function".

The grade is entered in the personal file of the chief public prosecutor or the public prosecutor.

The chief public prosecutor or the public prosecutor has the right to object to the High Prosecutorial Council within 15 days from the date of delivery of the decision on performance evaluation, which must be reasoned.

#### The Evaluation Procedure

#### Article 112

Evaluation of the work of the chief public prosecutor and the public prosecutor is carried out by commissions appointed by the High Prosecutorial Council.

The commissions are made up of three members, in which higher level public prosecutors evaluate the work of the lower-level chief public prosecutor and public prosecutors.

The chief public prosecutor and the public prosecutor have the right to object the evaluation grade to the High Prosecutorial Council within 15 days from the delivery of the decision on the evaluation.

## VII. DISCIPLINARY RESPONSIBILITY AND DISCIPLINARY PROCEEDINGS

### The Concept of a Disciplinary Offence

#### Article 113

A disciplinary offence is the negligent performance of the public prosecutor's function or behaviour unworthy of the holder of the public prosecutor's function, which is prescribed by this law.

#### Disciplinary Offences

#### Article 114

The holder of the public prosecutor's function commits a disciplinary offence if he/she:

1) do not prepare the public prosecutor's decisions within the prescribed deadline without justification;

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2) fail to file a regular or extraordinary legal remedy within the prescribed period without justification;

3) frequently miss or are late for scheduled hearings, discussions and other procedural actions in the cases assigned to him/her;

4) fail to request an exemption in cases where there are legal reasons to do so;

5) refuse to perform jobs and tasks entrusted to them without justification;

6) do not carry out the mandatory instructions of the chief public prosecutor and the directly higher chief public prosecutor without justification;

7) do not execute general mandatory instructions from the Supreme public prosecutor;

8) clearly violate the obligations of proper treatment towards judges in the proceedings, parties, their legal representatives, witnesses, staff or colleagues;

9) is engaged in inappropriate relations with the parties or their legal representatives in the proceedings they lead;

10) provide incomplete or inaccurate information relevant to the work of the High prosecutorial council in the process of the election and termination of the public prosecutor's function, determination of disciplinary responsibility, and other matters within their jurisdiction;

11) violate the principle of impartiality and endanger citizens' trust in the public prosecutor's office;

12) perform the activities that are determined by law as incompatible with the public prosecutor's function;

13) accept gifts contrary to the regulations that govern conflicts of interest;

14) unjustifiably and frequently disrespect the working hours;

15) significantly violate the provisions of the Code of Ethics, which is determined by a decision of the Ethics Committee;

16) unjustifiably fail to attend mandatory training programmes;

17) use hierarchical authorities in a manner contrary to the law;

18) unjustifiable failure to proceed by~~unjustifiably change~~ the annual work schedule in the public prosecutor's office;

19) release information about current or planned evidence proceedings and investigations to the media without authorisation;



20) fail to act in accordance with the decision of the High Prosecutorial Council on referral to a mandatory medical examination;

21) fail to act in accordance with the measures adopted during the supervision without justification.

A serious disciplinary offence exists ~~where due to the commission~~~~if, as a result of~~ ~~at the~~ disciplinary offence referred to in Paragraph 1 ~~points 1), 2), 4) – 7), 11) – 13), 15), 17), 18), 20), and 21)~~ of this Article, ~~there has been a~~ serious ~~disruption~~~~disturbance~~ in the ~~work~~~~performance~~ of the public prosecutor's ~~office~~~~function~~ or the ~~reputation and public trust~~ ~~performance of tasks~~ in the public prosecutor's office ~~occurred~~~~, and~~ especially ~~in case of~~ the statute of ~~limitation~~~~limitations~~ for criminal prosecution ~~or~~~~, as well as in the case of~~ a repeated disciplinary offence.

~~Repeated~~~~The repeated~~ disciplinary offence referred to in Paragraph 2 of this Article ~~is~~ considered to be twice as high the ~~finally~~~~implies a two times legally~~ established responsibility of the ~~holder of chief public prosecutor, i.e.~~ the public ~~prosecutor's function~~~~prosecutor~~ for ~~the disciplinary procedure, if the time period between the final decisions is less than three years.~~

~~Provisions from Paragraphs 2 and 3 of this Article do not apply on disciplinary offences from Paragraph 1 points 3), 8) – 10), 14), 16), and 19) of this Article.~~

~~A~~ disciplinary offence ~~of the~~

~~The~~ holder of the public prosecutor's function may ~~not be prescribed by another law.~~

~~The holder~~ ~~be dismissed if they committed a serious disciplinary offence that, in the opinion of the High Prosecutorial Council, seriously damages the reputation of the public prosecutor's function is not responsible for a disciplinary offence committed due to insufficient number of public prosecutors in the public prosecutor's office, increased inflow of cases~~ ~~office or the trust of the public in the public prosecutor's office, insufficient number of staff in the public prosecutor's office, unsatisfying room and technical conditions for work or other reasons that disable efficient proceeding by the holder of the public prosecutor's function.~~

## Disciplinary Sanctions

### Article 115

Disciplinary sanctions are: reprimand, reduction of salary by up to 50% for up to one year and the prohibition of election to another public prosecutor's office for up to three years.

Disciplinary sanctions shall be imposed in proportion to the severity of the committed disciplinary offence.

A reprimand may only be issued when the responsibility of the chief public prosecutor or the public prosecutor for a disciplinary offence is established for the first time.

## Disciplinary Authorities

### Article 116

The disciplinary authorities are: the disciplinary prosecutor and his/her deputies and the Disciplinary commission that is formed by the High prosecutorial council.

The members of the disciplinary authorities are appointed by the High Prosecutorial Council from among the chief public prosecutors and public prosecutors, for a period of ~~five~~~~3~~ years, without possibility of reappointment.

The composition, conditions for appointment, and the termination of duty, the manner of work and decision-making in disciplinary bodies are regulated by an act of the High Prosecutorial Council.

## Disciplinary Proceedings

### Article 117

Disciplinary proceedings are conducted by the Disciplinary Commission at the proposal of the Disciplinary prosecutor.

The proposal for conducting disciplinary proceedings is submitted by the Disciplinary prosecutor based on the disciplinary report.

Disciplinary proceedings are urgent, it is conducted with the guarantees of a fair trial, and closed to the public, unless the holder of the chief public prosecutor's function concerning prosecutor, i.e. the public prosecutor against whom the proceedings are being carried out conducted requests them for the proceedings to be public.

Disciplinary proceedings expire after three years from the day when the disciplinary offence was committed.

## Decisions of the Disciplinary Prosecutor

### Article 118

The disciplinary prosecutor may reject the disciplinary report as unfounded or accept it and submit a proposal for conducting disciplinary proceedings.

The Position of the Holder of Chief Public Prosecutor or the Public Prosecutor's Function Prosecutor in the Disciplinary Proceedings

### Article 119

The holder of chief public prosecutor or the public prosecutor's function prosecutor has the right to be informed immediately about the proposal of the disciplinary prosecutor, to become familiarised with the case and evidence and to provide explanations and evidence for their allegations either personally, or through a representative.

The holder of chief public prosecutor or the public prosecutor's function prosecutor has the right to present their allegations orally before the Disciplinary Commission.

## Decisions of the Disciplinary Commission

### Article 120

After the disciplinary proceeding has been carried out, the Disciplinary Commission can reject the proposal of the Disciplinary prosecutor or adopt the proposal and impose a disciplinary sanction.

The decision of the Disciplinary Commission on the proposal of the Disciplinary prosecutor must be reasoned.

Against the decision of the Disciplinary Commission, the Disciplinary prosecutor and the holder of the chief public prosecutor's function prosecutor, i.e. the public prosecutor against whom disciplinary proceeding is being conducted, may file an appeal with the High Prosecutorial Council within eight days of the date of delivery of the decision.

## Decisions on an appeal of the High Prosecutorial Council

#### Article 121

When deciding on an appeal, the High Prosecutorial Council may reject the appeal as untimely and inadmissible, confirm the first-instance decision of the Disciplinary Commission or reverse the decision. ~~to cancel the decision and to return the case file to the Disciplinary Commission to repeat the proceeding.~~

The minister responsible for judiciary cannot vote in the appeal procedure.

The High Prosecutorial Council is obliged to decide on the appeal within 30 days from the date of submission of the appeal.

The decision of the High Prosecutorial Council on an appeal must be reasoned ~~is final.~~

The decision of the High Prosecutorial Council is final, and an administrative dispute may be initiated against it.

The final decision by which the disciplinary sanction was pronounced is entered in the personal file of the chief public prosecutor or the public prosecutor.

The decision by which the disciplinary sanction was pronounced is deleted from the personal file after three years ~~d~~ since the decision became final.

#### Record on Disciplinary Proceedings

#### Article 122

The High Prosecutorial Council keeps records of disciplinary proceedings against the holders of public prosecutor's function.

The records referred to in paragraph 1 of this Article contain the following: first and last name, unique citizen number and the name of the prosecutor's office in which the holder of the public prosecutor's function performs the public prosecutor's function ~~he/she performs his/her duties~~, the disciplinary offence for which the procedure was conducted, the outcome of the procedure and the imposed disciplinary sanctions.

### VIII. THE COLLEGIUM OF THE PUBLIC PROSECUTOR'S OFFICE

#### The Composition of the Collegium of the Public Prosecutor's Office

#### Article 123

The collegium of the public prosecutor's office consists of the chief public prosecutor and the public prosecutors of that public prosecutor's office.

#### Convening the Collegium of the Public Prosecutor's Office

#### Article 124

The collegium of the public prosecutor's office is convened and managed by the chief public prosecutor, or the public prosecutor appointed by him/her.

The chief public prosecutor shall be obliged to convene the collegium of the public prosecutor's office at the request of at least one-third of the public prosecutors.

#### Way of Working and Decision-making

#### Article 125

The collegium of the public prosecutor's office decides if at least two-thirds of the public prosecutors are present, and the decision is valid if the majority of the members present vote for it.

#### Jurisdiction of the Collegium of the Public Prosecutor's Office

## Article 126

The collegium of the Public Prosecutor's Office:

- 1) gives an opinion to the High prosecutorial council on candidates for the chief public prosecutor and public prosecutors in their or the immediately subordinate public prosecutor's office;
- 2) gives an opinion on the proposal of the report on the work of the public prosecutor's office for the previous year;
- 3) gives an opinion on the proposal of the plan and programme of work of the Public prosecutor's office for the following year;
- 4) considers the report on the performed supervision over the work of the public prosecutor's office;
- 5) discusses issues of importance for the professional development and organisation of the public prosecutor's office;
- 6) performs other tasks in accordance with the act on administration in the public prosecutor's office.

## Collegium of the Supreme Public Prosecutor's Office

## Article 127

The collegium of the Supreme public prosecutor's office consists of the Supreme Public Prosecutor and public prosecutors of the Supreme Public Prosecutor's Office.

In addition to the jurisdiction under Article 126 of this law, the Collegium of the Supreme public prosecutor's office:

- 1) gives an opinion on draft laws or other regulations of importance for the work of the public prosecutor's office or the performance of the public prosecutor's function;
- 2) gives an opinion to the High Prosecutorial Council in the process of resolving the request for exemption of the Supreme public prosecutor;
- 3) performs other tasks in accordance with the act on administration in the public prosecutor's office.

In order to consider matters of importance for the work of the public prosecutor's office, the Supreme public prosecutor may convene an extended collegium of the Supreme public prosecutor's office, which consists of the Supreme public prosecutor, public prosecutors of the Supreme public prosecutor's office, appellate chief public prosecutors, chief public prosecutors of special jurisdiction and senior chief public prosecutors.

## IX. THE STAFF OF THE PUBLIC PROSECUTOR'S OFFICE

## Composition and Number of Staff

## Article 128

The staff in the Public prosecutor's office consist of assistant public prosecutors, public prosecutor's trainees, and civil servants and officers employed in administrative, technical, accounting, information and other related tasks important for the Public Prosecutor's Office.

The number of staff in the public prosecutor's office is determined by the chief public prosecutor in an act on the internal organisation and systematisation of jobs, with the consent of the minister responsible for judiciary.

The criteria for determining the number of staff in the Public prosecutor's office shall be determined by the minister responsible for judiciary, based on the opinion of the High Prosecutorial Council.

Secretary

#### Article 129

The Supreme public prosecutor's office has a secretary who assists the Supreme Public Prosecutor in performing administrative tasks in the Public prosecutor's office.

A person who meets the requirements for election as an appellate chief public prosecutor may be appointed as the secretary of the Supreme Public Prosecutor's Office.

The Secretary of the Supreme public prosecutor's office has the status of a civil servant in office.

The public prosecutor's office may have a secretary who assists the chief public prosecutor in performing administrative tasks in the public prosecutor's office.

The chief public prosecutor appoints the Secretary of public prosecutor's office.

#### Assistant Public Prosecutor

#### Article 130

The assistant public prosecutor assists the chief public prosecutor and the public prosecutor, drafts acts, receives reports, submissions and statements from citizens, and independently or under supervision performs the tasks provided for by law and other regulations.

The work of the public prosecutor's assistant is supervised by the chief public prosecutor or the public prosecutor appointed by him/her.

The procedure for hiring public prosecutor's assistants is regulated in more detail by an act of the minister responsible for judiciary after obtaining an opinion of the High Prosecutorial Council.

#### Assistant Public Prosecutor's Titles

#### Article 131

Assistant public prosecutors acquire the following titles: associate public prosecutor, senior associate public prosecutor, adviser or senior adviser.

The title of associate public prosecutor may be acquired by a person who has passed the bar exam, and the title of senior associate prosecutor by a person who, after passing the bar exam, has at least two years of work experience in the legal profession.

The title of adviser may be acquired by a person who meets the requirements for the senior chief public prosecutor. The title of adviser exists in the Supreme public prosecutor's office, the public prosecutor's office of special jurisdiction and the appellate public prosecutor's office.

In the Supreme public prosecutor's office, there is also the title of senior advisor, which is acquired by the decision of the Collegium of the Supreme public prosecutor's office, and it may be acquired by a person who holds the title of an advisor.

#### Assistant Public Prosecutor's Work Evaluation

#### Article 132

The work of the assistant public prosecutor is evaluated by the chief public prosecutor, based on the obtained opinion of the public prosecutor with whom the assistant public prosecutor works.

The rules for the evaluation of the judicial assistant are applied accordingly to the evaluation and the consequences of the evaluation of the assistant public prosecutor.

#### Public Prosecutor's Trainee

### Article 133

A person who has graduated from law school and meets the general requirements for working in state bodies is accepted as a public prosecutor's trainee.

A public prosecutor's trainee is admitted to the basic and higher public prosecutor's offices.

The number of public prosecutor trainees is determined separately for each public prosecutor's office by an act of the minister responsible for judiciary, after obtaining the opinion from the High prosecutorial council.

When admitting the public prosecutor's trainees, particular attention is paid to the national composition of the population, the appropriate representation of members of national minorities and the knowledge of professional legal terminology in the language of the national minority, which is in official use in the court.

The procedure for hiring public prosecutor's trainees is regulated in more detail by an act of the minister responsible for judiciary after obtaining an opinion of the High Prosecutorial Council.

### Public Prosecutor Trainee's Employment

### Article 134

The public prosecutor's trainee is hired for three years.

The public prosecutor's trainee who was graded as "passed with distinction" in the trial court exam is employed for an indefinite period as an associate public prosecutor.

### Volunteer

### Article 135

A person with a law degree may be accepted for training in the public prosecutor's office without establishing an employment relationship, in order to gain work experience and the conditions for passing the bar exam (volunteer).

### Training

### Article 136

The training programme for public prosecutor trainees and public prosecutor assistants is determined by the High Prosecutorial Council.

The public prosecutor's trainee and assistant public prosecutor may be sent for training to another public prosecutor's office, state body or local self-government unit body for a certain period of time.

### Personal Files on the Staff of the Public Prosecutor's Office

### Article 137

The public prosecutor's office maintains personal files on the staff employed in that public prosecutor's office.

The personal files of the staff in the public prosecutor's office contain the name and surname, unique master citizen number, place and date of birth, place of residence, level of education, title or occupation, evaluation of work, career progress, published papers,

participation in professional development programmes, knowledge of foreign languages, property status, housing status and other data.

The form and manner of keeping the personal files referred to in paragraph 1 of this Article shall be prescribed by the High Prosecutorial Council.

#### Other Rules on Staff in a Public Prosecutor's Office

##### Article 138

The staff of a public prosecutor's office shall be obliged to conscientiously and impartially perform their duties and preserve the reputation of the public prosecutor's office.

The regulations governing the employment of civil servants and officials are applied to the establishment of the employment relationship, rights, obligations, professional training, evaluation and responsibilities of the staff in the Public Prosecutor's Office, unless otherwise specified by this law.

### X. FUNDS FOR THE WORK OF PUBLIC PROSECUTOR'S OFFICES

#### Basic provision

##### Article 139

The funds for the work of the public prosecutor's office are provided for in the budget of the Republic of Serbia.

Funds for the work of the public prosecutor's office should maintain the independence and regular work of the public prosecutor's office by their volume and inflow.

#### Budget Proposal and Budget Execution

##### Article 140

The volume and structure of budget funds for the work of the public prosecutor's office are proposed by the High Prosecutorial Council and the ministry responsible for judiciary.

The High Prosecutorial Council proposes the volume and structure of budget funds necessary for current expenditures of the public prosecutor's office, except for expenditures for staff of the public prosecutor's office, in accordance with the Law on the High Prosecutorial Council and distributes these funds to public prosecutor's offices.

The ministry responsible for judiciary proposes the scope and structure of budget funds necessary for the current expenses for staff of the public prosecutor's office, maintenance of equipment and buildings of public prosecutor's offices, expenses for investments and capital investments in public prosecutor's offices, organisation and development of the judicial IT system and organises the distribution of such funds.

#### Oversight of Budget Spending

##### Article 141

Oversight of budgetary funds earmarked for the operations of the public prosecutor's office shall be conducted by the High Prosecutorial Council and the ministry responsible for the judiciary, within their budgetary powers, as well as the ministry responsible for finance in accordance with the law.

### XI. TRANSITIONAL AND FINAL PROVISIONS

#### Continuation of the Function of Deputy Public Prosecutors Elected to a Permanent Function



## Article 142

Deputy public prosecutors elected to a permanent position before the day of constitution of the High Prosecutorial Council, from the day of constitution of the High Prosecutorial Council continue to perform their functions as public prosecutors in the public prosecutor's offices in which they were elected.

Notwithstanding the provisions of Paragraph 1 of this Article, the deputy public prosecutors elected to a permanent position in the Republic public prosecutor's office, the Prosecutor's office for organised crime and the Prosecutor's office for war crimes prior to the date of constitution of the High Prosecutorial Council, shall after the constitution of the High Prosecutorial Council continue to perform their functions as public prosecutors of the Supreme public prosecutor's office, the Public prosecutor's office for organised crime and the Public prosecutor's office for war crimes.

## Continuation of the Function of Deputy Public Prosecutors Elected for the First Time

## Article 143

Deputy public prosecutors elected for the first time by the National Assembly from the date of entry into force of the Constitutional Law for the Implementation of the Act on Amendments to the Constitution of the Republic of Serbia ("Official Gazette of the Republic of Serbia", number 115/21) until the day of the constitution of the High Prosecutorial Council shall from the date of the decision of the High Prosecutorial Council, which states that their function has become permanent, continue to perform their function as public prosecutors in the public prosecutor's offices in which they were elected.

Notwithstanding the provisions of Paragraph 1 of this Article, the deputy public prosecutors elected for the first time by the National Assembly from the date of entry into force of the Constitutional Law for the Implementation of the Act on Amendments to the Constitution of the Republic of Serbia ("Official Gazette of the Republic of Serbia", number 115/21) until the day of constitution of the High Prosecutorial Council within the Republic public prosecutor's office, the Public prosecutor's office for organised crime and the Public prosecutor's office for war crimes shall continue, from the day of the decision of the High Prosecutorial Council which states that their function becomes permanent, to perform the function as the public prosecutors of the Supreme public prosecutor's office, Public prosecutor's office for organised crime and the Public prosecutor's office for war crimes.

## Continuation of the Function of Public Prosecutors

## Article 144

Public prosecutors elected to office before the day of constitution of the High Prosecutorial Council shall, from the day of constitution of the High Prosecutorial Council, continue to perform their functions as chief public prosecutors until the end of the term of office for which they were elected.

Notwithstanding the provisions of Paragraph 1 of this Article, the public prosecutors elected before the entry into force of the Constitutional Law for the Implementation of the Act on Amendments to the Constitution of the Republic of Serbia ("Official Gazette of the Republic of Serbia", number 115/21), from the day of the constitution of the High prosecutorial Council, shall continue to perform their duties as chief public prosecutors until the end of the term of office for which they were elected and may be elected one more time to the position of chief public prosecutor in the same public prosecutor's office in accordance with this law.

The Prosecutor for organised crime, elected to office before the entry into force of the Constitutional Law on the Implementation of the Act on Amendments to the Constitution of the Republic of Serbia ("Official Gazette of the Republic of Serbia", No. 115/21), from the day of the constitution of the High prosecutorial Council, shall continue to perform the function as the Chief public prosecutor for organised crime until the end of the term of office for which he/she was elected and may be elected one more time to the position of Chief public prosecutor for organised crime in accordance with this law.

The Prosecutor for war crimes, elected to office before the entry into force of the Constitutional Law on the Implementation of the Act on Amendments to the Constitution of the Republic of Serbia ("Official Gazette of the Republic of Serbia", No. 115/21), from the day of the constitution of the High Prosecutorial Council, shall continue to perform the function as the Chief public prosecutor for war crimes until the end of the term of office for which he/she was elected and may be elected one more time to the position of Chief public prosecutor for war crimes in accordance with this law.

#### Continuation of the Function of the Republic Public Prosecutor

##### Article 145

The Republic public prosecutor elected to office before the entry into force of the Constitutional Law for the Implementation of the Act on Amendments to the Constitution of the Republic of Serbia ("Official Gazette of the Republic of Serbia", number 115/21) shall continue to perform the function of the Supreme public prosecutor until the end of the term of office for which he/she was elected and may be elected to the position of Supreme public prosecutor in accordance with this law.

#### Continuation of the Work of Public Prosecutor's Offices

##### Article 146

Public prosecutor's offices and special departments of public prosecutor's offices formed, i.e. established in accordance with the Law on the Public Prosecutor's Office ("Official Gazette of the RS", no. 116/08, 104/09, 101/10, 78/11 – other law, 101/11, 38/12 – Constitutional Court, 121/12, 101/13, 111/14 – Constitutional Court, 117/14, 106/15, 63/16 – Constitutional Court), the Law on the Seats and Territorial Jurisdictions of Courts and Public Prosecutor's Offices ("Official Gazette of the RS", No. 101/13), the Law on the Organisation and Competence of State Authorities in Suppression of Organised Crime, Terrorism and Corruption ("Official Gazette of the RS", No. 94/16 and 87/18 - other law), the Law on the Organisation and Competence of Government Authorities in War Crimes Proceedings ("Official Gazette of RS", No. 67/03, 135/04, 61/05, 101/07, 104/09, 101/11 - other law and 6/15) and the Law on the Organisation and Competence of Government Authorities Responsible for Combating High Technology Crime ("Official Gazette of the RS", no. 61/05 and 104/09), from the day of the constitution of the High Prosecutorial Council, shall continue to operate in accordance with this law and the laws by which they were formed, i.e. established.

#### Continuation of the Work of the Republic Public Prosecutor's Office and the Prosecutor's Offices of Special Jurisdiction

##### Article 147

Exceptionally from Article 146 of this law, from the day of the constitution of the High Prosecutorial Council, the Republic public prosecutor's office, the Prosecutor's office for

organised crime and the Prosecutor's office for war crimes shall continue to operate as the Supreme public prosecutor's office, the Public prosecutor's office for organised crime and the Public prosecutor's office for war crimes in accordance with this law and the laws by which they were established.

The Supreme public prosecutor's office, the Public prosecutor's office for organised crime and the Public prosecutor's office for war crimes, from the day of the constitution of the High Prosecutorial Council, shall take over the employees, as well as the rights, obligations, cases, equipment, resources for work and archives from the Republic public prosecutor's office, the Prosecutor's office for organised crime and the Prosecutor's office for war crimes.

#### Finalisation of the Commenced Proceedings

##### Article 148

Proceedings initiated under the provisions of the Law on Public Prosecutor's office ("Official Gazette of RS", no. 116/08, 104/09, 101/10, 78/11 - other laws, 101/11, 38/12 - Constitutional court, 121/12, 101/13, 111/14 - Constitutional court, 117/14, 106/15, 63/16 - Constitutional court) that have not been concluded by the day of constitution of the High Prosecutorial Council, shall be concluded according to the provisions of this law.

Decisions on the appointment of deputy public prosecutors made before the day of constitution of the High Prosecutorial Council shall be valid until the expiry of the term of office.

Decisions on the appointment of acting public prosecutors made before the day of constitution of the High Prosecutorial Council shall be valid until the expiry of the term of office.

#### Deadline for Passing of By-laws

##### Article 149

By-laws prescribed by this law are adopted within one year from the date of constitution of the High Prosecutorial Council.

The by-laws adopted in accordance with the Law on Public Prosecutor's Office ("Official Gazette of the RS" no. 116/08, 104/09, 101/10, 78/11 – other law, 101/11, 38/12 - Constitutional court, 121/12, 101/13, 111/14 - Constitutional court, 117/14, 106/15, 63/16 – Constitutional Court) shall apply until the adoption of acts referred to in paragraph 1 of this Article, unless they are contrary to this law.

#### Validity of Provisions on the Staff in the Public Prosecutor's Office

##### Article 150

Provisions of this law governing the position of the staff in the public prosecutor's office are valid by the entry into force of a special law governing the position of the staff in the public prosecutor's office.

#### Expiry of the Law on Public Prosecutor's Office

##### Article 151

##### ~~Article 150~~

As from the date of constituting the High Prosecutorial Council, the Law on Public Prosecutor's Office shall cease to apply ("Official Gazette of the RS" no. 116/08, 104/09, 101/10, 78/11 – other law, 101/11, 38/12 – Constitutional Court, 121/12, 101/13, 111/14 – Constitutional Court, 117/14, 106/15, 63/16 – Constitutional Court).

Final Provision

Article ~~152~~<sup>154</sup>

This law shall be published in the “Official Gazette of the Republic of Serbia<sup>”</sup> and enters into force on the day of the constitution of the High Prosecutorial Council, with the exception of the provisions of Articles 142 to ~~152~~<sup>154</sup>, which enter into force on the day of publication in the “Official Gazette of the Republic of Serbia”.