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

**DRAFT LAW ON**  
**THE PROSECUTION SERVICE**  
**OF THE REPUBLIC OF MOLDOVA**

**PARLIAMENT OF THE REPUBLIC OF MOLDOVA****LAW  
on Prosecution Service**

Parliament adopts this organic law.

**Title I.  
ORGANIZATION OF THE PROSECUTION SERVICE****Chapter I.  
General provisions****Article 1. Prosecution Service**

Prosecution Service is an autonomous public institution within the judiciary, which, within the limits of its powers and competences, contributes to the rule of law, justice enforcement, protection of legitimate rights and interests of person, society and state.

**Article 2. Prosecutor**

Prosecutor is the person in the public office exercising powers of the Prosecution Service under the Constitution, this law and international treaties to which Moldova is a party and is appointed to this position in the manner prescribed by this law.

**Article 3. Principles of organization and activity of the Prosecution Service and of the Prosecutor**

1. Prosecution Service operates based on the principle of legality.
2. Organization and activity of the Prosecution Service is transparent and involves ensuring the access of society and mass media to information about it, except as provided by law.
3. The principle of Prosecution Service' independence requires its political neutrality and excludes the possibility of Prosecution Service' subordination to legislative and executive authority, as well as of influence or interference from other state bodies and authorities in the Prosecution Service' activity.
4. Prosecutor operates under the principles of lawfulness, reasonableness and procedural independence, which enables him/her to take independently and unipersonally decisions on cases s/he examines.
5. Prosecutor's procedural independence is ensured by clear guarantees that exclude any political, financial or other kind of influence on the prosecutor related to his duties.
6. In accordance with this Law and the Code of Criminal Procedure, the Prosecutor's work may be subject to review from the superior prosecutor and the court.

**Article 4. Legal framework of Prosecution Service' activity**

Prosecution Service' activity is regulated by Moldovan Constitution, this Law, other laws, as well as by international treaties to which Moldova is a party.

## **Chapter II. Areas of activity and competence**

### **Article 5. Functions of the Prosecution Service**

Prosecution Service:

- a) leads and exercises criminal prosecution and represents the accusation in court on behalf of the State;
- b) organizes, manages and controls the criminal prosecution activity of the criminal prosecution bodies;
- c) performs, including ex officio, control over the enforcement of the law on special investigation activities and on the registration of notifications;
- d) participates, under the law, in trials of civil cases, including administrative ones, where the proceedings were instituted by Prosecution Service;
- e) provides international legal assistance in criminal matters and international cooperation in its area of activity;
- f) participates in the unitary implementation of national and international criminal policy of the state;
- g) makes proposals to improve legislation and participates in the development of legislation in its field of activity;
- h) applies, under the law, measures to protect witnesses, victims of crime and other participants in criminal proceedings;
- i) initiates civil action within criminal proceedings;
- j) supervises the compliance with laws in the Armed Forces, penitentiaries, temporary detention facilities and in application of measures to protect witnesses, victims of crime and other participants in criminal proceedings;
- k) considers requests, complaints, petitions, according to competence;
- l) represents the public's interest in cases established by this Law.

### **Article 6. Rights and obligations of the prosecutor**

1. In order to exercise functions of the Prosecution Service, the prosecutor exercises his/her powers throughout the entire territory of the Republic of Moldova, in all courts and, under the law, has the following rights:

- a) to initiate disciplinary proceedings for violations of law, failure or improper fulfilment of obligations within criminal proceedings by criminal investigators, workers of finding bodies, those of the bodies that carries out special investigation activity and those responsible for recording notifications;
- b) to notify the Superior Council of Magistrates about the actions of judges that may constitute disciplinary offence;
- c) in criminal or administrative proceedings, to have free access to the premises of public institutions, economic companies, other legal entities.

2. Other rights of the prosecutor:

- a) to choose the area of continuous training where they think they have to improve professionally and to be provided free of charge with continuous training, under conditions laid down by law;
- b) to join professional organizations or other organizations that aim at representing and protecting professional interests;
- c) to have free access to his/her personal file and to the personal data from other documents kept in the Prosecution Service;

d) to be informed about all decisions of Prosecution Service and self-administration bodies of prosecutors that are related to him/her.

3. Prosecutor is obliged:

- a) to perform duties in accordance with the Constitution, Moldovan legislation and international treaties to which Moldova is a party;
- b) to observe the prosecutors' rules of conduct and to refrain from actions that would discredit the image of Prosecution Service or would affect the prestige of prosecutor's profession;
- c) to improve continuously his/her professional skills;
- d) to submit, under the law, the statement of income and property and the statement of personal interests;
- e) to comply with the provisions of normative acts adopted within the Prosecution Service;
- f) to undertake measures to denounce and record all violations of law that have become known to him/her in the exercise of duties or when s/he was out of duty;
- g) to inform the superior prosecutor about assignments or requests made in violation of law and about the existence of a conflict of interest or about one that may occur;
- h) to report actions of corruption, actions of corruptive behaviour and actions related to those of corruption, which had become known to him/her;
- i) to observe the regime of state secret and of other restricted information which became known to him/her in the exercise of duty.

**Article 7. Powers of prosecutor in representing the public interest**

1. Prosecutor can act in the public interest when it was found the breach of provisions of a normative act whereby the rights or legal interests of individual, society were violated and this violation undermines the public interest.

2. Acting in the public interest is carried out pursuant to a notification, if the defence of this right cannot be made by the person, his/her legal representatives or, where appropriate, by the relevant state institution, the local authority body, another competent public authority or if the institution or public authority does not undertake any action or act insufficiently for protecting the public interest, or when such authority does not exist.

3. After examining the notification about violation of a public interest, where there is reason to believe that the relevant public institution, body of local authority or, as appropriate, other public authority did not exercise or did not exercised properly its functions, for defending the public interest, the prosecutor turns to the court. At the same time, the prosecutor notifies the superior institution to react to detected deficiencies.

4. The prosecutor, in the examination of notification, has the following rights:

- a) to initiate, to cease, to participate in the judicial examination of the case on defending the public interest, with the right to make claims;
- b) to have free access to the premises of public institutions and legal entities acting in the public interest and to the documents, materials and other information held by them relevant for consideration of notification about violation of a public interest;
- c) to involve specialists for the elucidation of some specialized problems appearing while on duty; to require state institutions to designate experts to assist the prosecutor and, where appropriate, to participate in court in cases related to public interest;
- d) to request from the state institutions or from local public authorities to conduct expertise, inspections, audit on materials, information, communications received by the prosecution bodies and to demand presentation of these actions;

e) to require to hold disciplinary liable the person who is guilty for the violation that resulted in harm brought to the public interest;

f) to summon and to request explanations from representatives of the entities referred to in let. b);

g) to issue, by order, summon regarding the observance of law;

h) to rule, by order, initiation of disciplinary proceedings against the person responsible for the violation that resulted in harming the public interest.

5 If, in examination of the notification concerning infringement that resulted in harming the public interest, the prosecutor does not find a damage brought to a public interest, s/he shall issue an order refusing to defend the public interest. The order may be appealed with the superior prosecutor within 30 days from the date of its communication to the notification's author.

6 If, within the examination of notification regarding the public interest, the facts are detected that are subject to criminal or administrative liability, the prosecutor has the right to initiate criminal prosecution or administrative proceedings.

### **Chapter III. Structure and staff of the Prosecution Service**

#### **Article 8. The system of Prosecution Service**

1. Prosecution Service is a single system which includes:

- a) General Prosecutor Office;
- b) specialized prosecution offices;
- c) territorial prosecution offices.

2. Total number of prosecutors in Prosecution Service shall be established by the Parliament upon the proposal of the Prosecutor General with the consent of the Superior Council of Prosecutors. The number of prosecutors in each prosecution office is established by the Superior Council of Prosecutors, upon the proposal of the Prosecutor General.

3. The structure of the Prosecutor General Office, specialized and territorial prosecution offices and their residence shall be established and modified by the Prosecutor General, with the consent of the Superior Council of Prosecutors.

4. Prosecution Service is headed by the Prosecutor General and his/her deputies, according to areas of competence established by the Prosecutor General.

#### **Article 9. General Prosecutor Office**

1. General Prosecutor Office is led by the Prosecutor General and his/her deputies, according to established competences, has the status of a legal personality, has a bank account, seal with state coat of arms. The residence of General Prosecutor's Office is in Chisinau municipality.

2. General Prosecutor Office consists of divisions headed by chief prosecutors or by civil servants and, where appropriate, by their deputies.

### 3. Duties of the Prosecutor General:

- a) leads, controls, organizes and coordinates the activity of specialized and territorial prosecution offices;
- b) leads and performs criminal prosecution, represents the accusation in the name of the State in court in cases of special importance;
- c) represents the accusation on behalf of the State in Supreme Court of Justice;
- d) performs and coordinates the control over the bodies which conduct the special investigation activity in the part which relates to the lawfulness of the special investigative measures;
- e) generalizes and contributes to the unification of practice in exercising and leading the criminal prosecution and in representing the charge in court;
- f) provides international legal aid in criminal matters and international cooperation in his/her field of activity;
- g) participates in the implementation of national and international criminal policy of the state;
- h) within his/her competence, examines the requests, complaints, petitions received;
- i) participates in drafting of regulatory framework in the prosecutorial field of activity;
- j) manages the budget of Prosecution Service;
- k) collects, analyzes and manages data related to activity of specialized and territorial prosecution offices;
- l) performs other functions set out by law and international treaties to which Moldova is a party.

### **Article 10. Specialized prosecution offices**

1. Specialized prosecution offices operate in certain specific areas and have competencies throughout the Republic of Moldova. The Prosecution Service includes Anticorruption Prosecution Office and Prosecution Office on Fighting Organised Crime. If needed, by law, other specialized prosecution offices can be also created.
2. Specialized prosecution office is headed by chief prosecutor of the prosecution office and his/her deputy (deputies), according to competences set out by the chief prosecutor of prosecution office. In the specialized prosecution office subdivisions may be established headed by their chief prosecutors.
3. Anticorruption Prosecution Office is specialized in the fight against corruption and related offences.
4. Prosecution Office on Fighting Organised Crime is specialized in fighting organized crime and in other areas determined by the Prosecutor General.
5. Criminal investigators, specialists, investigation officers and other personnel employed or detached can work in the specialized prosecution offices.

### **Article 11. Territorial prosecution offices**

1. The category of territorial prosecution offices includes prosecution offices of municipalities, districts, cities and of autonomous territorial unit Gagauzia (hereinafter "*prosecution office of ATU Gagauzia*")
2. Territorial prosecution offices operate within the districts of courts.
3. Prosecution office of ATU Gagauzia exercises its powers in the territory of the autonomous territorial unit Gagauzia.

4. Territorial prosecution office is led by deputy chief prosecutor and his/her deputy, where appropriate, deputies, under powers established by the chief prosecutor. Within the territorial prosecution office subdivisions headed by deputy (deputies) chief prosecutor of territorial prosecution office can be established.

#### **Article 12. Duties of Prosecutor General**

1. Prosecutor General is hierarchically superior to all prosecutors.

2. Prosecutor General:

- a) represents Prosecution Service in relationship with other public authorities, legal entities and individuals in the country and abroad;
- b) upon the proposal of the Superior Council of Prosecutors, appoints prosecutors in office;
- c) exerts control over prosecutors' activity;
- d) establishes areas of competence (duties) of his/her deputies;
- e) approves the Rules of Procedure of the Prosecution Service;
- f) issues written orders and dispositions, approves regulations, methodological and regulatory recommendations;
- g) establishes, with the approval of the Superior Council of Prosecutors, the internal structure of prosecution offices;
- h) requests consent to start or, when appropriate, starts criminal prosecution in cases provided by law;
- i) notifies the central public authorities to eliminate violations normative acts which affect the public interest, the reasons and conditions that favoured the violation;
- j) notifies the Constitutional Court according to law;
- k) is administrator (authorizing officer) of financial means, manages the assets of Prosecution Service;
- l) performs other duties prescribed by law.

3. Within 3 months since his/her appointment, the Prosecutor General appoints his/her deputies, distributes their areas of competence and establishes the order of his/her substitution by his/her deputies, in the absence or inability to perform his/her duties. If the Prosecutor General does not establish the order of his/her substitution by the deputies, the Prosecutor General's functions shall be exercised by the deputy with the highest seniority in the office of prosecutor.

4. Prosecutor General shall annually submit to the Parliament a report on the work of the Prosecution Service. Prosecutor General's report shall be sent to the President of the Republic of Moldova and to the Government, shall be made public and placed on the website of the Prosecutor General Office.

5. Prosecutor General, once the term of office is over, may be appointed, upon request, without competition, to a vacant prosecutor's position, except the position of chief prosecutor.

#### **Article 13. Chief prosecutors in the Prosecution Service**

Chief prosecutors and their deputies organize and coordinate the activity of prosecution offices and subordinated auxiliary staff, decide on their duties and obligations.

#### **Article 14. Administrative hierarchy of the positions of prosecutor**

1. Methodological and regulatory orders, dispositions, indications and instructions of prosecutors mentioned in para. (2), which do not concern specific cases, are mandatory for hierarchically lower prosecutors.

2. Prosecutor General is hierarchically superior to all prosecutors. Deputies of the Prosecutor General and the heads of subdivisions of Prosecutor General Office are hierarchically superior to prosecutors from territorial prosecutors offices. Chief prosecutor of specialized or territorial prosecution office is hierarchically superior to prosecutors in the prosecution office s/he leads.

3. Detailed rules on administrative hierarchy of prosecutors are set out in Rules of Procedure of the Prosecution Service.

### **Article 15. Procedural hierarchy of prosecutors**

1. From the procedural point of view, the superior prosecutor is:

- a) for prosecutors in territorial prosecution office – the chief prosecutor of territorial prosecution office or his/her deputy (deputies), according to competences, chief prosecutors of Prosecution Service' subdivisions;
- b) for prosecutors in specialized prosecution office – the chief prosecutor of the specialized prosecution office's subdivision where they work or chief prosecutor of specialized prosecution office or deputy chief prosecutor of specialized prosecution office;
- c) for the chief prosecutor of subdivision from specialized prosecution office – the chief prosecutor of specialized prosecution office or deputy chief prosecutor of specialized prosecution office;
- d) for chief-prosecutors of territorial prosecution offices – the chief-prosecutors of subdivisions from the Prosecutor General Office;
- e) for chief-prosecutors of specialized prosecution offices – the Prosecutor General, when appropriate, the Deputy Prosecutor General, under the powers set;
- f) for prosecutors from subdivision of the Prosecutor General Office – the chief-prosecutors of subdivisions of the Prosecutor General Office;
- g) for deputy chief-prosecutors of subdivisions from the Prosecutor General Office – the chief-prosecutors of subdivisions from the Prosecutor General Office;
- h) for chief-prosecutors of subdivisions from the Prosecutor General Office – the Prosecutor General or his/her deputies;
- i) for deputies of the Prosecutor General – the Prosecutor General;
- j) for all prosecutors in the system of Prosecution Service – the Prosecutor General.

2. Superior prosecutor, in the context of procedural hierarchy, performs the following duties:

- a) requires the bodies with legal competence in detecting and investigating the crimes and in exercising special investigations, to delegate specialized persons to perform, under prosecutors' direct management and control, procedural acts stipulated by law;
- b) repeals, suspends or cancels the acts issued by lower-level prosecutor, that are contrary to law;
- c) gives guidance on the procedural actions to be taken concerning the case, which, however, cannot refer to the solution in the case;
- d) performs other duties provided by criminal-procedural law.

3. Indications of higher prosecutor made in writing and in accordance with the law are binding for subordinated prosecutors.

4. Prosecutor has the right to refuse to enforce a disposition that is manifestly unlawful or conflicts with his/her legal conscience and can challenge it with a prosecutor that is higher to the prosecutor who issued it.



**Title II.  
STATUS OF PROSECUTOR**

**Chapter IV.  
Incompatibilities and prohibitions**

**Article 16. Incompatibilities**

The prosecutor's position is incompatible with any other public or private position or other paid work except teaching, creative and scientific activities. How to combine these activities with prosecutor's position shall be determined through the order of the Prosecutor General.

**Article 17. Prohibitions**

1. Prosecutor is obliged to avoid, and if it occurs, to declare any conflict of interest in the performance of duties.
2. Prosecutor does not have the right:
  - a) to be part of political parties or to accomplish or participate in political activities, and in the performance of duties, to express or manifest in any way his/her political beliefs;
  - b) to participate in strikes or picketing;
  - c) to be investigation officer, including undercover, informant or collaborator of the body that carries out special investigation activities;
  - d) to conduct entrepreneurial or commercial activity, directly or through intermediaries;
  - e) to conduct arbitration in civil, commercial or other kind of litigations;
  - f) to provide written or oral advice in litigations, even if that case is examined by a Prosecution body, other than in that in which s/he exercises his/her duty, except for spouse, children and parents, and cannot perform any other activity which, under the law, is fulfilled by lawyer;
  - g) to have an associate or full membership in the governing, management or control body of a company, including a bank or other crediting institution, insurance company or financial company, in national company, in national trading company or state autonomous enterprise;
  - h) to hold and exercise the function of prosecutor directly subordinated to the spouse, persons related by blood or adoption (parents, children, brothers, sisters, grandparents, grandchildren, uncles, aunts) and persons related by affinity (brother-in-law, father-in-law, mother-in-law, son-in-law, daughter-in-law).

**Article 18. Dress code**

1. In the court hearings, the prosecutor is obliged to wear the gown.
2. State provides prosecutor with gown for free.
3. The gown's model and signs of distinction are established in the Rules of Procedure of the Prosecution Service.

**Chapter V.**  
**Selection and career of prosecutors**

**Section 1.**  
**Appointment of prosecutor in office**

**Article 19. Appointment of the Prosecutor General**

1. The person who may apply for the position of Prosecutor General shall meet the following conditions:

- a) 10 years of professional experience in the field of law of which 5 years in the position of prosecutor;
- b) meets the requirements of Article 23 let. a), b), c), d), f), g) and h);
- c) has organizational skills;
- d) s/he was not a member of any party in last 3 years before the announcement of the competition;
- e) s/he has not accomplished political activity in last 3 years before the announcement of the competition.

2. Candidate for the position of Prosecutor General shall be selected on the basis of public competition organized by the Superior Council of Prosecutors, which includes the following stages:

- a) pre-selection of candidates based on submitted files;
- b) interview held before the Superior Council of Prosecutors.

3. The organization and conduct of the competition shall be approved by the Superior Council of Prosecutors by regulation. The process of selecting candidates for the position of Prosecutor General shall be conducted according to objective criteria, based on merit, taking into account professional qualifications, integrity and capabilities of candidates.

4. Information about launching and conduct of the competition shall be published in the Official Gazette of the Republic of Moldova and on the websites of the Prosecutor General Office and of the Superior Council of Prosecutors, at least one month before the deadline for application.

5. The application file for the competition, which includes the documents mentioned in art. 26 para. (5) let. a) - c), e) - j) and letter of motivation, shall be submitted to the Superior Council of Prosecutors and registered as established. Incomplete files or those submitted after the deadline shall not be considered.

6. When submitting the set of documents, the candidates for position of Prosecutor General shall be informed about launching the verification according to the Law no. 271-XVI of 18 December 2008 on verification of title holders and candidates to public office and shall sign the verification statement, according to Law no. 269 - XVI of 12 December 2008 on application of simulated behaviour test detector (polygraph). The applicant shall sign the verification statement and present the written consent for polygraph testing.

7. Within 20 working days since the deadline for submitting application files, the Superior Council of Prosecutors shall draw up the list of candidates who meets the conditions for participation in the competition and shall display it on its website, indicating the date when the interview will take place.

8. Interviewing the candidates shall be made in a public meeting.
9. Candidates shall be assessed by each member of the Superior Council of Prosecutors based on criteria approved by the Superior Council of Prosecutors. The final score is the average score given by all members of the Superior Council of Prosecutors. Candidate with the highest score shall be proposed by the Superior Council of Prosecutors, to the President of the Republic of Moldova for the appointment to the position of Prosecutor General.
10. President of the Republic of Moldova may reject once the candidate proposed by the Superior Council of Prosecutors for appointment as Prosecutor General, if s/he found undeniable evidences of candidate's incompatibility with the position concerned, the candidate's violation of law or violation of legal procedures related to his/her selection. Refusal of appointment must be motivated and be made within 15 working days since receiving the proposal.
11. Repeated proposal of the same candidate, made by a vote of 2/3 of the members of the Superior Council of Prosecutors, the President of Moldova shall, within 5 working days, issue the decree on the appointment of the Prosecutor General.
12. Prosecutor General shall be appointed for a term of 7 years, with no right to be reappointed to this position.

#### **Article 20. Appointment of Prosecutor General's deputies**

1. Candidate for the position of Deputy Prosecutor General shall be proposed by the Prosecutor General.
2. The person who may be appointed as Deputy Prosecutor General shall have at least 7 years of experience as prosecutor, and in the last 3 years works as prosecutors and has organizational skills.
3. Prosecutor General's deputies shall be appointed without competition, by order of the Prosecutor General, with the consent of the Superior Council of Prosecutors.
4. Term of office of Prosecutor General's deputies ends with the Prosecutor General's term of office, but they continue to perform their duties until the appointment of the new deputies of Prosecutor General.
5. Deputies of former Prosecutor General may be appointed as deputies of the new Prosecutor General.

#### **Article 21. Selection of candidates for prosecutor's office and career of prosecutors**

1. Selection of candidates for prosecutor's office and career of prosecutors shall be carried out by competition and aims to ensure an objective, impartial and transparent selection process to ensure the selection of best candidates for the position concerned.
2. Career of prosecutor involves the appointment of a prosecutor from a position to another.

#### **Article 22. Criteria for selection and career of prosecutor**

1. Selection of candidates for prosecutor's office and competitions concerning the prosecutor's career shall be performed by Board for selection and career of prosecutors subordinated to the Superior Council of Prosecutors (hereinafter – *Board for selection and career of prosecutors*)

based on the criteria provided in this law and according to the regulation adopted by the Superior Council of Prosecutors.

2. In the process of selection of candidates for prosecutor's office and career of prosecutors, the following basic criteria shall be taken into account:
  - a) knowledge level and professional skills;
  - b) ability to apply knowledge into practice;
  - c) length of service in prosecutor's office or in other positions provided for in art. 23;
  - d) quality and efficiency of activity in prosecutor's office;
  - e) observance of the rules of professional ethics;
  - f) teaching and scientific activity.
3. Following the competition, each member of the Board for selection and career of prosecutors grants a score for each candidate based on regulation provided for in para. (1).
4. Procedure and criteria for selection of candidates for prosecutor's office and career of prosecutor are set in details in the regulation provided for in para. (1) and in other regulations approved by the Superior Council of Prosecutors, which shall be published on its website.
5. In evaluation of the candidate for prosecutor's office, the total score obtained in the competition is made as follows: 50% of the mark received at examination before the Graduation Commission of the National Institute of Justice and 50% of the score granted by the Board for selection and career of prosecutors. For the career of prosecutors, 50% is the result of professional evaluation and 50% is the score provided by the Board for selection and career of prosecutors.
6. In the selection and career process, the Board for selection and career of prosecutors will take into account the mark obtained at the examination before Graduation Commission of the National Institute of Justice or, where appropriate, the score obtained following the professional evaluation.

### **Article 23. Conditions to run for the position of prosecutor and chief prosecutor**

1. For prosecutor's office may run the person who meets the following conditions:
  - a) holds citizenship of the Republic of Moldova and is domiciled on its territory;
  - b) knows the state language;
  - c) has full legal capacity;
  - d) has a diploma of higher education and master degree in law;
  - e) has graduated initial training courses for prosecutors at the National Institute of Justice, or for the person who has the necessary seniority to be appointed to the position concerned, has passed the examination before the Graduation Commission of the National Institute of Justice;
  - f) enjoys an faultless reputation;
  - g) has no criminal record;
  - h) is capable in medical terms to exercise the position of prosecutor;
  - i) was subject to verification and testing with simulated behaviour detector (polygraph).
2. A person cannot be considered with a faultless reputation under par. (1) and cannot run for prosecutor's office if s/he:
  - a) has previously been convicted of a crime;
  - b) was dismissed from positions specified in pars. (3) for breach of professional or functional activity in the last 5 years before the appointment to the prosecutor's office;
  - c) abuses alcohol or consumes psychotropic, toxic substances or drugs;

d) does not meet the standards set by the Code of Ethics for prosecutors.

3. The length of service necessary to run for prosecutor's office is considered the work done in the last 5 years, as prosecutor or judge, in national or international courts, as investigator, lawyer, ombudsman, consultant of prosecutor, legal assistant in court, in law-related positions in the secretariat of Constitutional Court, Superior Council of Prosecutors, Superior Council of Magistracy, Ministry of Justice, Ministry of Interior, National Anti-Corruption Centre, Customs Service, as law professor in accredited higher education institutions.

4. For the position of chief prosecutor of territorial or specialized prosecution office, chief prosecutor of a subdivision from General Prosecutor Office can apply prosecutors who served as prosecutors for at least 5 years, and as their deputy at least 4 years.

5. A prosecutor with unsettled disciplinary sanctions cannot participate in the competition for the position of chief prosecutor.

#### **Article 24. Checking the health condition of candidates for prosecutor's office and of prosecutors in office**

1. The health condition of candidates for prosecutor's office is checked before running the contest for the office of prosecutor.

2. Checking the health of prosecutors in office shall take place every 5 years, funded from the state budget.

3. Health check also includes psychological and psychiatric assessment of candidates for prosecutor's office and of prosecutors in office.

4. Requirements and procedure for determining the health condition of candidates for prosecutor's office and of prosecutors in office, including the list of diseases that do not allow holding the office of prosecutor, is approved by the Minister of Health after coordination with the Superior Council of Prosecutors.

5. Health of candidates for prosecutor's office and of prosecutors in office is checked by a specialized commission of the Ministry of Health, which issues medical certificate of health condition and conclusions regarding the adequacy of candidates and prosecutors in office to the requirements for holding the office, which subsequently is presented to the Superior Council of Prosecutors.

#### **Article 25. Register of participants in competition to fill vacancies**

1. Candidates to vacancies, who meet the requirements set in Art. 23, are registered in the Register of participants in the competition to fill vacancies of the prosecutor or chief prosecutor (hereinafter – *Register*).

2. Register is kept by the secretariat of the High Council of Prosecutors and consists of the following sections:

- a) list of candidates for vacant positions of prosecutor;
- b) list of prosecutors who ask to be transferred to another prosecution office;
- c) list of prosecutors seeking appointment as chief prosecutor of a prosecution office, his/her deputy or chief of a subdivision of the General Prosecutor Office.

3. If necessary, in the Register other compartments can also be established.
4. Candidates are entered in the Register regardless of whether or not the contest for prosecutor position was announced.
5. Procedure for inclusion of candidates in the Register shall be approved by the Superior Council of Prosecutors.
6. Register is public and is posted on the website of the Superior Council of Prosecutors.

**Article 26. Employment in the position of prosecutor, chief prosecutor and deputy chief prosecutor**

1. Employment in the position of prosecutor, chief prosecutor and deputy chief prosecutor is made based on competition, under this law and regulation approved by the Superior Council of Prosecutors.
2. Competition to select candidates for filling the vacancies of prosecutor, chief prosecutor or deputy chief prosecutor is organised in 3 months before the occurrence of vacancy or within one month since the occurrence of vacancy. Information about time, place and how the contest is going to be performed, number of vacancies proposed in the contest and the deadline for initiating the process of selection of candidates shall be posted on the official website of the Superior Council of Prosecutors and of the Prosecutor General Office at least 30 days before the date of contest.
3. In the contest for selecting candidates to fill vacancies participate the persons entered in the Register.
4. Persons entered in the Register shall inform in writing the secretariat of the Superior Council of Prosecutors about participation or refusal to participate in the contest to fill the vacancies.
5. To run in the contest, the person shall submit the following documents:
  - a) request to participate in the competition;
  - b) curriculum vitae;
  - c) copy of education diploma;
  - d) certificate of graduation from the National Institute of Justice or certificate confirming examination passed before Graduation Commission of the National Institute of Justice;
  - e) copy of the workbook, if candidates have a workbook;
  - f) criminal record;
  - g) medical certificate about health condition and conclusions regarding his/her adequacy to the requirements for exercising the position, issued by specialized commission of the Ministry of Health;
  - h) statement of income and property;
  - i) declaration of personal interests;
  - j) reference from the last place of work or education.
6. When submitting the set of documents, the person is informed about launching the procedures mentioned in Art. 19 para. (6) of this Law.
7. Assessment of candidates is carried out as provided by art. 22.
8. Contest' results are approved by the Board for selection and career of prosecutors, and the list of persons who participated in the contest, in descending order, shall be published within 2

working days on the website of the Superior Council of Prosecutors and the Prosecutor General Office.

9. Candidates who do not agree with the contest' results, within 5 working days from the announcement of the results, may challenge them at the Superior Council of Prosecutors. The appeal shall be settled at the first meeting of the Council, but not later than 20 working days after filing. Decision of the Superior Council of Prosecutors may be appealed at the Supreme Court of Justice only in the part referring to the procedure of adoption.

10. Board for selection and career of prosecutors shall submit to the Superior Council of Prosecutors its decision on the competition' results. The result of the competition shall be published on the website of the Superior Council of Prosecutors within 2 working days.

11. Based on the competition' results, at the next meeting, the Superior Council of Prosecutors shall propose to the Prosecutor General for appointment the candidate with the highest score. If several candidates have obtained the same score, then based on an interview the Superior Council of Prosecutors will select and propose one of them.

### **Article 27. Appointment of prosecutors**

1. Appointment of prosecutor, chief prosecutor or deputy chief prosecutor shall be made by the order of the Prosecutor General, upon the proposal of the Superior Council of Prosecutors.

2. Within 5 working days from receiving the proposal, the Prosecutor General is obliged to take a decision. Prosecutor General may refuse based on grounds the candidate submitted for appointment. Superior Council of Prosecutors may repeatedly propose the same candidate with a vote of 2/3 of its members. This proposal is binding for the Prosecutor General.

3. Prosecutor of ATU Gagauzia shall be appointed after consultation with People's Assembly of Gagauzia.

4. Term of office of the chief prosecutor and his/her deputy is 5 years. Holding the same position of chief prosecutor or deputy chief prosecutor cannot exceed 2 consecutive terms. Upon completion of the term for which s/he was appointed, the chief prosecutor or his/her deputy is offered the appointment without competition to one of the vacant prosecutor positions.

### **Article 28. Oath of prosecutor**

1 After the appointment, the Prosecutor General and prosecutor shall take the following oath:  
"I swear to strictly abide by the Constitution, laws of the Republic of Moldova, to defend the rule of law, human rights and freedoms, the general interests of society, to conscientiously fulfil my obligations."

2. Failure to take the oath leads to legal nullity of appointment.

3. Prosecutor General shall take the oath on appointment date, before the President of the Republic of Moldova and members of the Superior Council of Prosecutors.

4. Prosecutor takes oath before the Prosecutor General and members of the Superior Council of Prosecutors.

5. Oath taking by the prosecutor shall be recorded in minutes, signed by the Prosecutor General, the President of the Superior Council of Prosecutors and by the person who took the oath.
6. Oath taking is not required for transfer or promotion of prosecutor.

## **Section 2. Prosecutors' performance evaluation**

### **Article 29. Purpose and results of prosecutors' performance evaluation**

1. Prosecutors' performance is evaluated by the Board for prosecutors' performance evaluation, subordinated to the Superior Council of Prosecutors (hereinafter – *Evaluation Board*), to determine the level of professional knowledge and skills of prosecutors, as well as the ability to apply theoretical knowledge and necessary skills in practicing the profession of prosecutor, to find out weak and strong aspects in prosecutors' work, to improve professional skills and increase the efficiency of prosecutors' activity.
2. Results of prosecutors' performance evaluation are used to:
  - a) organize appropriate training for prosecutors (setting directions for training, development and continuous improvement of continuous training programs for prosecutors, selecting forms of training);
  - b) determine objectively the degree of prosecutors' adequacy to the positions they hold or claim during their career;
  - c) provide an objective comparison between several prosecutors for promotion;
  - d) stimulate prosecutors to improve their professional level and professional skills;
  - e) improve management skills.

### **Article 30. Forms of prosecutors' performance evaluation**

1. Prosecutors' performance evaluation is conducted in two forms:
  - a) periodic evaluation;
  - b) extraordinary evaluation.
2. Prosecutor undergoes periodic performance evaluation every 5 years.
3. Prosecutor undergoes extraordinary performance evaluation:
  - a) upon his/her request, but not more often than once a year;
  - b) if s/he gets the qualification "insufficient".
4. As result of the evaluation, each member of the Evaluation Board grants the score under the regulation approved by the Superior Council of Prosecutors.
5. Evaluation' results are valid for 5 years.

### **Article 31. Procedure of prosecutors' performance evaluation**

1. Detailed procedure and criteria for assessing the performance of prosecutors are established by regulation approved by the Superior Council of Prosecutors, which is published on its website.
2. Regulation referred to in paragraph (1) provides expressly and in detailed way:
  - a) scope of the prosecutors' performance evaluation process;
  - b) methodology, procedure and duration of prosecutors' performance evaluation;



- c) evaluation criteria and performance indicators for prosecutors' activity;
- d) sources of information and means of collecting information necessary to assess the performance of prosecutors.

### **Article 32. Decision on performance evaluation**

1. Following the prosecutors' performance evaluation, the Evaluation Board shall adopt, as appropriate, one of the following decisions:
  - a) Decision of passing the performance evaluation, granting the qualification „good”, „very good” or „excellent”;
  - b) decision on granting the qualification „insufficient”;
  - c) decisions on failure in performance evaluation.
2. Decision on performance evaluation shall show the score gained and the appropriate qualificative.
3. In case referred to in para. (1) let. b), prosecutor is subject to extraordinary evaluation, not earlier than in 6 months, but not later than one year since the previous evaluation.
4. The evaluated prosecutor shall be dismissed if s/he receives the qualificative „insufficient” in two consecutive evaluations or when s/he fails the performance evaluation.
5. When finding the appearances of disciplinary offence, the Evaluation Board shall notify the Inspection of prosecutors.

### **Section 3. Continuous professional training of prosecutor**

#### **Article 33. Continuous professional training of prosecutor**

1. Continuous professional training has to take into account the dynamics of legislative process. This training consists, particularly, of deepening the knowledge about domestic legislation, about European and international agreements where Republic of Moldova is a party, about the jurisprudence of national and international court.
2. The responsible for continuous professional training of prosecutors stays upon the National Institute of Justice, chiefs of prosecution office where they work, as well as each prosecutor through individual training.
3. Prosecutors shall participate at least 40 hours in continuous professional training programmes organized by the National Institute of Justice, as well as in programmes organized by other higher education institutions from the country or abroad, or in other forms of professional development.
4. Continuous training of prosecutors shall be fulfilled taking into account the need of their specialization.
5. Activities of continuous professional training shall be organized regularly within each prosecution office.
6. In developing the curricula and topics for continuous training of prosecutors, the individual suggestions and needs of prosecutors are to be taken into account, and possibilities are to be provided so that prosecutors shall be able to choose the area where they wish to develop.

## **Chapter VI. Ensuring the prosecutor's independence**

### **Article 34. Ensuring the prosecutor's independence**

1. Prosecutor's independence is ensured by:
  - a) strict determination, by law, of the prosecutor's status, delimitation of Prosecution Service's duties, prosecutor's duties and competences in performing prosecutorial functions;
  - b) procedure of appointment, suspensions and dismissal from office;
  - c) declaring his/her inviolability;
  - d) decisional discretion granted by law to prosecutor in duty;
  - e) establishing by law the prohibitions on interference of any other person or authority in prosecutors' activity;
  - f) allocation of adequate resources for the activity of prosecution bodies, creating favourable organizational and technical conditions for the activity of these bodies;
  - g) material and social insurance of prosecutor;
  - h) other measures provided by law.
2. In decision making, prosecutor is independent, under the law.
3. If the decisions taken by prosecutor are illegal, they can be cancelled based on grounds by the superior prosecutor.
4. Actions, inactions and acts of prosecutor shall be challenged with the superior prosecutor. Decision taken by higher prosecutor whereby the complaint was resolved can be challenged in court.

### **Article 35. Prosecutor's inviolability**

1. Prosecutor's inviolability provides safeguards of protection against any interference and intrusion in his/her work.
2. Entering the prosecutor's house or office, personal or official transportation means, conducting on-site inspection, search or seizure of objects, wiretapping, body search, control and seizure of correspondence, objects and documents belonging to him/her are allowed only under the conditions provided by law.
3. Prosecutor cannot be held legally liable for his/her opinion expressed within criminal prosecution and in process of contributing to justice.
4. Criminal prosecution against prosecutor can be initiated only by the Prosecutor General.
5. Criminal prosecution against Prosecutor General can be initiated only by the prosecutor appointed by the Superior Council of Prosecutors.

**Chapter VII.**  
**Incentive measures. Disciplinary and patrimonial liability of prosecutors**

**Section 1.**  
**Incentive measures**

**Article 36. Incentive measures**

1. For a flawless performance of duties, deeds with a spirit of sacrifice or for remarkable successes in activity, prosecutors may be encouraged by:

- a) expression of gratitude;
- b) providing a symbolic present;
- c) providing an bonus;
- d) conferring "Honorary Diploma of Prosecution Service", grades I, II, III;
- e) awarding the badge "Honorary Worker of Prosecution Service ";
- f) awarding the medal "For flawless service", classes I, II, III;
- g) awarding "Cross of Merit", classes I and II ..

2. Measures provided for in paragraph (1) shall apply by order of the Prosecutor General, upon the proposal of the Superior Council of Prosecutors.

3. For special merits in office, prosecutors may be proposed for decoration with state awards. Proposals for decoration with state awards shall be made by the Superior Council of Prosecutors.

4. Incentives provided in para. (1) and (3) cannot be applied to prosecutors against whom disciplinary proceedings were launched or who has unfulfilled disciplinary sanctions.

**Section 2.**  
**Disciplinary liability**

**Article 37. Disciplinary liability**

1. Provisions on disciplinary liability shall apply to prosecutors in office, as well as to prosecutors who have ceased labour relationship, before the expiration of the statute of limitations provided for in art. 41.

2. Prosecutors are held disciplinary liable for committing disciplinary offences referred to in art. 39.

**Article 38. Principles of disciplinary proceedings on prosecutors**

Disciplinary proceedings on prosecutors are based on the following principles:

- a) legality;
- b) observance of the prosecutors' decisional independence
- c) fairness of proceedings;
- d) proportionality of the sanction to committed disciplinary offense;
- e) transparency.

**Article 39. Disciplinary offenses**

Disciplinary offence constitutes:

- a) improper performance of duties;

- b) intentional misapplication or improper application of repeated grave negligence of legislation, if it is not justified by the change of the practice in application of legal norms established in the current legal system or in the system of jurisprudence;
- c) violation, for reasons attributable to the prosecutor, of the deadlines of fulfilling the procedural actions;
- d) interference with the activity of another prosecutor or interventions of any kind with authorities, institutions or officials for a solution another than within the legal provisions in force of some requests, claiming or accepting resolution of personal interests or interests of his/her family members;
- e) deliberate violation, in the exercise of duty, of the law, if it attracts another form of legal liability;
- f) violation of provisions concerning incompatibilities and restrictions under this law;
- g) violation of legal provisions concerning the declaration of income and property;
- h) violation of legal provisions concerning the declaration of personal interests;
- i) issuance / adoption by the prosecutor of an administrative act or ruling a legal act in violation of legal provisions concerning the conflict of interests, which is determined in the final finding act;
- j) failure or delay in fulfilling the duties;
- k) serious violation of working regime;
- l) undignified attitude, in the exercise of duty, towards colleagues, participants in the hearings or other persons;
- m) violation of provisions concerning incompatibilities and prohibitions related to prosecutors;
- n) other deeds affecting the honour and professional integrity and prestige of the Prosecution Service, committed while in duty or off-duty.

#### **Article 40. Disciplinary sanctions**

1. Under the law and depending on the severity of misconduct, the Disciplinary Board may apply to prosecutor, through its decision, the following disciplinary sanctions:

- a) warning;
- b) reprimand;
- c) demotion in position;
- d) dismissal from the position of prosecutor.

2. Warning consists of warning the prosecutor on committed disciplinary offense and the recommendation for him/her to comply in the future with legal provisions, as well as to warn him that with a new similar misconduct a more severe sanction might be apply to him/her. The warning is issued in writing.

3. Reprimand is criticism, expressed in writing, concerning the deeds committed by the prosecutor.

4. Demotion in position involves removal from position of superior prosecutor and transfer to a lower hierarchical position of prosecutor. Demotion in position is made based on sanctioning decision, through order of the Prosecutor General.

5. Dismissal from the position of prosecutor, in terms of para. (1), is ending up the duties of prosecutor as result of committing a disciplinary offence. Dismissal from position of prosecutor under the sanctioning decision is made by order of the Prosecutor General.

6. In case of committing disciplinary offences referred to in art. 39 let. i), the sanction to be applied is that of dismissal from position of prosecutor.

7. Based on the decision of the Disciplinary Board or the Superior Council of Prosecutors on sanctioning with dismissal, once it is rendered, the prosecutor is removed immediately from exercising the duties.

#### **Article 41. Statute of limitations**

1. Prosecutor may be held disciplinary liable within 1 year from the date of committing the disciplinary offense.
2. By derogation from the provisions of para. (1), in case of committing disciplinary offenses referred to in art. 39 letters b), c) and e) during procedural activity, the statute of limitations for disciplinary sanctions is 3 years from the date of committing the disciplinary offense.
3. Disciplinary proceedings are usually accomplished within 6 months from submitting the notification on actions which may constitute disciplinary offences. The 6-month period does not constitute the statute of limitations for disciplinary sanctions.
4. The period specified in para. (3) does not include the period of being in annual leave or sick leave of the person against whom disciplinary proceedings shall be conducted.

#### **Article 42. Conditions and consequences of disciplinary sanctions**

1. Disciplinary sanction shall apply to prosecutors in office.
2. Disciplinary sanctions shall be proportionate to severity of disciplinary offense committed by the prosecutor and his/her personal circumstances. Severity of the disciplinary offense is determined by the nature of actions committed and its consequences. Consequences produced are evaluated taking into account both the effects on the people involved in the activities in which the offense was committed, as well as the effects on the image and prestige of the prosecution service.
3. Repeated commission of a disciplinary offence is committing a disciplinary offense during while previous disciplinary sanction is in force, regardless of the type of committed disciplinary offense, it constitutes an aggravating circumstance and is taken into account in establishing the sanction for the next committed disciplinary offence.
4. Disciplinary sanction is in force during one year from the date of its application.
5. While disciplinary sanction is in force, the prosecutor cannot be promoted to a higher position and cannot benefit of any incentive measure.

#### **Article 43. Disciplinary proceedings**

Disciplinary proceedings legally starts since notification and includes the following steps:

- a) submission of notification about actions that may constitute disciplinary offences;
- b) verification of notification by Inspection of prosecutors;
- c) examination of the disciplinary case by the Disciplinary Board, subordinated to the Superior Council of Prosecutors;
- d) taking decision on disciplinary case.

#### **Article 44. Notification about actions that may constitute disciplinary offences**

1. Notification about actions that may constitute disciplinary offences committed by prosecutors may be submitted by:

- a) any interested person;
- b) members of the Superior Council of Prosecutors;
- c) Evaluation Board, under condition stipulated by art. 32 para. (5);
- d) Inspection of prosecutors, following their controls.

2. The subjects referred to in paragraph (1) may submit notifications about actions which have become known in the exercise of rights or duties, which they possess or based on information disseminated by mass media.

3. If several notifications relate to the same offense and the same prosecutor, then notifications shall be merged.

4. Revocation of notification does not affect the disciplinary procedure.

#### **Article 45. Requirements for form and content of notification**

1. The procedure for filing notification, form and content of notification about the actions of prosecutor that may constitute disciplinary offences are regulated by regulation approved by the Superior Council of Prosecutors.

2. A complaint is considered obviously unfounded if it invokes actions that do not concern disciplinary offences, the statute of limitation provided for in art. 41 expired or it is filed repeatedly without bringing about new evidences.

#### **Article 46. Registration and distribution of notifications**

1. Notification about actions that may constitute disciplinary offences shall be submitted to the secretariat of the Superior Council of Prosecutors. Notification shall be registered and transmitted to the Inspection of prosecutors within 3 working days from receipt.

2. If notification does not meet requirements for the form and content set out in art. 45, the inspector, within 5 working days from the day the notification was distributed for preliminary verification, it is returned to the author indicating shortcomings found, through a decision not susceptible for appeal, explaining the right to submit a new notification.

#### **Article 47. Verification of notification**

1. Verification of notification about actions that may constitute disciplinary offences represents the stage which establishes the prosecutor's alleged actions and their consequences, the circumstances under which they were committed, as well as any other conclusive data from which to it is possible to derive about existence or non-existence of disciplinary offence's elements.

2. Inspector whom notification was assigned to must:

- a) undertake all necessary steps to verify the actions alleged by the author of notification and determine the existence or non-existence of action's elements which may constitute disciplinary offence;
- b) request, by informing the chief prosecutor of the prosecutor referred in notification, the written opinion of the latter regarding the circumstances invoked;
- c) develop disciplinary case-file that includes notification about actions that may constitute disciplinary offence, all materials and other information obtained as result of verification.

3. When performing verification of notification, the inspector has the right:

- a) to make copies of relevant documents, including case-files in examination of which allegedly were committed the actions described in the notification;
- b) to request other necessary information from the chief prosecutor of the prosecutor concerned, as well as from other public authorities, public officials or private individuals accountable;
- c) to request, if necessary, from the person who filed the notification verbal and written explanations, as well as additional information about the actions alleged in the notification;
- d) to undertake other measures as s/he deems necessary in order to prove the existence or non-existence of disciplinary offence's elements in the actions stated in the notification.

#### **Article 48. Timelines for verifying the notification**

1. Verification of notification about actions that may constitute disciplinary offences shall be made within 3 months from the date of receiving notification by the Inspection of prosecutors.
2. Inspector can decide on extending verification by maximum 10 working days, if there are reasonable grounds justifying extension, informing about this the notification's author.

#### **Article 49. Rights and obligations of the prosecutor against whom the notification was filed during verification period**

1. The prosecutor against whom the notification was filed, during the stage of its verification, has the right:
  - a) to know the contents of notification;
  - b) to submit written and verbal explanations;
  - c) to submit evidences demonstrating or denying certain actions alleged in the notification or relevant for it;
  - d) to be assisted by a lawyer or a representative;
  - e) to participate in the examination of disciplinary case.
2. Prosecutor against whom the notification was filed, during its verification stage, must not:
  - a) impede in any way the initial verification by inspector;
  - b) get in touch personally or through a representative with the author of notification, except in the presence of the inspector.

#### **Article 50. The results of verification of the notification about actions that may constitute disciplinary offences**

1. Once the verification is over, the inspector takes one of the following grounded decisions:
  - a) on termination of disciplinary proceedings, if no ground was identified for disciplinary liability;
  - b) on submission of material to Disciplinary Board, if a ground was identified for disciplinary liability.
2. In the case referred to in paragraph (1) let. b), the inspector's decision, together with the report developed by him/her based on verification and disciplinary case-file, within 3 working days from the date of issuance date, shall be presented to the Disciplinary Board for consideration and is communicated to the notification's author in writing or, upon request, in electronic format.
3. Report prepared by the inspector contains a brief description of the actions alleged by the author of notification, the actions found by the inspector, the evidences submitted by the notification's author and the evidence collected during the verification performed by the inspector on the case concerned. The model report on the results of the verification of

notification about actions that may constitute disciplinary offences by inspector is approved by the Superior Council of Prosecutors, upon proposal of the Disciplinary Board.

4. Decision to terminate the disciplinary proceedings can be challenged by the author of notification at the Disciplinary Board, within 10 working days from receipt.

#### **Article 51. Examination of disciplinary case-file by the Disciplinary Board**

1. Disciplinary case shall be examined by mandatory summoning the prosecutor referred in notification about actions that may constitute disciplinary offences, the Inspection of prosecutors' representative and the person who filed the notification.

2. In examination of the disciplinary case, the prosecutor and the person who filed the notification may be represented or assisted by a lawyer or other person chosen by them as representative.

3. Failure without grounded reasons by the prosecutor or the person who filed the notification or their representatives to show up at the meeting of the Disciplinary Board shall not prevent the examination of disciplinary case.

4. Inspection of prosecutors is represented by the inspector who verified the notification or other inspector appointed by the head of Inspection of prosecutors. The presence of the Inspection of prosecutors' representative is mandatory.

5. In considering disciplinary case-file, the hearings of witnesses or other persons relevant to the case examination may be requested.

6. Disciplinary Board, usually, shall take the decision on the disciplinary case within 3 months from receiving the materials by Inspection of prosecutors.

7. The procedure for examining the disciplinary case in Disciplinary Board shall be governed by regulation approved by the Superior Council of Prosecutors.

#### **Article 52. Decision on disciplinary case**

1. After examining the disciplinary case, the Disciplinary Board shall adopt one of the following decisions:

- a) on finding disciplinary offence and applying a disciplinary sanction;
- b) on finding disciplinary offence and suspension of disciplinary proceedings, where the limitation for disciplinary liability is expired;
- c) on finding disciplinary offence and suspension of disciplinary proceedings, where the prosecutor has ceased his/her labour relationship before the issuance of decision;
- d) on termination of disciplinary proceedings, where no disciplinary offence was committed.

2. Within 10 working days since the delivery of outfit, the Disciplinary Board shall prepare the grounded decision. If a Board member has a dissenting opinion to the adopted decision, which is expressed in writing, specifying the grounds, this opinion being attached to the case-file.

3. Decisions shall be signed by the chairperson of the meeting and members of the Disciplinary Board who participated in the case examination. Disciplinary Board's decisions shall be published on the website of the Superior Council of Prosecutors within 3 working days from date when grounded decision was prepared.



4. A copy of the decision shall be sent to participants in the disciplinary case within 3 working days from the date of writing the grounded decision and shall be attached to the personal file of the prosecutor concerned.
5. After examining the disciplinary case, the Disciplinary Board may also formulate a recommendation submitted to the Superior Council of Prosecutors to decide on extraordinary performance evaluation of the prosecutor, if the circumstances and materials of the case demonstrate the need to assess his performance.
- 6 Decision on sanctioning with demotion and decision on sanctioning with dismissal from position of prosecutor shall be transmitted to the Superior Council of Prosecutors for submitting a proper proposal to the Prosecutor General, as appropriate, after the expiry of the deadline for appeal.
7. If the decision on sanctioning with demotion or dismissal from position of prosecutor were contested, this decision shall become final only after the examination of the appeal under provisions of art. 54.

### **Article 53. Content of the decision on disciplinary case**

1. Decision of the Disciplinary Board when finding a disciplinary offence must contain:
  - a) name and surname of the prosecutor referred in the decision and the prosecution office where s/he works;
  - b) name and surname of the author of notification about actions which may constitute disciplinary offences;
  - c) number of the case-file in the investigation of which the disciplinary offense was committed;
  - d) date of committing the disciplinary offense;
  - e) description of the deed which constitutes disciplinary offence and its legal classification;
  - f) legal ground for applying disciplinary sanction or cessation of the procedure in case of expiry of time limits for disciplinary liability of the prosecutor;
  - g) disciplinary sanction applied and the reasons behind its application;
  - h) how to appeal, the timeframe and competent authority to consider the appeal;
  - i) reasons for the formulation of a recommendation on extraordinary evaluation of prosecutor's performance, if such a recommendation is made;
  - j) name of the Disciplinary Board' members present at the examination of the case;
  - k) decision's date of adoption.
2. Decision of the Disciplinary Board for termination of the disciplinary proceedings must include the following:
  - a) name and surname of the prosecutor referred in decision and the prosecution office where s/he works;
  - b) name and surname of the author on notification about committing a disciplinary offense;
  - c) number of the case-file in the investigation of which the disciplinary offense described in notification was committed
  - d) date of the offense alleged in the notification;
  - e) description of the actions alleged in the notification and of the reasons for lack of disciplinary offence in the actions alleged;
  - f) description of the evidences collected on the case-file;
  - g) how to appeal, the timeframe and competent authority to consider the appeal;
  - h) reasons that laid the grounds for formulation of recommendation on extraordinary evaluation of prosecutor's performance, if such a recommendation is made;
  - i) name of the Disciplinary Board' members present at the examination of the case;
  - j) decision's date of adoption.

**Article 54. Challenging the decisions on disciplinary case**

1. Decisions of the Disciplinary Board can be appealed with the Superior Council of Prosecutors, through the Board, by people who have filed the notification, Inspection of prosecutor or the prosecutor referred in the decision, within 10 working days from the date of receiving the copy of the reasoned decision. After that period, if the decision of the Disciplinary Board is not challenged, it becomes irrevocable.
2. The appeals shall be examined within one month from the date of registering them with the Superior Council of Prosecutors.
3. Date, time and place of the examination of appeals shall be notified beforehand to the person who filed the notification and the prosecutor concerned.
4. After considering the appeal, the Superior Council of Prosecutors shall decide:
  - a) to maintain without change the decision of the Disciplinary Board;
  - b) to accept the appeal and adopt a new decision. In this case the provisions regarding the procedure for examination and content of the decision taken by Disciplinary Board are also applicable for the Superior Council of Prosecutors.
5. Decisions of the Superior Council of Prosecutors adopted under para. (4) may be challenged, both based on merits, as well as in procedural matters, by persons specified in para. (1), within 10 working days from date of receiving the reasoned decision, with the Supreme Court of Justice. The appeals shall be examined by the panel of judges who consider the appeals against decisions of the Superior Council of Magistracy. The timeframe of examining the appeal may not exceed one month.
6. Decisions of Supreme Court of Justice adopted under para. (5) of this Article shall be irrevocable and shall enter into force upon adoption.

**Article 55. Inspection of prosecutors**

1. Inspection of prosecutors is a subdivision of the General Prosecutor's Office, within which inspectors with the status of civil servants work.
2. The person to be appointed to the position of inspector should be the one selected by public competition, who meets the following conditions:
  - a) s/he holds a higher education diploma in law or its equivalent;
  - b) s/he has a legal profession experience of at least 7 years;
  - c) s/he has no criminal record;
  - d) s/he enjoys an excellent reputation in terms of art. 23 para. (2) of this law.
4. Competition for selecting inspectors is organized by the General Prosecutor Office.
5. Prosecutors in office cannot be appointed to the position of inspector.
6. Inspection of prosecutors is headed by a chief inspector and subordinated directly to the Prosecutor General. Structure and duties of the Inspection of prosecutors are set by regulation approved by the Prosecutor General.
7. Inspection of prosecutors has the following competences:
  - a) s/he participates in verifying the organizational work of prosecutors and prosecution offices;
  - b) s/he examines notifications concerning the actions which may constitute disciplinary offences, registered with the Superior Council of Prosecutors;

- c) s/he keeps statistics of all notifications and of results of their verification;
- d) s/he prepares information for prosecutor's performance evaluation and his/her promotion in another position;
- d) s/he develops recommendations for preventing disciplinary offences in prosecution service.

### **Section 3. Patrimonial liability**

#### **Article 56. Patrimonial liability**

1. The state has patrimonial liability for damages caused by prosecutor's errors in the exercise of their functions.
2. For damage compensation, the person is entitled to file lawsuit only against the state, represented by the Ministry of Justice.
3. State's liability does not remove the liability of prosecutor who exercised his/her duties in bad faith.
4. The statute of limitations of the entitlements for actions in cases stipulated in this article is 3 years from the date of first entitlement, unless the law provides other terms.

### **Chapter VIII. Transfer, delegating, detachment, suspension and dismissal of prosecutor**

#### **Article 57. Transfer, delegating and detachment**

1. Prosecutor's transfer in another position shall be done by competition, under conditions provided by this law.
2. If a prosecution office cannot work due to temporary lack of some prosecutors, the existence of vacancies, as well as in other cases, the Prosecutor General, upon the proposal of chief prosecutor of the prosecution office concerned, may delegate prosecutors from other prosecution offices, without their consent, for a period of up to one month during a year, and with written consent of the prosecutor, s/he may be delegated for a period of up to 6 months.
3. For the purpose of investigating a particular case, the prosecutor nominated as member of a criminal prosecution group may be delegated for a period of up to 6 months without his/her consent.
4. The prosecutor may be detached from office, with his consent to perform a function within the Superior Council of Prosecutors, National Institute of Justice, as Governmental Agent in international institutions, bodies of European Union, of other states, or in order to accomplish activities in projects financed by these institutions, for a period of up to 3 years, which may be extended by maximum 18 months, unless the international treaties to which Moldova is a party and EU documents provide otherwise. During detachment, the prosecutor retains his/her status. Expenses related to prosecutor's detachment under this paragraph shall be compensated. If the position to which prosecutor is detached involves remuneration and reimbursement of expenses related to this detachment, then the basic salary and compensations for expenses shall not be paid.

5. If the salary provided for the position for which the prosecutor is delegated or detached is inferior to that of previous position, the salary for basic position shall be maintained.
6. The period of detachment to other institutions is included in the seniority of prosecutor.
7. At the expiration of the time of detachment, the prosecutor shall be provided with another equivalent position of prosecutor.
8. Decision on detaching the prosecutor is taken by the Prosecutor General with the consent of the Superior Council of Prosecutors.

#### **Article 58. Suspension from office**

1. Prosecutor against whom the prosecution is launched may be suspended from office by the Prosecutor General, with the consent of the Superior Council of Prosecutors, until the decision in the case stays final. In emergency situations, the Prosecutor General may suspend the prosecutor without the consent of the Superior Council of Prosecutors, until the next meeting of the Superior Council of Prosecutors.
2. Prosecutor shall be suspended by order of the Prosecutor General, without involving the Superior Council of Prosecutors when:
  - a) s/he runs in electoral campaign as a candidate for a public authority or local administrative authority;
  - b) s/he is granted maternity leave and leave for taking care of child under the age of 6 years.
3. Suspension from office of the prosecutor in the cases listed in para. (2) does not void entail cancellation of material and social safeguards.
4. In the case referred to in para. (1), when the prosecutor's guilt was not proved or a court decision of acquittal was rendered or that of terminating the criminal proceedings on grounds of rehabilitation, then the suspension from office shall be stopped, and the prosecutor shall be restored in all previous rights.
5. In the cases referred to in paragraph 5. (2) the expiration of the suspension from office, the prosecutor is given the position he held before the suspension or, with his consent, is given another equivalent position.
6. The prosecutor may challenge the decision on his/her suspension from office in court, under the law.

#### **Article 59. Conditions for termination of labour relationship with prosecutor**

Labour relationship of prosecutor shall terminate in the following cases:

- a) in circumstances beyond the control of the parties;
- b) dismissal.

#### **Article 60. Termination of labour relationship in circumstances beyond the control of the parties**

1. Labour relationship terminates in circumstances beyond the control of the parties in the cases of:
  - a) loss of citizenship of the Republic of Moldova;
  - b) attaining the age of 65 years;

- c) expiration of the time for which s/he was appointed in office, in case of refusal to be appointed to another position of prosecutor;
- d) decision finding the one guilty in committing a crime becoming irrevocable;
- e) deprivation of the right to hold certain positions or to practice certain activities, as the basic punishment or as additional punishment, based on the final court decision on the sanction;
- f) declaring the one as being disappeared by final court decision;
- g) death or declaring by a final court decision the prosecutor's death;
- h) the court decision becoming final concerning the limitation or deprivation of legal capacity;
- i) finding, subsequent to appointment, at least one reason why the person could not be appointed as prosecutor.

2. Termination of labour relationship in circumstances that do not depend on will of parties is done by order of the Prosecutor General within 5 working days since the occurrence of the respective case or bringing it to the attention of the Prosecutor General of the case.

3. Term of office of the Prosecutor General terminates in the occurrence of at least one of the grounds set out in para. (1).

### **Article 61. Dismissal**

1. Prosecutor, chief prosecutor and Deputy Prosecutor General shall be dismissed in the case of:

- a) requesting the dismissal on his/her own initiative;
- b) refusal to be transferred to another prosecution office or subdivision of the prosecution office if the prosecution office or subdivision of prosecution office where s/he used to work is liquidated or reorganized;
- c) applying disciplinary sanction of dismissal, once it becomes irrevocable;
- d) getting the qualification "insufficient" in two consecutive evaluations or failing the performance evaluation;
- e) two consecutive groundless absences for performance evaluation;
- f) decision becoming final that establishes incompatibility or violation of prohibitions;
- g) being medically regarded as unable to work for fulfilling the duties;
- h) being elected to an elective position in a public authority or a local administrative authority.

2. In the cases provided in para. (1) let. a) and b) the dismissal is made by order of the Prosecutor General pursuant to the request or the refusal, respectively, submitted in writing by the prosecutor, chief prosecutor or Deputy Prosecutor General.

3. Dismissal of prosecutor, chief prosecutor or Deputy Prosecutor General on the grounds set out in para. (1) let. b) - m) shall be made within 5 days from the date of occurrence of the respective case or bringing it to the attention of Prosecutor General through an order of the Prosecutor General, which shall be notified to the prosecutor concerned within 5 working days from issuance, but prior to the dismissal from public position.

4. Prosecutor General's order of dismissal can be challenged in court as provided by law.

5. If the order of dismissal is cancelled, the prosecutor will be reinstated in all rights, paying him/her is, under the law, the financial rights of which s/he was deprived.

6. Prosecutor General may be removed from office before expiry of his/her term of office by the President of the Republic of Moldova, in cases referred to in para. (1) let. a), c), f), g) and h).

7. Dismissal is not allowed when prosecutor is in annual leave, maternity leave, parental leave to take care of child under the age of 6 years and while being detached, except for the case of liquidation of prosecution office or its subdivision where s/he used to work.

## **Chapter IX.**

### **State protection of the prosecutor. Prosecutor's material and social insurance**

#### **Article 62. State protection of the prosecutor and his/her family members**

1. Prosecutor, members of his/her family and their property are under state protection. Upon prosecutor's grounded request, claiming the existence of a threat for his/her or family member's life or health, for integrity of his/her property, the internal affairs bodies are obliged to undertake proper measures to ensure the security of prosecutor and his/her family members, the integrity of their property.

2. Attempt on prosecutor's life and health, destruction or damage of property, threats with murder, with violence or damage of property, as well as attempt on life and health of close relatives (parents, spouse, children), in connection with performance of job duties, shall entail criminal liability.

3. Prosecutor is entitled to reimbursement of costs incurred for work.

#### **Article 63. Remuneration**

1. Prosecutors' salary is established in dependence of judge's salary. Prosecutor's salary is determined by the level of prosecution office in which s/he works and by the seniority in prosecutor's position.

2. Prosecutor's salary represents 90% of:

- a) the salary of a judge from the Supreme Court of Justice, for prosecutor from the General Prosecutor Office with appropriate seniority;
- b) official salary of a judge from the court of appeal court, for the prosecutor from specialized prosecution office with appropriate seniority;
- c) the salary of a judge from court, for prosecutor from territorial prosecution office and prosecution office of TAU Gagauzia, with appropriate seniority.

3. For exercising management positions, the prosecutor receives the following percentage increase calculated on his/her office salary:

- a) 20% - for exercising the position of Prosecutor General;
- b) 15% - for exercising the position of Deputy Prosecutor General;
- c) 13% - for exercising the position of chief prosecutor of specialized prosecution office;
- d) 11% - for exercising the position of the head of directorate in the General Prosecutor Office and the deputy prosecutor of specialized prosecution office;
- e) 9% - for exercising the position of the head of section in the General Prosecutor Office and the chief prosecutor of territorial prosecution office;
- f) 7% - for exercising the position of deputy chief prosecutor of territorial prosecution office.

#### **Article 64. Annual leave and holidays**

1. The prosecutor is entitled to a paid annual leave of 35 calendar days.

2. If seniority as prosecutor is over 5, 10 and 15 years, the paid annual leave increases by 3, 5 and 7 days, respectively.

3. Prosecutor is provided with annual leave by order of the Prosecutor General, in accordance with the program of granting annual leaves to prosecutors, approved the Prosecutor General.
4. The work carried out during non-working holidays and/or in resting days at the indication of chief prosecutor, shall be compensated to prosecutor proportionally with more than 14 calendar days per year. The way of granting additional days is determined in the Rules of Procedure of the Prosecution Service. For work done during non-working holidays and/or resting days, the prosecutor is not extra paid.
5. It is prohibited not to provide annual leave to prosecutor.

#### **Article 65. Other social safeguards**

1. In exercise of position, the prosecutors receive free medical care from the state budget.
2. On termination of labour relationship pursuant to art. 60 para. (1) let. b) and c) or art. 61 para. (1) let. a) and b), if circumstances triggering termination of employment do not affect the prestige of Prosecution Service and reputation of prosecutors, upon his/her written request, submitted before the occurrence of specified situations, s/he benefits of a single allowance equal to 2 official salaries. If seniority in position of prosecutor is between 5-10 years, the single allowance is equal to 3 official salaries; between 11 and 15, single allowance is equal to 4 official salaries; between 16 to 20, single allowance is equal with 5 official salaries; more than 20 years, the single allowance is equal to 6 official salaries.
3. Prosecutor's life, health and property are subject to mandatory insurance from state budget.
4. The amount of insurance is payable in case of:
  - a) violent death or death of the prosecutor, in the exercise of position, if death occurred as a result of injury or other violent harm for health, to his successors in the form of a single allowance equal to the result of multiplying the deceased' official salary by number of full years that s/he did not survive until reaching the age limit, but not more than 15 deceased's official salaries;
  - b) prosecutor's mutilation or other violent injury in the exercise of position, that excludes the possibility of continuing professional activity, in form of a monthly compensation equal to official salary that s/he had as prosecutor. (Calculation of compensation shall not include: disability pension or other pensions established before or after the loss of ability to continue to work, the salary received by the prosecutor after injury, state insurance' compensations);
  - c) prosecutor's violent death or death due to injuries or other violent harm to health, caused while on duty, to his family members who are unable to work, dependent on him/her, in form of a monthly allowance equal to the difference between the amount they used to receive from the diseased' official salary and the pension established because of the loss of breadwinner, without taking into account the single allowance.
5. If at the date of dismissal there are disciplinary, civil or criminal proceedings against the prosecutor, the payment of single allowance referred to in para. (2) shall be suspended until the final resolution of the case.
6. Prosecutor benefits from other social safeguards under labour legislation to the extent it does not contravene to this Law.
7. Material damage caused in connection with the prosecutor's work by deteriorating or destroying his/her property, property of family members or close relatives shall be fully compensated from the Prosecution Service's budget.

**Article 66. Pension coverage**

Prosecutors are entitled to pension under the Law on state social insurance pensions.

**Article 67. Prosecutor's identity card**

1. At the appointment, the prosecutor receives an identity card of a model approved by the Superior Council of Prosecutors.
2. Prosecutor's identity card is issued by the Prosecutor General and serves as a document confirming the prosecutor's identity and position.
3. On termination of labour relationship, as well as in period of suspension from office under Art. 58 para. (1) or prosecutor's removal from exercising the duties, the identity card is withdrawn.

**Title III.****SELF-ADMINISTRATION BODIES  
OF THE PROSECUTION SERVICE****Article 68. Self-administration of Prosecution Service**

1. Autonomy of Prosecution Service is manifested by its organizational and functional independence and which is achieved by self-administration and represents the right and real capacity of the Prosecution Service to address functional problems autonomously and responsibly.
2. Self-administration of Prosecution Service is conducted based on the principles of self-representation and eligibility of prosecution self-administration bodies, as well as based on their commitment to exercise the delegated functions properly.
3. Prosecution self-administration bodies are: the General Assembly of Prosecutors, Superior Council of Prosecutors and its boards.

**Chapter X.****GENERAL ASSEMBLY OF PROSECUTORS****Article 69. General Assembly of Prosecutors**

1. The General Assembly of Prosecutors is composed of prosecutors from all bodies of the Prosecution Service of the Republic of Moldova.
2. General Assembly of Prosecutors is convened annually by the Superior Council of Prosecutors.
3. General Assembly of Prosecutors may be convened also in exceptional cases, at the initiative of the Prosecutor General, the Superior Council of Prosecutors or by one third of prosecutors, to examine issues of major importance for the activity of Prosecution Service,
4. Announcements about ordinary meeting, its draft agenda, materials to be discussed at the meeting shall be posted on the website of the Prosecution Service and the Superior Council of Prosecutors at least one month before the meeting date. Proposals for changing or supplementing the agenda of the Assembly shall be also admissible during the meeting.



5. Meeting of the General Assembly of Prosecutors shall be opened by the President of the Superior Council of Prosecutors, who transmits the chairmanship in the meeting to the President elected by the General Assembly of Prosecutors.
6. President and Secretary of the meeting of the General Assembly of Prosecutors shall be elected at the proposal of prosecutors present at the meeting, with the open vote of a simple majority of them.
7. The General Assembly of Prosecutors is deliberative if it is attended by a simple majority of prosecutors in office. The same quorum is necessary to conduct extraordinary meetings of the General Assembly of Prosecutors.
8. Decisions of the General Assembly of Prosecutors shall be adopted by simple majority vote of present prosecutors and signed by the president and secretary of the meeting. Decisions of the General Assembly of Prosecutors on the election of members of the Superior Council of Prosecutors, Board for selection and career of prosecutors, Board for prosecutors' performance evaluation and Disciplinary Board of prosecutors shall be adopted by secret vote. Upon decision of the General Assembly of Prosecutors, other decisions may also be adopted by secret vote.
9. For organizing the election of prosecutors in the Superior Council of Prosecutors and its boards, the General Assembly of Prosecutors shall appoint, by majority vote, special committees, composition and activity of which shall be regulated by the Rules of Procedure of the General Assembly of Prosecutors.
10. Decisions of the General Assembly of Prosecutors shall be published on the website of the Prosecutor General Office and of the Superior Council of Prosecutors and are mandatory for execution by self-administrative bodies of the Prosecution Service and by prosecutors.

#### **Article 70. Competence of the General Assembly of Prosecutors**

1. General Assembly of Prosecutors meets for:
  - a) choosing, from among prosecutors, the members of the Superior Council of Prosecutors and its boards and their substitutes;
  - b) hearing the report about the work of the Prosecution Service, presented by the Prosecutor General and the report on the work of the Superior Council of Prosecutors, presented by its President;
  - c) submission by the Prosecutor General and debate over priorities for the activity of the Prosecution Service for next year, after their consultation with the Superior Council of Prosecutors;
  - d) approval of the Code of ethics for prosecutors and amendments thereto;
  - e) adoption and modification of the Rules of Procedure of the General Assembly of Prosecutors.
2. Within 20 working days from the meeting of the General Assembly of Prosecutors, the proposals and issues submitted at the meeting shall be considered by the subject to whom they were addressed, which shall take decisions on them and shall publish them on the sites of the Superior Council of Prosecutors and the Prosecutor General Office, respectively.

## **Chapter XI. Superior Council of Prosecutors**

### **Section 1. General provisions**

#### **Article 71. Superior Council of Prosecutors**

1. Superior Council of Prosecutors is an independent body with status of legal personality, established in order to participate in establishing, operation and ensuring the self-administration of the prosecution system
2. Superior Council of Prosecutors is the safeguard for independence and impartiality of prosecutors.

#### **Article 72. Composition of the Superior Council of Prosecutors**

1. Superior Council of Prosecutors consists of 12 members.
2. Ex officio members of the Superior Council of Prosecutors are: Prosecutor General, President of the Superior Council of Magistracy, Minister of Justice.
3. Six members of the Superior Council of Prosecutors are elected by the General Assembly of Prosecutors, from among prosecutors in office, by secret, direct and free vote, as follows:
  - a) two members from among prosecutors of the Prosecutor General Office;
  - b) four members from among prosecutors of territorial and specialized prosecution offices.
4. Three members of the Superior Council of Prosecutors are elected by competition from among civil society and appointed by the decision of Parliament.
5. Those prosecutors are considered as elected members of the Council who have accumulated the highest number of votes at the General Assembly of Prosecutors. Prosecutors next in the list of candidates who have accumulated the highest number of votes shall fill in the vacancy of position in descending order of the number of accumulated votes.
6. Candidates for the position of member of the Superior Council of Prosecutors should enjoy excellent reputation and have a recognized authority in his/her field of activity.
7. Prosecutors cannot be members of the Superior Council of Prosecutors if they have disciplinary sanctions, as well as those who were found guilty of committing a crime.
8. Prosecutors elected as a member of the Superior Council of Prosecutors shall be detached from office during their term of office.
9. Members of the Superior Council of Prosecutors, except for ex officio members, cannot exercise any other gainful activity, but teaching, creation and scientific activity or in public associations.

#### **Article 73. Competence of the Superior Council of Prosecutors**

Superior Council of Prosecutors has the following competences:

- a) organizes the contest to select the candidate for the position of Prosecutor General, whom it shall propose to the President of the Republic of Moldova;

- b) approves the regulations on its activity, functioning of its boards and other regulations concerning it;
- c) develops and approves regulations on the procedure for selection and career of prosecutors;
- d) develops the draft Rules of Procedure of the General Assembly of Prosecutors and drafts amending it;
- e) organizes the contest, selects and appoints the members of the boards from among civil society;
- f) considers appeals against decisions of boards;
- g) makes proposals to the Prosecutor General for appointment, promotion, detachment, suspension under the Criminal Procedure Code and dismissal of prosecutors.
- h) determines the number of prosecutors in every prosecution office;
- i) participates in taking the oath by prosecutors and Prosecutor General;
- j) nominates prosecutors to the Board of the National Institute of Justice;
- k) approves the strategy for initial and continuous training of prosecutors and presents opinion on the action plan to implement that strategy;
- l) considers and submits its opinion on the regulation for organizing the competition for admission to the National Institute of Justice, on the teaching programs and curricula for initial and continuous training at the National Institute of Justice, on the regulation for organizing the contest for filling in the teaching positions, as well as on the composition of commission for enrolment and graduation examinations of the National Institute of Justice;
- m) establishes the number of places for enrolment contest for initial training of prosecutors in the National Institute of Justice;
- n) considers notifications from citizens, prosecutors, on matters within its scope of competence;
- a) develops the draft Code of Ethics for prosecutors, as well as amendments thereto and proposes them to the General Assembly for approval;
- p) approves its budget, which it proposes to Parliament for adoption;
- q) participates in drafting the budget of the Prosecution Service and provides its opinion;
- r) participates in drafting the strategic development plans of the Prosecution Service;
- s) provides opinions on draft priorities on the annual activity of the Prosecution Service, prepared by the Prosecutor General.

#### **Article 74. President of the Superior Council of Prosecutors**

1. President of the Superior Council of Prosecutors is elected from among the elected prosecutor-members, by secret vote, for a term office of 4 years, by a majority vote of its members.
2. In the absence of the president, his/her duties are exercised by a member appointed by the Superior Council of Prosecutors.
3. President of the Council shall receive a salary in the quantum of 80% of the salary of the Prosecutor General or of his/her salary in prosecutor position, held before detachment, if it is higher.

#### **Article 75. Duties of the President of the Superior Council of Prosecutors**

President of the Superior Council of Prosecutors has the following duties:

- a) represents the Superior Council of Prosecutors in domestic and international relations and coordinates its activities;
- b) chairs the meetings of the Superior Council of Prosecutors;
- c) signs acts issued by the Superior Council of Prosecutors;

- d) presents at the General Assembly of Prosecutors the annual report of the Council;
- e) exercises also other duties provided by law.

## **Section 2. Membership in the Superior Council of Prosecutors**

### **Article 76. The term of office of a member of the Superior Council of Prosecutors**

1. The term of office of the elected members of the Superior Council of Prosecutors is 4 years.
2. Elected members of the Superior Council of Prosecutors exercises his office until the election of new members. If not all members of the Superior Council of Prosecutors are elected, the former members are substituted by drawing lot.

### **Article 77. Rights of members of the Superior Council of Prosecutors**

1. Members of the Superior Council of Prosecutors are entitled:
  - a) to get acquainted with the materials submitted for review to the Superior Council of Prosecutors;
  - b) to participate in the consideration of materials specified at let. a) of this paragraph;
  - c) to make representations, to expose arguments and to present additional materials;
  - d) to propose for consideration in meeting the issues related to the competence of the Superior Council of Prosecutors;
  - e) to participate by voting in adoption of decisions and to express, as appropriate, a dissenting opinion;
  - f) to perform other actions under the law.
2. Members of the Superior Council of Prosecutors elected from among prosecutors receive a salary in the amount of 75% of salary of the Prosecutor General or retains his/her salary in prosecutor position held before detachment, if it is higher.
3. Members of the Superior Council of Prosecutors, representatives of civil society, receive a monthly allowance amounting to 30% of the salary of the Prosecutor General.

### **Article 78. Obligations of the members of the Superior Council of Prosecutors**

Members of the Superior Council of Prosecutors are obliged:

- a) to exercise duties under the law;
- b) to ensure the protection of rights and freedoms of prosecutors, of their honour and dignity under the law;
- c) to contribute to the promotion of Prosecution Service' independence principle;
- d) to comply with the regime of information constituting state secrets, personal information and other information with limited access, which became known to him/her in the exercise of office;
- e) to vote for the adoption of decisions.

### **Article 79. Termination of membership in the Superior Council of Prosecutors**

1. Membership in the Superior Council of Prosecutors terminates, as appropriate:
  - a) upon the request to renounce the membership;
  - b) upon expiration of the term of office;
  - c) upon obtaining membership of the Board subordinated to the Superior Council of Prosecutors;
  - d) upon suspension or dismissal of prosecutor from office;

- e) once the act finding the incompatibility becomes final;
- f) once the act establishing that s/he adopted and act in violation of legal provisions on conflict of interest becomes final;
- g) once the decision finding him/her guilty in committing a crime becomes final;
- h) in case of impossibility to exercise his/her duties for more than 4 months, found by the Superior Council of Prosecutors;
- i) in case of death.

2. Members of the Superior Council of Prosecutors may not be removed. In case of circumstances referred to in para. (1) the term of office de jure.

### **Section 3. Organization of activity of the Superior Council of Prosecutors**

#### **Article 80. Meetings of the Superior Council of Prosecutors**

1. Superior Council of Prosecutors shall meet whenever necessary, but not less than once a month.
2. The first meeting of the Superior Council of Prosecutors is convened by the Prosecutor General within 10 days after the date of the General Assembly of Prosecutors.
3. Meetings of the Superior Council of Prosecutors are public, except in cases when for the purpose of observing the regime of information specified in art. 78 let. d), the Council, by its decision, rules that the meeting or a part of it shall be closed.
4. Meeting of the Superior Council of Prosecutors is deliberative if attended by at least 2/3 of members.
5. Agenda of meeting shall be posted on the website of the Superior Council of Prosecutors at least 24 hours prior to the meeting.
6. Decisions are adopted by open vote, in public meeting, by a majority vote of present members of the Superior Council of Prosecutors.
7. Decisions of the Superior Council of Prosecutors are motivated and published, within 10 working days, from the date of their issuance, on the website of the Superior Council of Prosecutors.
8. Meetings of the Superior Council of Prosecutors are recorded by use of video/audio means. The recording of meeting is attached to the minutes. The minutes shall be made within 3 working days of the date on which the meeting took place, being signed by the chairperson and secretary of the meeting and posted on the website of the Superior Council of Prosecutors.

#### **Article 81. Recusal and abstention**

1. A member of the Superior Council of Prosecutors cannot participate in the examination of an issue if there are circumstances which exclude his/her participation in the examination or that may raise doubts about his objectivity. If such circumstances exist, the member of the Superior Council of Prosecutors is obliged to make declaration of abstention.

2. For the reasons stated in para. (1), a member of the Superior Council of Prosecutors may be recused.
3. The application for recusal and declaration of abstention must be grounded.
4. A member, whose recusal or abstention was invoked, is not involved in examining the application for recusal or declaration of abstention.

### **Article 82. Challenging the decisions of the Superior Council of Prosecutors**

Decisions of the Superior Council of Prosecutors may be appealed with the Supreme Court of Justice, by any person affected in some right, within 10 working days from the date of communication. The appeals shall be examined by the panel examining the appeals against decisions of the Superior Council of Magistracy.

### **Article 83. Budget of the Superior Council of Prosecutors**

1. To ensure its activities, the Superior Council of Prosecutors has its own budget, which is part of the state budget.
2. Superior Council of Prosecutors shall develop its own budget for the coming year and submit it to the Parliament for adoption.
3. Administrator (authorizing officer) of credits of the Superior Council of Prosecutors is its President.
4. Remuneration of members of the Superior Council of Prosecutors detached from prosecutor position, its President and the payment of monthly allowance for Council's members, representatives of civil society is made from the budget of the Superior Council of Prosecutors.

### **Article 84. Secretariat of the Superior Council of Prosecutors**

1. Superior Council of Prosecutors has a secretariat, that ensures the work of the Council and boards.
2. Secretariat of the Superior Council of Prosecutors consists of civil servants and technical personnel. Civil servants from secretariat of the Superior Council of Prosecutors are subject to the provisions of the Law no. 158-XVI of 4 July 2008 on public office and status of civil servant and are remunerated under the law. The technical staff is subject to the provisions of the labour legislation, being remunerated under the law.
3. Structure, staffing plan and staff activity are governed by regulation approved by the Superior Council of Prosecutors.

## **Section 4. Bodies of the Superior Council of Prosecutors**

### **Article 85. Bodies subordinated to the Superior Council of Prosecutors**

The following bodies work under subordination of the Superior Council of Prosecutors:

- a) Board for selection and career of prosecutors;
- b) Board for prosecutor's performance evaluation;
- c) Disciplinary Board;

**Article 86. Composition of boards**

1. Boards subordinated to the Superior Council of Prosecutors consist of 7 members:
  - a) 5 are elected by the General Assembly from among prosecutors;
  - b) 2 are elected by the SCP, through public contest, from among civil society.
- 2) First 5 prosecutors who have accumulated the highest number of votes at the General Assembly of Prosecutors are considered as elected board members. Next prosecutors on the list of candidates who have accumulated the highest number of votes shall fill in the vacancy in descending order of number of votes accumulated.
3. Superior Council of Prosecutors shall elect a substitute for the representatives of civil society, according to the procedure for the election of the representatives of civil society.
4. Those persons may apply for membership of the board who meet the requirements specified in Art. 72 para. (6)-(8).
5. Members of the Superior Council of Prosecutors, members of another board or inspectors of the Inspectorate of prosecutors cannot be elected in the board composition.
6. Members of the board are elected for a period of 4 years.
7. Membership in a board terminates under conditions of art. 79 In case a board membership terminates before the expiration of 4 years term, the substitute member shall continue exercising the position.
8. Board President is elected by secret vote from among its members at the first meeting of the board.
9. Abstentions and recusal of board members shall be done in accordance with provisions of Art. 81.
10. If the board examines the situation regarding one of its members, s/he shall not participate in the examination of that issue.
11. Civil society members of the board receive a monthly allowance amounting to 30% of the salary of the Prosecutor General. The workload of board members elected from among prosecutors shall be reduced during their term of office.
12. Competence, organization and operation of boards are established by this Law and the regulations approved by the Superior Council of Prosecutors.
13. In order to exercise their duties, the boards are entitled to request from prosecutors, public authorities, public or private legal entities any documents and information they need.
14. Prosecutors, public authorities, public or private legal entities are obliged to provide the boards, by the deadline set by them, with the documents and information requested. Boards are required to comply, under the law, with the regime of restricted information that became known to them.
15. Each board shall submit annually to the Superior Council of Prosecutors a report on its activities for the reference year, which shall be published on the website of the Superior Council of Prosecutors.

**Article 87. Board meetings**

1. Each board shall hold meetings whenever necessary.
2. The first meeting of the board is convened and chaired by the president of the Superior Council of Prosecutors.
3. Time and place of board meeting are established by the board president after consultation with board members.
4. Board meetings are chaired by the president of the board. In the absence of the board president, the meeting shall be chaired by board member elected from among the members present at the meeting.
5. Board meeting is deliberative if attended by at least 5 board members.
6. Board meetings shall be recorded by using video/audio means. The recording of meeting shall be attached to the minutes. The minutes shall be made within 3 working days, being signed by the chairperson and secretary of the meeting and posted on the website of the board.

**Article 88. Board decisions**

1. Board decisions are issued in writing, are grounded and, under conditions set by this Law, shall be signed by the president of the board and, where applicable, by other persons and published on the website of the Superior Council of Prosecutors. Decisions on prosecutor's evaluation are not published, but the findings are made public.
2. Board decisions are adopted by open vote of majority elected board members.
3. Notwithstanding the provisions of para. (2), decisions regarding the selection, evaluation and career of prosecutor shall be adopted by the procedure provided by this law.
4. Board decisions shall be challenged with the Superior Council of Prosecutors, through the board, within 10 working days from the date of their adoption. An appeal may be filed by persons against whom the decision was adopted, and, where appropriate, by other persons, under this law.
5. Board decisions shall be transmitted to the secretariat of the Superior Council of Prosecutors in the next day after the appealing deadline.

**Article 89. Examination of appeals against board decisions**

1. Appeals against board decisions shall be examined within one month from the date of registration with the Superior Council of Prosecutors.
2. The date, time and place of examining the appeals shall be communicated at least 5 working days before the date of the meeting to the prosecutor referred to in the challenged decision, to the candidate for prosecutor's office who filed the complaint, to inspector, as well as to others, under this law.
3. As a result of reviewing the appeal, the Superior Council of Prosecutors decides:
  - a) on maintaining the contested decision;



b) on cancellation of the contested decision and on adoption of a new decision that resolves the case.

#### **Article 90. Competence of the Board for selection and career of prosecutors**

1. Board for selection and career of prosecutors:

- a) reviews the files of candidates for prosecutor position, the documents submitted by the candidates and those concerning the candidates;
- b) reviews the files and documents submitted by prosecutors seeking transfer or promotion to a higher position;
- c) organizes and conducts interviews with participants in the contest;
- d) provides scoring to contestants;
- e) adopts reasoned decision on the results of the competition;
- f) has other duties prescribed by law or regulations approved by the Superior Council of Prosecutors.

2. Board for selection and career of prosecutors examines, within 3 months, the materials submitted by the Secretariat of the Superior Council of Prosecutors.

#### **Article 91. Competences of the Evaluation Board**

1. Evaluation Board:

- a) sets out the program for evaluation of prosecutors' activity;
- b) reviews the files of prosecutors subject to evaluation, the documents submitted by them and acts related to them;
- c) organizes and conducts interviews with prosecutors subject to evaluation;
- d) takes decisions on prosecutors subject to evaluation.

2. Decisions of the Evaluation Board should include:

- a) description of the work of the prosecutor during the period under evaluation;
- b) professional, administrative and organizational shortcomings in the prosecutor's activity, if such exist, as well as board's recommendations on avoiding or excluding these deficiencies;
- c) any other information important in the opinion of the board.

#### **Article 92. Competences of the Disciplinary Board**

Disciplinary Board reviews cases of prosecutors' disciplinary offences received from the Inspection of prosecutors and applies, as appropriate, disciplinary sanctions.

### **Title IV. PERSONNEL AND BUDGET OF THE PROSECUTION SERVICE**

#### **Chapter XII. Personnel of the Prosecution Service**

#### **Article 93. Staff of the Prosecution Service**

1. Personnel working in Prosecution Service:

- a) prosecutors;
- b) civil servants;
- c) technical staff.

2. Personnel with status of civil servants from subdivisions of the Prosecution Service consists of: inspectors, consultants of prosecutor, senior specialists, coordinating specialists and specialists. The status of civil servants from the Prosecution Service is regulated by the Law no. 158 of 4 July 2008 on the public office and status of civil servant.
3. Status of the prosecutor's consultant is regulated by the Law no. 158 of 4 July 2008 on the public office and status of civil servant, and his/her duties are governed by the Criminal Procedure Code of the Republic of Moldova.
4. Technical staff provides technical assistance to the bodies of the Prosecution Service, and its status is regulated by labour legislation.
5. Organization and operation of subdivisions consisting of civil servants with special status, civil servants and those made up of technical staff of the Prosecution Service, the staff duties of these subdivisions are established by regulation, approved by the Prosecutor General.

**Chapter XIII.**  
**Budget of the Prosecution Service.**  
**Organizational and technical-material support of the Prosecution Service**

**Article 94. Budget of the Prosecution Service**

1. Activity of the Prosecution Service is financed from the state budget.
2. Budget of the Prosecution Service is single and is administered by the General Prosecutor Office.
3. The draft budget of the Prosecution Service is prepared by the General Prosecutor Office, with the approval of the Superior Council of Prosecutors and is submitted to Parliament for adoption.
4. Parliament approves the budget of the Prosecution Service and incorporates it in the state budget for the respective year.
5. Reduction of costs related to the activity of the Prosecution Service or the use of resources to ensure its work, for other necessities is made only by Parliament.

**Article 95. Technical-material support of the Prosecution Service**

1. Central and local public administration authorities are obliged to provide prosecution offices with working spaces.
2. Providing prosecution offices with forensic equipment, with telecommunication means and computers, with official auto transport, proper working conditions, such as to protect the health and physical and mental integrity of the prosecutor shall be made by the General Prosecutor Office from state budget resources.

**Article 96. Ensuring economic-financial, administrative, secretarial and archive activities**

Economic-financial, administrative, secretarial and archive activities are ensured by the respective divisions of the General Prosecutor's Office, the duties of which are set out by regulation, approved by the Prosecutor General.

**Article 97. Statistical information**

General Prosecutor Office, through its specialized subdivisions, ensures, through information technologies:

- a) collection, processing, systematization, analysis, dissemination and publication of statistical information on crime situation and activities of prosecutorial bodies;
- b) coordination of statistical activities of all prosecution bodies under existing statistical standards;
- c) organization of statistical management, development of forecasts, development of current and future estimates, development of proposals;
- d) development of statistical methodology.

**Article 98. International relations**

Prosecution Service may develop direct international relations, may conclude contracts and agreements with similar foreign institutions, within the limits set by law.

**Article 99. Seal**

Prosecution office of the Prosecution Service has a seal with the image of the coat of arms and their name.

**Article 100. Protection**

1. Protection of offices and other assets of Prosecution Service's bodies. their workers' safety, public order within prosecution offices, control of persons entering and exiting the prosecution premises, are provided free by specialized subdivision of the Ministry of Internal Affairs.
2. Number of protection subunit is established by the Government, upon proposal of the Prosecutor General coordinated with the Minister of Internal Affairs.
3. State protection of the headquarters of the General Prosecutor's Office, its subdivisions and, where appropriate, of the Prosecutor General is provided under the law.

**Title V****FINAL AND TRANSITIONAL PROVISIONS****Article 101.**

1. This Law shall enter into force 6 months after its publication, with the following exceptions:
  - a) provisions of art. 19 and 20, which will apply on expiry of the term of office of the Prosecutor General, the first deputy and the deputies of the Prosecutor General, in office on date of this law' entry into force;

- b) provisions of art. 19 para. (2) - (12) will enter into force after appropriate modification of the Constitution of the Republic of Moldova.
  - c) provisions of article 63 and article 65 para. (2) shall take effect on .....
  - d) until the entry into force of the provision of art. 65 para. (2), in case of termination of labour relationship pursuant to art. 60 para. (1) let. b) and c) or art. 61 para. (1) let. a) and b), if circumstances triggering termination of employment do not affect the prestige of the Prosecution Service and reputation of prosecutors, the prosecutor, upon his/her written request submitted by the date of occurrence of the situations referred, shall receive a single allowance equal to the result of multiplying his/her official salary by the number of complete years worked as prosecutor. If the prosecutor, who received the single allowance under conditions specified in this paragraph, is reemployed in the position of prosecutor, on termination of labour relationship, as provided in this paragraph, shall be granted with single allowance in due amount, for the complete years of activity after the period for which the previous single allowance was paid.
2. Provisions of art. 5 let. d), in part referring to participation in the trial of civil cases, including administrative ones, of art. 5 let. j), in part referring to law enforcement in the Armed Forces, in prisons and temporary detention facilities, of art. 5 let. l) and art. 7 are in force for a period of 3 years from the date of this law's entry into force.
3. Provisions of art. 65 para. (2) shall be in force until the entry into force of art. 63 and art. 65 para. (5).
4. Persons who, at the entry into force of this Law, hold position of prosecutor do not fall under the provisions of art. 27 referring to the appointment of prosecutors.
5. Within 3 years from the entry into force of this law, all prosecutors in office are to be evaluated.
6. For the appointment in office of the chief prosecutor within 3 years of the entry into force of this law, the candidate must first be subject to evaluation, if s/he have not yet undergone evaluation under par. (5).
7. Notifications regarding disciplinary offences submitted to the Superior Council of Prosecutors before the entry into force of this law will be considered under the procedures established by this law.
8. Notifications regarding disciplinary offences submitted to the Superior Council of Prosecutors in respect of which, before the entry into force of this law, disciplinary proceedings were initiated and the cases were submitted to the Disciplinary Board, shall be examined according to the Law no. 294 of 25 December 2008 on the Prosecution Service.
9. Decisions of Disciplinary Board appealed before the entry into force of this law will be considered by the Superior Council of Prosecutors according to the procedure in force at the date of filing the appeal.
10. Within 6 months from the date of this law's publication, the Prosecutor General:
- a) will ensure the creation of the Inspection of prosecutors, with the status of directorate, in the secretariat of the Prosecutor General, the employment of inspectors and approval of the Regulation on Inspection of prosecutors;
  - b) will approve normative acts necessary for the implementation of this law.

11. Superior Council of Prosecutors:

- a) will continue its activity in the composition that it has at the time of entry into force of this law, until the expiration of the current term of office of its members;
- b) in order to implement the provisions of this law, the Superior Council of Prosecutors will adopt normative acts provided for in this law and will bring its normative acts in compliance with it.
- c) will ensure the establishment, within 3 months from the date of publication of this law, of the Board for selection and career of prosecutors, the Board for prosecutors' performance evaluation and the Disciplinary Board.

12. Qualification Board ceases its activity and is dissolve de jure from the constitution of the Board for selection and career of prosecutors and of the Board for prosecutors' performance evaluation.

13. Government within 3 months from the date of this laws' publication:

- a) shall submit to Parliament proposals on bringing the legislation in force into compliance with this law;
- b) shall bring its normative acts in compliance with this law.

14. Upon the entry into force of this Law, the Law no. 294-XVI of 25 December 2008 on the Prosecution Service is repealed.

15. Notwithstanding the provisions of para. (14), in examination of notifications under para. (8), corresponding provisions of the Law no. 294-XVI of 25 December 2008 on the Prosecution Service will continue to apply.

**SPEAKER OF PARLIAMENT**