



Strasbourg, 13 January 2015

**CDL-REF(2014)054**  
Engl. only

**Opinion No. 791/2014**

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

**LAW**

**ON THE PUBLIC PROSECUTOR'S SERVICE OF  
THE REPUBLIC OF MOLDOVA**

**nr. 294-XVI of 25.12.2008**  
**(in force 17.03.2009)**

**Monitorul Oficial nr.55-56 art.155 of 17.03.2009**

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## TITLE I

### ORGANIZATION OF THE PUBLIC PROSECUTOR'S SERVICE

#### Chapter I GENERAL PROVISIONS

##### **Article 1. The Public Prosecutor's Service**

The Public Prosecutor's Service is an autonomous institution, part of the judicial authority which, in limits of its attributions and competence, represents the general interests of the society and protects the law and order and the citizens' rights and freedoms, carries out guiding of criminal investigation and exercises it directly, represents the accusation in courts, in accordance with the law.

##### **Article 2. Principles upon which the activity of the Public Prosecutor's Service is organised**

- (1) The Public Prosecutor's Service is carrying out its activities in accordance with the law.
- (2) Activity of the Public Prosecutor's Service is transparent and is built upon the presumption of guaranteeing the access of the society and mass-media to the information related to this activity, with exceptions provided by law.
- (3) The principle of independence excludes the possibility of subordination of the Public Prosecutor's Service to the authority of legislative and executive powers, as well as the influences and interferences of other bodies and authorities of the state in the activity of the Public Prosecutor's Service.
- (4) Prosecutors organise and exercise their activity on the basis of the principle of autonomy, which allows them to take decisions by their own with regard to files and cases under their examination.
- (5) Within the activity of the Public Prosecutor's Service, internal hierarchical control and judicial control are principles that ensure the exercise by hierarchically superior prosecutor of the right to verify the correctness and legality of the activity and decisions adopted by hierarchically inferior prosecutor, as well as the possibility of contesting the prosecutor's decisions and actions of procedural character with a court of law.

##### **Article 3. The legal framework for the activity of the Public Prosecutor's Service**

The activity of the Public Prosecutor's Service is governed by the Constitution of the Republic of Moldova, by the present law, by other legislative acts, as well as by norms of the international law.

#### **Article 4. The prosecutor**

The prosecutor is an official person by whom the Public Prosecutor's Service exercises its competences.

### **Chapter II**

## **COMPETENCY AND FIELD OF WORK OF THE PUBLIC PROSECUTOR'S SERVICE**

### **SECTION 1**

#### **Competency of the Public Prosecutor's Service**

#### **Article 5. Competences of the Public Prosecutor's Service**

(1) The Public Prosecutor's Service:

- a) in the name of the society and in public interest, ensures the enforcement of the law, protects the legal order and the citizens' rights and freedoms, when the violation thereof calls for a penal sanction;
- b) conducts and carries out the criminal investigation;
- c) represents the accusation in the courts of law;
- d) participates, under the law, in court trials on civil and on cases of administrative offence, where court proceedings have been instituted on its initiative;
- e) ensures the legal assistance and the international cooperation in its sphere of activity;
- f) implements the national penal policy;
- g) ensures the efficient protection of witnesses and victims of crimes;
- h) initiates civil actions, in cases set forth in the law;
- i) controls the observance of laws in the places of preliminary and remand detention;
- j) exercises control over execution of laws in the Armed Forces
- k) exercises control over the execution of judicial decisions on criminal cases.

#### **Article 6. Competences of the prosecutor**

In order to exercise competences of the Public Prosecutor's Service, the prosecutor is entitled to:

- a) demand and receive from legal entities, , as well as from individuals the

submission of documents, materials, and data, , which constitute commercial and bank secrecy, necessary for exercise of its competences, only within a started criminal procedure, with the authority of the investigative judge;

- b) assign the competent authorities to execute controls, audits of the activities displayed by the enterprises and other legal entities to ensure the participation of corresponding experts in order to clarify certain problems appearing in exercising his/her competencies; assign the carrying out of expertises, verification of materials, information, communications received by Public Prosecutor's Service, with submission of the obtained results to the prosecutor;
- c) summon any person and demand verbal or written explanations with the purpose of carrying out criminal investigation or on infringements of fundamental human rights and freedoms, and violations of legal order;
- d) freely enter the offices of state institutions, enterprises, irrespective of their type of property, as well as of other legal entities, and to have access to their documents and materials.

## **SECTION 2**

### **Conducting and carrying out criminal investigation**

#### **Article 7. Prosecutor's attributions during investigations aimed at discovering actions that shall be subject to penal sanction**

In the course of examining the notifications, petitions and materials submitted to the Public Prosecutor's Service by natural and legal persons, as well as in cases of self-notification resulted from *ex officio* investigations, the prosecutor, within the limits of his/her competency, shall investigate the case with a view to finding the existence or non-existence of a violation of law which calls for a person to be held criminally responsible, with a view to identifying the guilty persons and, depending upon the results of the investigation, shall decide on the initiation of criminal prosecution or on taking other measures of response to the law infringements found.

#### **Article 8. Prosecutor's attributions in carrying out criminal investigations**

The prosecutor carries out the criminal investigation in the name of the state, on the crimes prescribed within his/her competency, and if necessary, the prosecutor may carry out or take over the criminal investigation on any Category of crimes, in conditions of the Criminal Procedure Code.

#### **Article 9. Prosecutor's attributions in conducting criminal investigations**

- (1) For the purpose of ensuring a proper application of criminal law by the criminal investigation

bodies, by the fact-finding and operative investigations bodies, the prosecutor shall conduct the criminal investigation and shall control the procedural actions of said bodies in relation to their compliance with due procedures as provided for in the criminal procedure law, in other normative acts, as well as in international acts.

(2) With a view to exercising this function, the prosecutor has the right to:

- a) exercise the attributions provided for by the Criminal Procedure Code;
- b) initiate the sanctioning of violations concerning the non-fulfilment or inappropriate fulfilment of professional duties by the criminal investigation officers or by officers from the fact-finding and from the special investigative bodies;

(3) The Prosecutor General and lower level prosecutors shall coordinate the crime- combating activity of the criminal investigation authorities, of the fact-finding and of the operative investigations bodies.

(4) To ensure the coordination of activities of the abovementioned bodies in para.(3), the prosecutors:

- a) plan joint actions to fulfil the attributions of these bodies;
- b) convoke coordinating meetings;
- c) form working groups;
- d) identify the assessment criteria for the activity of the criminal investigation bodies as well as evidence and movement of criminal cases, require statistical data and necessary information of other nature;
- e) Issue methodological and regulation instructions , executory for criminal investigative bodies, fact findings bodies and special investigation bodies, on issues regarding aspects of law application and efficiency of the activity of crime combat and prevention.

#### **Article 10. Applying alternative measures to criminal prosecution**

The prosecutor may decide, in the course of criminal investigations, on the exemption from criminal liability of the person, who has committed an act which contains elements of a crime, and in accordance with the Criminal Code and the Criminal Procedure Code.

#### **Article 11. Implementing the national penal policy**

Aiming at a unitary implementation of the state penal policy, the prosecutor shall act to prevent and combat criminality, shall analyze the factors which generate or facilitate crimes, shall draft and present proposals for eliminating them, as well as for improving the existing legislation.

#### **Article 12. Protection of witnesses and other participants to the criminal process/procedure**

In order to ensure the effective protection of victims of crimes, the prosecutor is obliged to:

a) take measures, envisaged by the law, in order to restore citizens' legitimate rights that were infringed through illegal actions of the criminal investigation bodies;

b) demand from the criminal investigation bodies to take measures in order to protect the life and ensure safety of, witnesses and members of their families, as well as of other persons, who offer assistance to the criminal procedure, or to make sure that such measures have already been taken.

### **SECTION 3**

#### **Participation of the prosecutor in the administration of justice**

##### **Article 13. Prosecutor's attributions in the administration of justice on criminal cases**

Within the limits of his/her attributions, the prosecutor submits criminal cases to the courts for examination, represents the state accusation on all criminal cases based on the

Principle of adversarial proceedings, lodges appeals against judicial decisions, in accordance with the law.

##### **Article 14. Prosecutor's attributions in the administration of justice on civil cases**

The prosecutor participates, according to the law, in the examination of civil and contravention cases, as a party to the case, where the proceedings were launched on his/her initiative or where the participation of the prosecutor is provided by the law.

##### **Article 15. Exercising control over the observance of laws in places of detention**

1. The prosecutor undertakes as provided by law the monitoring of the legality of detention of persons in the institutions which ensure detention and which enforce constraint measures, including in hospitals in cases of psychiatric assistance without the consent of the person.

2. If the prosecutor identifies detention without the justifications provided by law which would prove the legality of detention in the places mentioned at para. 1, the person is freed immediately by means of prosecutor's ordinance, which shall be enforced immediately and unconditionally.

##### **Article 16. Control of enforcement of court decisions**

The prosecutor undertakes as provided by law the control over the observance of the legislation of enforcement of court decision in criminal case, as well as in civil and misdemeanour cases which he/she initiated.



## **SECTION 4**

### **Acts of the prosecutor**

#### **Article 17. Acts of the prosecutor**

When carrying out investigations aimed at the discovery of breaches of law which shall be subjected to penal sanctions, when carrying out and conducting criminal investigations, when applying alternative measures to criminal prosecution, when implementing the national penal policy and ensuring the protection of witnesses and other participants to the criminal procedure, as well as in the case of participation at justice, the prosecutor has the right, within the limit of his competences, to adopt acts provided for by the criminal, civil, misdemeanour and other legislation, initiate notifications and appeal with recourse the administrative act.

#### **Article 18. The notification of the prosecutor**

(1) In the course of exercising his/her attributions, in cases when the prosecutor considers that the illegal act could bring about other measures or sanctions than those provided for by the criminal law, he/she shall notify the authority or the competent official person, with a view to:

- a) eliminating the violations of law, removing the factors and conditions which favoured them;
- b) sanctioning law violations, sanctioning the non-fulfilment or inappropriate fulfilment of their professional duties in the course of criminal investigations, committed by criminal investigation officers, by officers of the fact-finding authorities, with exception of instruction judges, and by officers of the operative investigation bodies;
- c) lifting the immunity of certain persons and holding them accountable as prescribed by the law.

(2) The notification on eliminating violations of law shall be directed by the prosecutor to the respective institution or to the responsible official person for immediate examination.

(3) The respective institution or the responsible official person shall take specific measures to eliminate the breaches of law mentioned in the notification, to eliminate the factors and conditions which favoured them, to apply sanctions prescribed by law, or to stimulate a person, and shall inform the prosecutor in written form of such actions within one month from the receipt of the notification.

#### **Article 19. Contesting the administrative act**

1. If during the course of the mandate the prosecutor identifies illegal administrative acts with a normative or individual character, issued by a body or a decision maker which breaches the rights and freedoms of the citizen, the prosecutor has the right to appeal them with recourse.

2. The recourse shall be examined by the respective body or by the decision maker during 10 days from the date of receipt of the recourse, and if examined by a collective body, at its first session. The results of the examination of the recourse are sent immediately to the prosecutor.

3. If the recourse is rejected without grounds or it is not examined, the prosecutor has the

rights to contest the administrative act in a court of law competent to examine the case.

#### **Article 20. Appeal of Court decisions**

During the examination by the course of law of criminal cases, as well as civil cases, including administrative cases, and the misdemeanour cases where the procedure was initiated by the prosecutor or where his participation is provided for by the law, he has the right to use, depending on the case, regular and extraordinary appeal procedures against the decisions which he/she considers illegal or unreasoned.

#### **Article 21. Application/notification of the to the Constitutional Court**

The Prosecutor General is entitled to apply to the Constitutional Court and ask for a ruling on the constitutionality of laws, on decrees of the President of the Republic of Moldova, and on Governmental decisions and ordinances.

### **Chapter III**

#### **THE STRUCTURE OF THE PUBLIC PROSECUTOR'S SERVICE AND THE PERSONNEL OF PROSECUTOR'S OFFICES**

#### **Article 22. The system of Prosecutors' bodies**

1. The prosecutors are formed in a single system, which is centralised and hierarchical and includes:

- a. General Prosecutor's Office
- b. regional prosecutors' offices
- c. specialised prosecutors' offices

2. The number of prosecutors' bodies, the number of posts, the regions and the settlements where they function are approved and amended by the Parliament, at the initiative of the General Prosecutor

#### **Article 23. The General Prosecutor's Office**

(1) The General Prosecutor's Office is headed by the Prosecutor General and is hierarchically superior to all bodies of Public Prosecutor's Service. The General Prosecutor's Office organizes and coordinates the activity of the subordinated prosecutor's offices and administrates the budget of the Public Prosecutor's Service.

(2) The structural subdivisions of the General Prosecutor's Office are headed by chief-prosecutors, who can be assisted by deputies. The economic and administrative service are headed by persons, who enjoy the status of a public servant.

#### **Article 24. Regional prosecutor's offices**

(1) The category of regional prosecutor's offices includes Prosecutor's offices of the administrative territorial unit Gagauzia (farther named UTA Gagauzia), of the Chisinau municipality, of rayons, municipalities, cities and districts.

(2) The prosecutor's office of the Administrative Territorial Unit of Gagauzia exercises the attributions of the Public Prosecutor's Service on the respective territory and is hierarchically superior to the prosecutor's offices from ATU of Gagauzia.

(3) The Chisinau municipality prosecutor's office exercises the attributions of the Public Prosecutor's Service on the respective territory and is hierarchically superior to the prosecutor's offices of the municipality's districts.

#### **Article 25. Specialised prosecutors' offices**

1. The category of specialised prosecutors' offices includes prosecutor's offices which are involved in certain special areas.

2. The anticorruption prosecutors' offices is specialised in fighting corruption crimes and has competence on the entire country

3. The military prosecutors' offices, by means of military prosecutors:

- a) conducts criminal investigation on criminal cases which are of the competence of military courts
- b) represents accusation in military courts
- c) follows the duties of the Prosecutors' office in the Armed Forces

4. The transport prosecutors' office follows the duties of the Prosecutors' office in the railway, air and naval transport on the entire territory of the country.

5. The court of appeal prosecutors' offices follow the duties provided for by article 26.

6. Other specialised prosecutors' offices may be created by means of law, the competences of which shall be clarified by the General Prosecutor as provided by law.

#### **Article 26. The court of appeal prosecutors' offices**

The court of appeal prosecution's offices are instituted in order to ensure a proper justice administration in criminal cases which examination "in fond" is of competence of appeal courts and contributes to the administration of justice in these instances according to the law. The status of the court of appeal prosecutors' office is established in a Ruling approved by the General Prosecutor.

**Article 27. General Prosecutor**

1. The General Prosecutor leads the prosecutors' offices
2. The General Prosecutor:
  - a) represent the prosecutors' offices in its relations with the other public authorities, with legal and physical entities in the country and abroad
  - b) appoints inferior prosecutors, controls directly or by means of his deputies or the subordinated prosecutors, the activity of the prosecutors
  - c) issues written ordinances, provisions and methodological and enforceable regulatory instructions, approves regulations
  - d) revokes, suspends or annuls acts adopted by the prosecutors which breach the law
  - e) establishes, pursuant to the structure adopted by the Parliament, the internal structure of the prosecutors' bodies, distributes funds for their functioning
  - f) requests the bodies, which have the legal competences to discover and prosecute crimes, as well to manage special investigative measures, to delegate experts in the field to undertake under the direct leadership of the prosecutors procedural measures provided by law
  - g) contests the constitutionality of laws, decrees of the President of the Republic of Moldova, decisions and ordinances of the Government in Constitutional Court
  - h) awards degrees to prosecutors as provided by law and special military degrees
  - i) decides on the competences and obligations of the prime deputy and other deputies, as well as of other prosecutors in subordination
  - j) summons prosecutors under subordination to sessions, annually or every time that is necessary
  - k) manages the financial resources and the assets of the prosecutors' offices
3. The General Prosecutor annually presents to the Parliament a report on the condition of legality and rule of law in the country, as well as on the measures taken to improve the condition. The Report of the General Prosecutor is public and is placed in the webpage of the Prosecutors' office.

**Article 28. The First Deputy and the two deputies of the Prosecutor General**

- (1) The First Deputy and the two deputies of the Prosecutor General:
  - a) organize and lead the main activities of the Public Prosecutor's Service, according to their competence;
  - b) exercise other functions at the decision of the Prosecutor General.

(2) In case of the Prosecutor General's absence or impossibility to exercise his/her functions, his/her attributions shall be exercised by the First Deputy, or by another deputy specified in the ordinance issued by the Prosecutor General.

#### **Article 29. The chief prosecutors of the prosecutors' service bodies subunits**

1. The subdivisions of the prosecutors' service are lead by chief prosecutors, helped by deputies.
2. The chief prosecutors of the subdivisions of the prosecutors' service:
  - a) organise and coordinate the activity of the prosecutors and the auxiliary personnel, decide on their competences and duties
  - b) have other competences if receive indications from the superior prosecutor or his deputies

#### **Article 30. Regional prosecutors and specialized prosecutors**

Regional prosecutors and specialized prosecutors represent the Prosecutor's Service in the regions and in the respective field, have competences according to legislation and are helped by deputies.

#### **Article 31. The hierarchy of prosecutorial posts**

- (1) The hierarchy of prosecutors, depending upon the post held in the system of prosecutor's offices, is as follows:
  - a) the Prosecutor General;
  - b) the First Deputy and deputies of the Prosecutor General;
  - c) chief prosecutors, heads of the General Prosecutor's Office subunits and their deputies;
  - d) regional prosecutors and prosecutors from specialized prosecutor's offices and their deputies.
- (2) The prosecutor of ATU Gagauzia and the prosecutor of the Chisinau municipality and their deputies are hierarchically superior to prosecutors from the respective territory.
- (3) The chief prosecutors of the subunits of the prosecutor's offices, the regional prosecutors and prosecutors of specialized prosecutor's offices and their deputies are hierarchically superior to the prosecutors, who are subordinated to them.
- (4) Prosecutors enumerated in descending order are hierarchically superior to the prosecutors, who are indicated after them.
- (5) The hierarchically superior prosecutor may take any function of a subordinate prosecutor.
- (6) The hierarchy of prosecutors consists in the subordination of the lower level prosecutors to

superior prosecutors, according to the provisions of the law, as well as in the obligation to enforce and observe orders, dispositions, indications and methodological and regulatory instructions they receive from hierarchically superior prosecutors.

### **Article 32. The personnel of the prosecutor's office**

- (1) In a prosecutor's office work prosecutors, the auxiliary and technical personnel.
- (2) The status of prosecutors is regulated by law.
- (3) The auxiliary personnel works within subunits of the General Prosecutor's Office, of the regional and specialized prosecutor's offices, and contribute through their work to the exercise of the attributions of the Public Prosecutor's Service.
- (4) The technical personnel provides technical assistance to the Public Prosecutor's Service.

## **TITLE II**

### **THE STATUS OF THE PROSECUTOR**

#### **Chapter IV**

### **INCOMPATIBILITIES AND PROHIBITIONS**

#### **Article 33. The status of the prosecutor**

- (1) In the exercise of their competences the prosecutors are autonomous, impartial and abide only by the law.
- (2) The promotion, delegation, detachment and transfer of prosecutors shall be made only with their consent, if the law doesn't provide otherwise.
- (3) Prosecutors can be sanctioned, suspended and dismissed from their functions, in the limits of the law.

#### **Article 34. Incompatibilities**

- (1) The function of prosecutor shall be incompatible with any other public or private position, with the exception of teaching and scientific activity.

#### **Article 35. Prohibitions**

1. The prosecutor is obliged to abstain from any activity related to his mandate in cases which imply the existence of a conflict of his interests and the public interests, the interest of justice or of protection of general interests of the society, except when the conflict of interest was brought to the knowledge of the prosecutors' body where the prosecutor is employed and it has been considered that the existence of the conflict of interests does not affect the impartial fulfilment of duties.

2. The prosecutor is exposed to a regime of prohibition pursuant to which he/she does not have the right to:

- a. participate in court trials if is married, is a relative or has an affinity until second level with the judge, attorney or any other participant of the trial
- b. be part of parties or political structures, manage or practice activities of a political nature, whilst when performing his duties express or manifest in any way his political beliefs
- c. be an employee, including under cover, informant or agent of the body which manages special investigative activities
- d. express in public his/her opinion on the files, procedures, cases under investigation or with respect to which there is information due to the course of his function, other than the ones under his management
- e. have entrepreneurial activity or commercial activity, either directly or through intermediaries
- f. have arbitration activities in civil, commercial or other types of cases
- g. offer written or verbal consultations for litigation cases, even if the respective case is examined by a body of the prosecutors' offices, other than the one the prosecutor is involved, with the exception of husband (wife), children and parents, and may not have any other activity, which pursuant to the law, is managed by an attorney
- h. hold the position of associate or member of a leadership, administrative or control body of a commercial entity, including in banks or other credit institutions, in insurance companies or financial institutions, in national company, society or autonomous unit.

## **Chapter V**

### **THE APPOINTMENT OF THE PROSECUTOR**

#### **Article 36. Conditions to be met for the appointment to the post of prosecutor**

(1) To the post of prosecutor can be appointed the person who meets the following conditions:

- a) has the citizenship of the Republic of Moldova and is domiciled on its territory;
- c) has a licence degree in law;
- b) has full legal capacity;
- d) has the length of service necessary for appointment to the respective position and has a good reputation or has graduated the initial training courses for the prosecutors with the National Institute of Justice (as the case may be) ;

- e) does not have criminal record;
- f) knows the state language;
- g) is medically capable to exercise the professional duties;
- h) was subjected to test with use of detector of simulated behaviour (poligraf)

Lit.h (in force no later than 1 January 2015)

(2) To the post of Prosecutor General can be appointed the person who has a length of service in the bodies of the Public Prosecutor's Service of at least 15 years, and to the post of deputy Prosecutor General can be appointed a person who has worked (as a prosecutor) in the bodies of the Public Prosecutor's Service not less than 10 years.

(3) To the post of territorial prosecutor, prosecutor of a specialized prosecutor's office, chief of a structural subdivision of a prosecutor's office can be appointed persons who have a length of service (as prosecutors) in the bodies of the Public Prosecutor's Service of at least 5 years; deputies of the above-mentioned positions can be persons with a length of service (as prosecutors) in the bodies of the Public Prosecutor's Service of not less than 4 years.

### **Article 37. Candidate for prosecutor's position**

1. The position of prosecutor is open to competition for persons who have graduated the initial training courses of the prosecutors at the National Institute of Justice.
2. As an exception to the provisions of paragraph 1 the prosecutor's vacancy is open to persons who have previously worked as prosecutor, or, during the last 5 years, have held the position of judge, criminal investigation officer, lawyer, ombudsman, notary, legal consultant, consultant (councillor) of the court of law, legal speciality at the administration of the Constitutional Court, the Supreme Council of Magistrates, public authorities. The legal experience also includes the periods during which the person licensed in law was an MP, member of the Accounting Court, employed teacher at the higher educational institutions, bailiff, registrar.

### **Article 38. Competition for the position of prosecutor**

1. The competition to hold the position of prosecutor is organised annually or earlier if needed, at the date and place decided by the Supreme Council of Prosecutors. The information on the date, place, the rules of competition and the number of places is placed in the official publications, on the internet on the official webpage of the Prosecutors' Offices and the National Institute of Justice, at least 30 days prior to the date of the competition.
2. The Supreme Council of Prosecutors establishes each year the number of competitors, depending on the vacant places, as well as the places which shall be newly open.



3. The competition for position of prosecutor contains the stage of capacity examination, which is taken by the candidate in front of the Qualification Committee, and the stage of evaluation of capacity examination results, followed by the acceptance of candidates to be appointed prosecutors.
4. The graduates of the National Institute of Justice participate at the competition with their graduation diplomas without taking the capacity exam
5. The persons who have held the position of prosecutor, attorney, criminal investigation officer and/or judge at least 10 years and who have concluded their activity due to reasons not imputable to them may be appointed as prosecutors without taking the capacity exam if the period during which they have not held the mentioned positions is up to 5 years.
6. The results of the competition are validated by the Qualification Committee and are published during 24 hours in a visible place at the General Prosecutor's premises and on the internet on the official webpage of the Prosecutors' offices.
7. The candidates who do not agree with the results of the competition may contest them during 7 days from their publication at the Supreme Council of Prosecutors. The contestation shall be examined within 15 days. The decision of the Supreme Council of Prosecutors may be appealed at the administrative court as provided by law.
8. The number of places for the candidates enumerated at article 37 paragraph 2 may not exceed 20% of the total number of places offered on basis of competition in a period of 3 years.
9. The organization and taking place of the competition to hold the position of prosecutor is provided for by regulations approved by the Supreme Council of Prosecutors.

**Article 39. Registration for occupying a vacancy in the post of prosecutor**

(1) To participate in the contest for occupying the post of prosecutor, the candidate shall lodge, within 30 days from the publication of the date of the contest, a written application to the Supreme Council of Prosecutors, which shall then register him or her as a participant in the contest.

(2) To participate in the contest, the candidate shall submit the following documents:

- a) a curriculum vitae;
- b) a copy of the studies diploma;
- c) the certificate of graduation from the National Institute of Justice (in the case of candidates who are graduates of prosecutors' initial training courses);
- d) a copy of the workbook (in the case of candidates who have a workbook);
- e) a certificate confirming no criminal record;
- f) the medical health certificate in the required form;

- g) the declaration on income and property;
- h) a reference from the last place of work or studies.

(2<sup>1</sup>) At the moment of submitting the package of documents, the applicant is informed about the initiation of the verification according to Law nr. 271-XVI from 18 December 2008 regarding verification of holder and of candidates to public functions and about the duty of obligatory pass of the poligraf test according to Law nr. 269-XVI from 12 December 2008 regarding application of the test to detect simulated behaviour (poligraf). The applicant is obliged to sign the verification declaration and present the consent in written form regarding the pass of the test at poligraf (this provision in force no later than 1<sup>st</sup> January 2015).

(3) The manner of registering candidates for the contest for occupying the vacancies in the posts of prosecutors shall be determined by the Supreme Council of Prosecutors.

#### **Article 40. Appointment of prosecutors**

1. The General Prosecutor is appointed by the Parliament, at the proposal of the Chairman of the Parliament, for a mandate of 5 years.
2. After appointment the Prosecutor General gives oath in front of the Parliament with the following content: "While holding by position of General Prosecutor, I swear to respect the Constitution, the laws of the Republic of Moldova, protect the rule of law, the human rights and freedoms, the general interests of the society".
3. The first deputy and the deputies of the Prosecutor General are appointed by the Prosecutor General at the proposal of the Supreme Council of Prosecutors for a mandate of 5 years.
4. The hierarchically inferior prosecutors are appointed by the Prosecutor General at the proposal of the Supreme Council of Prosecutors.
5. The Prosecutor of ATU Gagauzia is appointed by the Prosecutor General at the proposal of the Peoples' Assembly of Gagauzia.
6. The mandate of the regional prosecutor and that of the special prosecutor is each of 5 years. The holding of the respective positions may not exceed two consecutive terms.
7. The Prosecutor General, his First deputy and deputies may not hold more than two consecutive terms at this position.
8. The age limit for the prosecutors' position is 65 years.

#### **Article 41. Prosecutor's oath**

(1) After appointment to the post, the prosecutor take the following oath: "I swear to respect the Constitution, the laws of the Republic of Moldova, to protect the rule of law, human rights and freedoms, the general interests of society, to conscientiously fulfil my obligations".

(2) A refusal to take the oath shall result annulment of the appointment to the post.

(3) The oath shall be taken in a solemn meeting in front of the Superior Council of Prosecutors.

(4) The taking of the oath shall be registered in minutes of the meeting, which shall be signed by the members of the Superior Council of Prosecutors and by the person who has taken the oath.

(5) The taking of the oath shall not be necessary in the case of a prosecutor's transfer or promotion to another post.

#### **Article 42. Attestation of prosecutors**

1. To review the responsibility and evaluate the compliance with the professional competence and performance criteria, the prosecutor is attested once in 5 years.

2. The prosecutor is attested:

a. at the expiry of the 5 year period for which he/she was attested

b. when promoted into a higher position after exposed to a sanction of function relegation

3. The first attestation takes place in two years after appointment

4. The prosecutor takes the attestation in front of the Qualification Committee

5. The results of the attestation can be contested by the prosecutor at the Supreme Council of Prosecutors within 3 days from the day when informed

6. The following are not exposed to attestation: the Prosecutor General and his deputies, the prosecutors who are members of the Supreme Council of Prosecutors, of the Qualification Committee and Disciplinary Committee during the course of their mandate

7. At the institutional level regulation other methods of evaluation can be created to intermediately evaluate the result of the activity of the prosecutors during 5 years among the ordinary tests, the results being used for the decision of attestation. By means of decision of the Supreme Council of Prosecutors the disciplinary sanctioned prosecutors may be exposed to attestation before the legally provided period

8. The period of attestation includes also the period of suspension of the activity for which pay is maintained.

#### **Article 43. Prosecutors' continuous professional training**

(1) Prosecutors' continuous professional training is the guarantee of their independence and impartiality in the exercise of their professional duties.

(2) The continuous professional training must take into account the dynamics of the legislative process and must focus, in particular, on deepening the knowledge of the domestic legislation, of European and international documents to which the Republic of Moldova is a party, of the

case-law of the national and international courts of law.

(3) The responsibility for the continuous professional training of prosecutors shall lie with the National Institute of Justice, the heads of prosecutor's offices where the prosecutors work, as well as with each prosecutor himself or herself, through individual training.

(4) The prosecutor shall participate, at least once a year, in programs of continuous professional training organized by the National Institute of Justice, as well as in other programs organized by other higher education institutions from the country or from abroad, or in other professional trainings.

(5) The continuous professional training of prosecutors shall be carried out with due account for their need for specialization.

(6) Within each body of the Public Prosecutor's Service there shall be organized periodically activities of continuous professional training, which shall include consultations, debates, seminars, sessions or roundtables, including with the participation of trainers of the National Institute of Justice.

(7) In the process of drafting of the continuous training curricula and topics for prosecutors, proposals and individual needs of prosecutors should be taken into consideration so that prosecutors have options and be able to choose the field they want to be trained in.

## Chapter VI

### CLASSIFICATION DEGREES AND SPECIAL MILITARY RANKS OF PROSECUTORS

#### **Article 44. The classification grades and the special military grades**

1. For prosecutors there are the following classification grades:

a. for the supreme legal group:

state legal councillor of 1<sup>st</sup> grade

state legal councillor of 2<sup>nd</sup> grade

state legal councillor of 3<sup>rd</sup> grade

b. for the superior legal group:

legal councillor of 1<sup>st</sup> grade

legal councillor of 2<sup>nd</sup> grade

legal councillor of 3<sup>rd</sup> grade

c. for inferior legal group:

lawyer of 1<sup>st</sup> grade

lawyer of 2<sup>nd</sup> grade

lawyer of 3<sup>rd</sup> grade

2. For prosecutors from the military prosecutors' offices and the units of the Prosecutor's General Office appointed with competences in the Armed Forces the following special military grades are available:

a. for the superior legal group:

justice colonel

justice lieutenant colonel

justice major

b. for the average legal group:

justice captain

justice lieutenant major

justice lieutenant

**Article 45. The conditions of awarding the classification grades and special military grades**

1. The classification grades and the special military grades are offered to prosecutors with the expiry of the period for the previous grade, pursuant to the held position and the experience, taking into account the level of professionalism, if the law does not provide for otherwise.

2. The periods of holding a grade are calculated taking into account also the periods of suspension of employment and detachment for which salary in the Prosecutors' Offices is maintained.

**Article 46. The periods of holding classification grades and special military grades**

1. The periods of holding the classification grades and the special military grades are the following:

a. lawyer of 3<sup>rd</sup> grade, justice lieutenant – 2 years

b. lawyer of 2<sup>nd</sup> grade, justice major lieutenant – 3 years

c. lawyer of 1<sup>st</sup> grade, justice captain – 3 years

d. legal councillor of 3<sup>rd</sup> grade, justice major – 4 years

e. legal councillor of 2<sup>nd</sup> grade, justice lieutenant colonel – 5 years

2. There are not periods for holding the classification grade of state legal councillor of 3<sup>rd</sup>, 2<sup>nd</sup>,

1<sup>st</sup> grade and legal councillor of 1<sup>st</sup> grade, nor for justice colonel military grade.

**Article 47. The correlation between classification grades and special military grades with the positions of prosecutor**

The classification grades and special military grades correlate with the positions held by prosecutor as follows:

state legal counsellor of the I grade	Prosecutor General
state legal counsellor of the II grade	Deputy of the Prosecutor General
state legal counsellor of the III grade	The Head of the Apparatus of the Prosecutor General, the prosecutor of the autonomous territorial unit of Gagauzia, the prosecutor of the Chisinau municipality, members of the Board of the Public Prosecutor's Service
legal counsellor of the I grade	Prosecutors heading departments of the General Prosecutor's Office, special missions prosecutors of the General Prosecutor's Office, prosecutors heading sections of the General Prosecutor's Office and their deputies, prosecutors heading the services of the General Prosecutor's Office, territorial prosecutors and prosecutors from the prosecutor's offices by the Courts of Appeal and from specialized prosecutor's offices, deputies of the prosecutor of the autonomous territorial unit of Gagauzia and of the prosecutor's offices by the Courts of Appeal, deputies of the prosecutor of the Chisinau municipality and deputies of the prosecutor of the Anti-Corruption prosecutor's office
legal counsellor of the II grade	Prosecutors from the departments, sections and services of the General Prosecutor's Office, prosecutors heading sections of the Prosecutor's office of the autonomous territorial unit of Gagauzia, of the Prosecutor's office of the Chisinau municipality, of the Anti-Corruption prosecutor's office and of the prosecutor's offices by the Courts of Appeal, deputies of prosecutors from territorial and specialized prosecutor's offices

legal counsellor of the III grade	Prosecutors from the section and services of the Prosecutor's office of the autonomous territorial unit of Gagauzia, of the Prosecutor's office of the Chisinau municipality, of the Anti-Corruption prosecutor's office and of the prosecutor's offices by the Courts of Appeal
Jurist of the I grade	Prosecutors from the territorial and specialized prosecutor's offices
Jurist of the II grade	Prosecutors whose time-limit for holding the previous degree has expired
Jurist of the III grade	Prosecutors who were appointed to the post for the first time
Colonel of justice	Prosecutor heading a section of the General Prosecutor's Office with attributions concerning the Armed Forces, and his/her deputies, prosecutors from military prosecutor's offices
Lieutenant-colonel of justice	Prosecutor from the section of the General Prosecutor's Office with attributions concerning the control over the observance of laws in the Armed Forces, deputies of prosecutors from military prosecutor's offices
Major of justice	Prosecutors from military prosecutor's offices
Captain of justice, lieutenant-major of justice	Prosecutors from military prosecutor's offices whose time-limit for holding the previous degree has expired
Lieutenant of justice	Prosecutors from military prosecutor's offices who were appointed to the post for the first time.

**Article 48. Conferral of classification grades and special military grades**

1. The grades of lawyer of 3<sup>rd</sup> grade and justice lieutenant are offered to prosecutors when appointed.
2. The conferral of classification grades and special military grades is in the competence of the Prosecutor General, with the exception of grades of state legal counsellor of 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> grades, which are conferred by the President of the Republic of Moldova.
3. The classification grades of state legal counsellor of 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> grades are conferred when the prosecutor is appointed in the position specified in article 47.

**Article 49. The correlation of classification grades and special military grades from the justice area with the ones from other areas**

The persons from the ones mentioned in article 37 paragraph 2 who at the moment of appointment as prosecutors, held classification grades or military grades are offered classification grades or special military grades similar to the ones held before, taking into account the position at which they are appointed in the Prosecutors' offices, the level of professionalism and the working experience.

**Article 50. Conferral of classification grades and special military grades in case of transferral**

1. In case of transfer to the military prosecutors' offices and transfer into the subunit of the PGO invested with Armed Forces competences, the prosecutors who have classification grades are offered special military grades, taking into account the held position, the held grade and the work experience in this grade.

2. Under the same conditions the classification grades for prosecutors are offered to the ones transferred to other bodies of the Prosecutors' offices from military prosecutors' offices and from the subunit of the PGO invested with Armed Forces competences.

**Article 51. Supplementary competences**

1. The Prosecutor General has the following competences in offering classification grades and special military grades:

- a. offer before the expiry of the necessary period for actions of self-sacrifice, for exemplary performance of duties and for remarkable success in the activity of strengthening the rule of law and fighting crime, the next classification grade or special military grade or classification grade or special military grade of a higher level of the held position, but after at least half of the period under the previous grade
- b. offer when promoted in a superior position, without taking into account the succession, but not more than two grades compared to the held one
- c. present to the President of the Republic of Moldova proposals to confer classification grades which are of the former's competence

2. The conferral of classification grades and special military grades provided for in paragraph 1 letter a) and b) takes place only once in the entire period of duty in the Prosecutors' offices.

**Article 52. The periods of holding the classification grades and special military grades**

1. The classification grades and the special military grades are offered to the employees of the Prosecutors' offices for lifetime.

2. The prosecutor may be degraded only by means of decision of the Disciplinary



Committee, validated by the Supreme Council of Prosecutors, which can be contested in a court of law, for acts which jeopardise the title of prosecutor or for deliberate crimes, as well as for the fact that a classification grade or special military grade was offered with the violation of the provisions of this law.

## **Chapter VII**

### **THE RIGHTS AND OBLIGATIONS OF PROSECUTORS**

#### **Article 53. The rights of prosecutors**

(1) The Prosecutor enjoys the rights and freedoms provided for the citizens of the Republic of Moldova by the Constitution, legislation and international treaties to which the Republic of Moldova is a party with the restrictions determined by the particularities of the service in the bodies of the Public Prosecutor's Service.

(2) Within his/her professional activity the Prosecutor is entitled:

- a) to examine the causes and cases connected with the performance of his/her duties and to make decisions within the limits of his/her competence;
- b) to be promoted according to his/her professional training, qualification and personal achievements;
- c) to be remunerated according to the legislation in force
- d) to choose his/her sphere of continuous training;
- e) to join professional organizations and other organizations having as goal the representation and protection of professional rights;
- f) to have free access to his/her professional file and to personal data included in other deeds and documents that are held in the Public Prosecutor's Service;
- g) to be informed about all the decisions affecting him/her directly;
- h) to be provided special protection against threats, violence or any other actions exposing him, his/her family or his/her property to danger;
- i) to be provided, according to current legislation, with adequate working conditions which could protect his/her health and physical and psychical integrity;
- j) to receive compensation in case of a prejudice suffered in connection with the performance of his/her duties;
- k) to make effective use of all social guarantees granted by the legislation;

**Article 54. Duties of the prosecutor**

1. The prosecutor is obliged to:
  - a. follow his service duties in compliance with the Constitution and the laws of the Republic of Moldova
  - b. observe the rules of deontology of the prosecutors and abstain from acts which may damage the image of the Prosecutors' offices or would undermine the title of prosecutor
  - c. present, as provided by law, income and property statements
  - d. respect the incompatibilities and restrictions imposed to prosecutors and public servants by law
  - e. enforce the normative provisions adopted within the Prosecutors' offices
  - f. take measures to identify and register all breaches of law which they were aware of both during the course of their duties and during outside working hours

**Article 55. Dress code**

1. While on duty, the prosecutor is obliged to observe the dress code provided for by law.
2. The state ensures the prosecutor with uniform free of charge.
3. The prosecutors from the military prosecutors' offices and from the subunits of the PGO invested with Armed Forces competences wear the uniform of the type adopted for military personnel.
4. The description of uniforms of prosecutors, as well as of the distinction signs, the signs of the classification grades and of the special military grades of the prosecutors are provided for in regulations adopted by the Parliament.

**Chapter  
VIII****GUARANTEEING PROSECUTOR'S  
AUTONOMY****Article 56. Ensuring the autonomy of the prosecutor**

1. The autonomy of the prosecutor is ensured by means of:
  - a. strict delimitation, by means of law, of the status of the prosecutor, delimitation of the competences of the Prosecutors' offices, the competences and empowerments of the prosecutor while on duty within the Prosecutors' offices
  - b. procedure of appointment, suspension and dismissal
  - c. declaration of his inviolability

- d. decisional discretion offered by the law to the prosecutor while performing his/her duties
  - e. establishment by means of law of the prohibitions of interference of other persons or authorities in the activity of the prosecutor
  - f. allocation of adequate means for the functioning of the system of Prosecutors' offices, creation of favourable organisational and technical conditions for the activity of these bodies
  - g. financial and social means for prosecutors
  - h. other measures provided for by the law
2. When making decisions the prosecutor is autonomous as provided by the law
  3. The indications of the hierarchically superior prosecutor, given in written and pursuant to the law, are mandatory for the prosecutors in subordination. The prosecutor may ask that the indication be given in written. The prosecutor has the right to refuse the enforcement of the indication which is clearly illegal or which is contradictory to his/her legal consciences and may appeal it to the hierarchically superior prosecutor to the one who issued it.
  4. If the decisions made by the prosecutor are considered illegal, they can be annulled based on reasoning from the hierarchically superior prosecutor.
  5. The actions and acts of the prosecutor may be appealed at a court of law in case of rejection of the complaint addressed to the hierarchically superior prosecutor.

#### **Article 57. Inviolability of the prosecutor**

- (1) The inviolability of the prosecutor ensures guarantees of protection against any influences or interferences in his/her activity.
- (2) Entering the prosecutor's home or service room, the personal or service transport facilities, on spot controls, or searches and seizure of his/her goods, the interception of telephone communications, body search, control and seizure of his/her objects, documents or correspondence can be undertaken only after initiation of a criminal investigation, and in conditions provided for under the Code of Criminal Procedure.
- (3) The prosecutor cannot be held liable disciplinary or patrimonially for his opinion expressed during the criminal investigation and in the process of contributing to administration of justice and for the decision he/she has made if his/her guilt is not established by a final sentence.
- (4) The criminal prosecution against the prosecutor can be initiated only by the Prosecutor General.
- (5) Against the Prosecutor General criminal prosecution can be initiated only by a prosecutor appointed by the Parliament at the proposal of its Speaker.

(6) The prosecutor shall be called to administrative responsibility in the conditions established by the Code on administrative offences. The prosecutor who was detained for being suspected of committing an administrative offence or crime must be freed immediately after identification, with the exception of flagrant crimes.

### **Article 58. Promotion**

1. The prosecutor may be promoted in a vacant position to perform accordingly his duties, for identified organisational and decisional capacities
2. The proposal to promote the prosecutor may be made by the hierarchically superior prosecutor, by the Prosecutor General, by his deputies or by the Supreme Council of Prosecutors. The candidates for appointment in positions of prime deputy and deputies of the Prosecutor General are directed to the Supreme Council of Prosecutors by the Prosecutor General
3. The Regulations on the promotion of prosecutors is approved by the Supreme Council of Prosecutors
4. The promotion takes place on the basis of the principle of free will, transparency, evaluation of professional and personal performances
5. The career evolution of the prosecutor is registered in the professional file, which is kept at the Supreme Council of Prosecutors.
6. The prosecutor who was exposed to a disciplinary sanction or who has not passed the test to confirm the held position may not be promoted or elected member of the a collegiate body within the Prosecutors' offices during one year from the day the respective decision was issued.

## **Chapter IX**

### **ENCOURAGEMENT MEASURES, DISCIPLINARY AND PATRIMONIAL LIABILITY OF PROSECUTORS**

#### **Article 59. Encouragement measures**

1. For exemplary performance of duties, for initiative, efficiency and for other relevant duty merits, the prosecutors may be encouraged by means of:
  - a. expressing thanks
  - b. offering a symbolic gift
  - c. offering a prize
  - d. conferring a higher classification grade or a special military grade

- e. conferring a “Diploma of Honour of the Prosecutors’ Offices”
  - f. decorating with the “Honour Employee of the Prosecutors’ Offices”
  - g. offering another distinction created by the Prosecutor General.
2. The measures provided for in paragraph 1 are enforced by means of Ordinance of the Prosecutor General, at the proposal of the Supreme Council of Prosecutors
3. For special merits on duty the prosecutors may be proposed for decoration with state distinctions. The proposals for decoration with state distinctions are filed in by the Supreme Council of Prosecutors.

### **Article 60. Disciplinary liability**

- (1) The prosecutors can be called to disciplinary account for violation of work duties, and for behaviours that prejudice the service interest and the image of the Public Prosecutor’s Service.
- (2) The disciplinary violations for which the prosecutors are called to disciplinary account are exhaustively stipulated by law.
- (3) The prosecutors of military prosecutor’s office and divisions of General Prosecutor’s Office invested with functions in Armed Forces can be called for disciplinary account under this law.

### **Article 61. Disciplinary violations**

Shall be regarded as disciplinary violations the following:

- a) inadequate performance of professional duties;
- b) incorrect interpretation or application of legislation whether deliberately or by severe negligence, if this action is not justified by the change of the practice of applying legal norms established in the current legal system or court practice;
- c) interference in the activity of another prosecutor or any other interventions with authorities, institutions or officials for solving of some applications members in other ways than those foreseen by provisions of current legislation , pretending to or acceptance of solving personal interest or interests of family members ;
- d) deliberate violation of law during performance of duties if this doesn’t call upon criminal, civil or contravention liability;
- e) participation in public activities of political character;
- f) violation of legal provisions relating to the income and property statement;
- g) ungrounded refusal to perform one of his/her duties;
- h) ungrounded absences, delay or leaving before time;
- i) dishonourable attitude towards colleagues, judges, attorneys, experts, witnesses or any

other participants of the judicial proceedings during performance of duties;

j) violation of the norms of the Ethics Code of the prosecutor;

k) using the status of the prosecutor for the purpose of obtaining undue benefits and advantages;

l) public expression of agreement or disagreement with the decision of other prosecutors for the purpose of interference in their activity;

m) violation of provisions relating to incompatibilities and prohibitions concerning the prosecutors.;

n) issuing/adopting by the prosecutor of an administrative act or concluding a legal act with violation of legal provisions concerning conflict of interests, fact established through the fact-finding act remained final.

### **Article 62. Disciplinary sanctions**

(1) The following disciplinary sanctions can be applied to prosecutors through the decision of Disciplinary Board, according to law, and depending on the gravity of committed violations:

a) notice;

b) reprimand;

c) severe reprimand;

d) duty relegation;

e) classification grade or special military grade relegation

f) withdrawal of the decoration "Honour Employee of the Prosecutors' Offices"

g) dismissal from the bodies of the Public Prosecutor's Service.

### **Article 63. Patrimonial liability**

(1) The state carries patrimonial responsibility for the prejudice caused through errors made by prosecutors during performance of duties.

(2) The person is entitled to lodge actions for the reparation of damages only against the state that is represented by the Ministry of Justice.

(3) The responsibility of the state does not remove the responsibility of prosecutors who performed their duties in bad faith.

(4) The prescription term of the right to action in all cases provided for by this article is three years from the date of appearance of the right, if the law doesn't foresee other terms

**Chapter  
X**

**TRANSFER, DELEGATION, DETACHMENT, SUSPENSION AND  
DISMISSAL OF THE PROSECUTOR**

**Article 64. Transfer, delegation and detachment of the prosecutor**

(1) The transfer of the prosecutor for a limited or unlimited term to the position of another prosecutor who was suspended, transferred, detached shall be made only according to the provisions of present law and labour legislation.

(2) In case one of the offices of Public Prosecutor's Service cannot function because of temporary absence of some prosecutors, existence of vacant positions, and other reasons, the Prosecutor General can, at the proposal of the head of this body, delegate prosecutors from other prosecutor's offices without their consent for a period of up to one month in a year. The delegation can be prolonged only upon a written consent of the prosecutor. The average salary of the delegated prosecutor cannot be smaller than the one in previous function.

(3) The prosecutor may be detached from his position, with his consent, for fulfilling a position within the National Institute of Justice, on a term up to 18 months, which can be maximum prolonged with 18 months. For the purpose of fulfilling the functions of the Public Prosecutor's Service the prosecutor can be seconded to other institutions. The prosecutor keeps his/her status and makes use of all the rights provided by law for seconded staff within the period of his/her secondment.

(4) If the salary provided for the function to which the prosecutor is delegated or detached is smaller than that received in the main position, then the salary of the main position will be kept.

(5) The period of detachment to other institutions is included in the period of seniority in the Public Prosecutor's Service.

(6) Upon the expiry of the period of detachment, the prosecutor is assigned to his/her main position, or, with his/her consent, is assigned to another equivalent position.

(7) The decisions about the transfer, delegation and secondment of the prosecutor are made by the Prosecutor General.

**Article 65. Prosecutor's suspension**

(1) The prosecutor shall be suspended by order of the Prosecutor General upon the proposal of the Superior Council of Prosecutors, if:

- a) a criminal investigation is initiated against him/her till the final sentence on case;
- b) recognized missing by a final sentence of the court;

c) he/she takes part in elections as a candidate for the public authority or local public administration authority and when elected for these authorities;

d) granted with a maternity leave and a leave for child's care for a period of 6 years.

(2) In cases stipulated by the letter a), c) and d) of paragraph (1) the salary is paid to the prosecutor according to law.

(3) The suspension of the prosecutor for the reasons stipulated in the paragraph (1), except for letter a) does not imply the cancellation of personal immunity and of material and social safeguards.

(4) In case stipulated by paragraph (1) letter a) when the prosecutor's fault was not proved or a judgement of acquittal or cessation of criminal procedure was given on grounds of rehabilitation, the suspension shall be cancelled and the prosecutor shall be fully rehabilitated in previous rights.

(5) In cases stipulated by paragraph (1) letter c) and d), upon expiration of the term for which the prosecutor was suspended, he/she is granted the position of prosecutor he/she held before suspension or is granted another equivalent position of prosecutor with his/her consent.

(6) The decision on prosecutor's suspension can be appealed with a court, according to the law.

#### **Article 66. Dismissal**

1. The prosecutor may be dismissed based on the following reasons:

- a. resignation pursuant to article 67 paragraph 2
- b. application of resignation from own initiative
- c. resignation due to reach of age limit
- d. expiry of the period of appointment
- e. continuous disciplinary misconduct or one serious disciplinary misconduct
- f. inconsistency of the held position due to insufficient qualification, confirmed by a test
- g. issuance of a final court conviction decisions
- h. loss of the citizenship of the Republic of Moldova
- i. refusal to be transferred to another body of the Prosecutors' offices which is being liquidated or reorganised
- j. decease of declaration of decease of the prosecutor by means of a final court decision.

2. In cases specified in paragraph 1 letters c), g), h) and j), the decision to dismiss the prosecutor from duties is issued by the Prosecutor General. In other cases provided by law, the prosecutor shall be dismissed from duties by the Prosecutor General on the basis of a decision of the Supreme Council of Prosecutors. The decisions of dismissal may be appealed at a court of law as provided by the law.



3. In case of annulment of the decision of dismissal, the prosecutor shall be reinstated in his/her rights, being paid as provided by law the funds he/she was deprived of.
4. The Prosecutor General may be dismissed before the expiry of the mandate by the Parliament, at the proposal of the chairman of the Parliament, in cases provided for by paragraph 1, letters a), b), g) and h).
5. The prime deputy and the deputies of the Prosecutor General may be dismissed on the basis of paragraph 1 letters a), b), c), e), g), h) and i).

#### **Article 67. The resignation of the prosecutor**

1. The prosecutor has the right to resignation if he/she presents the resignation letter.
2. A resignation of the prosecutor is considered honorable if during the course of his duties and outside of his/her work did not commit any actions which would undermine the image of the Prosecutors' offices or the title of prosecutor.
3. The prosecutor who has resigned holds the right to a work experience pension, according to the Law on pensions of social state insurances, or a monthly allowance pursuant to the provisions of the present law.
4. If the prosecutor in resignation holds at least: 20 years of work experience as prosecutor, he holds the right to 80% of the allowance, if 25-30 years – 85%, if 30-35 years – 90%, if 35-40 years – 95%, if more than 40 years – 100% to the average monthly salary paid to the position of prosecutor. The monthly allowance is calculated in correlation with the amount of the salary of the employed prosecutor.
- 4<sup>1</sup> Monthly allowance is established and paid by the offices/bodies of social insurances.
- 4<sup>2</sup> Bodies of social insurances have the right to control the authenticity of the acts which confirm the work experience and insured income, issued by authorized bodies.
5. The prosecutor who resigns has the right to hold other positions in the Prosecutors' offices or in the justice sector.
6. It is considered that the prosecutor is under resignation as long as he complies with the provisions of articles 34 and 35, keeps the citizenship of the Republic of Moldova and does not commit actions which may undermine the image of the Prosecutors' offices or would compromise the title of prosecutor.
7. If the Supreme Council of Prosecutors finds that the prosecutor under resignation does not comply with the conditions provided for by the present law, it proposes the Prosecutor General to halt the resignation. The prosecutor may appeal the decision to halt the resignation in a court of law.
8. If the prosecutor requests dismissal by means of resignation, the Supreme Council of Prosecutors may establish a period of up to 30 days from which the resignation becomes

valid if the presence of the prosecutor is necessary to hand over the files and finalise the existent ones.

9. The issues of resignation of prosecutors are examined by the Supreme Council of Prosecutors, which proposes solutions to the Prosecutor General for approval.

## **Chapter XI**

### **STATE PROTECTION OF THE PROSECUTOR. HIS MATERIAL AND SOCIAL ASSURANCE**

#### **Article 68. The state protection of the prosecutor and of his/her family members**

(1) The prosecutor, his/her family members and property are protected by the state. Upon well-grounded request of the prosecutor, by invoking the existence of a danger for himself/herself or his/her family life and health as well as the integrity of his/her property, the internal affairs authorities are obliged to take the necessary arrangements for the assurance of his/her security and the security of his/her family members, the integrity of his/her property.

(2) The attempt on the life and health of the prosecutor, the destruction and deterioration of goods, threat with murder, violence or with the deterioration of goods, calumniating or insulting him/her as well as the attempt on the life and health of his/her family members (parents, wife, husband, children), regarding performance of his work duties, imply a criminal responsibility.

(3) The prosecutors in exercise of duties have the right to carry a firearm and other self-protection means.

(4) The prosecutor is entitled to compensation of all expenses incurred by him/her in the interests of the service.

#### **Article 69. The remuneration**

(1) The remuneration of the prosecutor shall be carried out in the manner, on conditions and in the amount stated by the legislation.

#### **Article 70. Leave of the prosecutor**

(1) The prosecutor has the right to take a paid annual leave of 30 work days.

(2) Due to the prosecutor's length of service up to 5 years his/her leave increases with 2 work days, from 5 to 10 years – with 5 days, from 10 to 15 years – with 10 days, over 15 years – with 15 work days.

(3) The prosecutor is granted a leave through the order of the Prosecutor General according to the program of granting annual leaves to prosecutors which is approved by the Superior Council of Prosecutors.

(4) The refusal of granting the prosecutor an annual leave is forbidden.

#### **Article 71. Housing assurance**

(1) The Prosecutor has the right to employer sponsored housing, if he holds no living place.

#### **Article 72. Other social guarantees**

(1) The acting prosecutors and family members living with them benefitate of free medical care at the expense of the state budget.

(2) The resigned or pensioned prosecutors, in case they are not employed at another workplace, as well as parents, spouse and minor children of the deceased prosecutor shall benefitate of free medical care in accordance with paragraph (1).

(3) The prosecutor who resigns or who meets the conditions of retirement receives a single allowance equal to the result of multiplication of the average monthly salary to the number of years fully worked as a prosecutor. Additionally, the prosecutor who received the single allowance under the conditions mentioned in the present paragraph and either continues to work or is reemployed as prosecutor shall receive the allowance when ending the employment relations, in the appropriate amount, for the years fully worked after the period for which the previous single allowance was paid.

(4) The life, health and the property of the prosecutor are subject to an obligatory state insurance from the state budget.

(5) The insurance sum is paid in case of:

a) a violent death or decease of the prosecutor in exercise of his/her function if death occurred as a result of some physical injuries or other health's violent lesions, - the sum is paid to his/her successor under the form of a lump-sum allowance which equals to the product of multiplying the annual average salary of the deceased by the number of full experience years which he/she didn't survive till the reach of age limit, but not less than 15 annual average salaries;

b) the prosecutor's mutilation or other violent health lesions which exclude the possibility to continue the professional occupation and which provoked the total loss of work capacity, - in form of a lump-sum allowance equal to the sum of support funds for a period of 10 years;

c) mutilation of prosecutor or other violent health lesions in exercise of his/her function which excludes the possibility of continuing the professional activity, in form of a monthly compensation equal to the salary received in the position of prosecutor. (The disability pension or any other

types of pension granted before or after losing the capacity of continuing the professional

activity are not taken into consideration by the calculation of compensation. The salary received by the prosecutor after receiving the injury and the state insurance compensations are also not included in this type of compensation);

d) violent death or decease of the prosecutor as result of bodily harm or other violent health injury, - to the disabled family members maintained by him, in form of a monthly indemnity equal to the difference between the part falling to them from the salary of the deceased and the pension granted in relation with the bread-winner's loss without taking into account the one-time indemnity.

(6) The material prejudice caused in connection with the work activity of prosecutor through the damage or destruction of his/her goods, the goods of his/her family members or close relatives is repaired integrally from the state budget.

### **Article 73. Assurance with pension**

1. Prosecutors, except military prosecutors, have the right to pension according to the Law on state social insurance pensions.
2. The military prosecutors follow within the Law on ensuring with pensions the military personnel and the persons from the command group and the troops of the Ministry of Interior. The employment experience of the prosecutors transferred in the military prosecutors' offices and in the subunit of the Prosecutor General invested with Armed Forces competences is included in the total employment experience of the person.

### **Article 74 The prosecutor's ID**

1. When appointed, the prosecutor receives ID of a model approved by the Supreme Council of Prosecutors.
2. The prosecutor's ID is issued by the General Prosecutor and is the document which confirms the identity and the position of the prosecutor.
3. The prosecutors under resignation and dismissed due to retirement and who have received a pensioner status receive ID which confirms their status.

**TITLE III**  
**CONSULTATIVE AND SELF-ADMINISTRATION BODIES OF**  
**THE PUBLIC PROSECUTOR'S SERVICE**

**Chapter XII**

**THE BOARD OF THE PUBLIC PROSECUTOR'S SERVICE**

**Article 75. The Board of the Public Prosecutor's Service**

The Board of the Public Prosecutor's Service is a consultative body for the organisation of the activity of the Prosecutor General.

**Article 76 . The structure of the Board of the Public Prosecutor's Service**

- (1) The Board is composed of 9 persons.
- (2) The Board includes: the Prosecutor General, the First Deputy and the deputies of the Prosecutor General, the Prosecutor of ATU Gagauzia, other prosecutors.
- (3) The Prosecutor General is the Chairperson of the Board.

**Article 77. Appointment of the members of the Board**

The nominal composition of the Board of the Public Prosecutor's Service, proposed by the Prosecutor General, shall be confirmed by Parliament within one month from the appointment of the Prosecutor General, for the entire period of his/her mandate.

**Article 78. Competences of the Board**

- (1) The Board of the Public Prosecutor's Service provides recommendations and opinions on the issues in the competence of the Prosecutor General or on general issues of the management and organization of the Public Prosecutor's Service, on the international legal cooperation, on the strengthening of the Rule of Law, on the combating of crime etc.
- (2) When important issues arise concerning the strengthening of the rule of law and the coordination of activities, concerning the protection of human rights and freedoms and the combating of crime, joint sessions of the Board of the Public Prosecutor's Service with the collegial bodies of other national public authorities can be organized.
- (3) The Board's role and competences are set forth in the Regulations of the Board of the Public Prosecutor's Service, approved by the Prosecutor General.

### **Article 79. The Decisions of the Board**

- (1) The Board shall be deliberative, if the quorum is present (i.e., if not less than 2/3 of its members are present).
- (2) The decisions of the Board shall be considered adopted, if a simple majority of Board's members present at the session cast their votes to its support.
- (3) The decisions of the Board shall be implemented through normative acts issued by the Prosecutor General.

## **Chapter XIII**

### **THE SUPERIOR COUNCIL OF PROSECUTORS**

#### **SECTION 1**

#### **General provisions**

### **Article 80. The Superior Council of Prosecutors**

- (1) The Superior Council of Prosecutors, is the prosecutors' self-administration and representative body.
- (2) The Council is the guarantor of Prosecutors autonomy, objectivity and impartiality.

### **Article 81. The composition**

- (1) The Superior Council of Prosecutors is composed of 12 members.
- (2) Ex officio members of the Superior Council of Prosecutors include:
  - the Prosecutor General;
  - the Chairperson of the Superior Council of Magistracy;
  - the Minister of Justice.
- (3) Six members of the Council shall be elected by acting prosecutors through a secret, direct and free vote, as follows:
  - two members from and by the prosecutors of the General Prosecutor's Office;
  - four members from and by the prosecutors of the regional and specialized prosecutor's offices.
- (4) Three members of the Superior Council of Prosecutors from law professors, selected openly and transparently by the Legal, appointments and impunities Commission from the Parliament after a public contest, are elected by the Parliament with the vote of majority of MPs.

**Article 82. The competences of the Superior Council of Prosecutors**

(1) The Superior Council of Prosecutors has the following competences regarding prosecutors' professional career:

- a) examines the correspondence to criteria for candidates to the post of Prosecutor;
- b) requests information necessary to solve the issues of its competence;
- c) makes proposals to the Prosecutor General for the appointment, promotion, stimulation, suspension or dismissal of prosecutors;
- d) hears the prosecutors' oath;
- e) organises the contest for filling in the vacancies of the posts of prosecutors and selects the candidates for vacancies;
- g) appoints the nominal composition of the election commission for the Superior Council of Prosecutors, Qualification College and Disciplinary College.

(2) In the field of prosecutors' initial and continuous training, the Superior Council of Prosecutors:

- a) proposes to the Prosecutor General the appointment of prosecutors to the Council of the National Institute of Justice;
- b) approves the Strategy for the prosecutors' initial and continuous training, presents an opinion on the action plan for the implementation of this Strategy;
- c) examines the appeals against the decisions (opinions) of the Qualification and Disciplinary Boards;
- d) validates the decisions of the Qualification and Disciplinary Boards.

(3) In the field of prosecutors' discipline and ethics observance, the Superior Council of Prosecutors:

- a) examines citizens' petitions on issues concerning prosecutors' ethics;
- b) coordinates the schedule of granting prosecutors' annual leaves.

(4) The Superior Council of Prosecutors shall approve the regulations concerning its activity .

**Article 83. The Chairman of the Superior Council of Prosecutors**

(1) The Chairman of the Superior Council of Prosecutors shall be elected for a period of 4 years by secret vote of the majority members of the Council.

(2) The functions of the Chairman shall be exercised in his/her absence by a member of the Council appointed through a decision of the Council.

(3) The position of the Chairman of the Superior Council of Prosecutors cannot be held or exercised by the persons specified at art. 82 para. (2) of the present law.

#### **Article 84. The competences of the Chairman of Superior Council of Prosecutors**

The Chairman of the Council shall:

- a) represent the Superior Council of Prosecutors in domestic and international relations;
- b) coordinate the activity of the Superior Council of Prosecutors;
- c) preside over the works of the Superior Council of Prosecutors;
- d) propose to take corresponding measures for initiating the proceedings for dismissing members of the Superior Council of Prosecutors and for filling in the new vacancies;
- e) sign the acts issued by the Superior Council of Prosecutors;
- f) designate the members of the Superior Council of Prosecutors who may be consulted for the drafting of certain normative acts;
- g) present to the Council the annual report on the activity of the Superior Council of Prosecutors, which shall be made public.

#### **Article 85. The notification of the Superior Council of Prosecutors**

Any prosecutor may notify the Superior Council of Prosecutors, , of the inadequate activity or conduct of an elected member of the Superior Council of Prosecutors, of the Qualification Board or of the Disciplinary Board, as of any other prosecutor; or of the violation of professional duties or the commission of disciplinary violations by the latter.

### **SECTION 2**

#### **The status of a member of the Superior Council of Prosecutors**

##### **Article 86. Duration of mandate**

- (1) The members of the Council shall have a mandate of 4 years.
- (2) The *ex officio* members of the Superior Council of Prosecutors shall not be under the incidence of the paragraph (1).

##### **Article 87. The rights of the members**

The members of the Superior Council of Prosecutors shall have the right to:

- a) consider the materials submitted to the Council for examination;



- b) participate in their examination;
- c) file requests, present their arguments and submit supplementary materials;
- d) propose for examination in session various issues within the competency of the Council;
- e) participate in the adoption of decisions through voting, and to file, depending upon the case, a separate opinion;
- f) benefit of other rights under the law.

**Article 88.** The obligations of the members

A member of the Superior Council of Prosecutors is obliged to:

- a) exercise his/her functions according to the law;
- b) ensure the protection of prosecutors' rights and freedoms, their honour and dignity, under the law;
- c) contribute to the promotion of the principle of independence of the Public Prosecutor's Service;
- d) keep the secret of deliberations and the confidentiality of proceedings;
- e) vote during the adoption of decisions.

**Article 89. Termination of the mandate**

(1) The membership on the Superior Council of Prosecutors shall terminate in case of:

- submission of a resignation letter;
- expiry of the mandate ;
- suspension from or quitting of the post of prosecutor;
- dismissal from the post;
- an impossibility to exercise the functions for a period of more than 4 months;
- death.

(2) The dismissal from the post of an elected member of the Superior Council of Prosecutors shall be proposed by the Chairman or by one third of the members, in cases when the person in question no longer meets the legal conditions for being an elected member of the Superior Council of Prosecutors, in case of non-fulfilment or bad fulfilment of duties in the Superior Council of Prosecutors.

**Article 90. The secretary of the Superior Council of Prosecutors**

(1) Secretarial functions shall be exercised by the secretary of the Superior Council of Prosecutors, who shall be elected by the Council for the mandate period. The secretary shall be a prosecutor but he/she will not be a member of the Council and is detached in conditions of article 64 para.3.

(2) The secretary of the Council shall:

- a) ensure the collaboration with the regional and specialized prosecutor's offices, with the National Institute of Justice, as well as with other institutions and authorities;
- b) ensure the communication of the decisions of the Superior Council of Prosecutors on disciplinary matters;
- c) ensure the editing and communication of the agenda for the sessions of the Council and the editing of the minutes of the respective sessions;
- d) ensure the keeping of special registries with the works of the sessions, as well as the keeping of archives of files.

**SECTION 3****Organization of the activity of the Superior Council of Prosecutors****Article 91. Sessions of the Superior Council of Prosecutors**

(1) The sessions shall be public, save for cases concerning the application of disciplinary measures.

(2) The Superior Council of Prosecutors shall meet whenever necessary, but at least once a month.

(3) Decisions shall be taken on the basis of a majority vote of members of the Superior Council of Prosecutors.

(4) For a decision to be valid, at the session there must be present at least 2/3 of the members.

**Article 92. Recusation and self-recusation**

(1) A member of the Superior Council of Prosecutors cannot participate in the examination of the matter and shall be recused if there are circumstances that exclude his/her participation or that may raise doubts concerning his/her objectivity. In case such circumstances exist, the member of the Council is obliged to declare a self-recusation.

(2) For the same reasons, a recusation can be effected by the person whose problem is being examined, as well as by the person who has presented the materials for examination.

(3) The recusation must be supported with a written or verbal request.

(4) The recused member of the Superior Council of Prosecutors shall not participate in the voting on the request for recusation.

**Article 93. The proposal for appointment to the post**

(1) The Superior Council of Prosecutors shall make proposals to the Prosecutor General concerning the appointment of candidates to the post of prosecutor, as well as concerning the appointment to the post of chief-prosecutor, regional prosecutor, specialized prosecutor or deputy prosecutors to the above mentioned.

(2) The selection of candidates for the post of prosecutor, chief-prosecutor, regional prosecutor, specialized prosecutor or deputy prosecutors to the above mentioned shall be done on a contest-basis, according to a procedure set by a Regulation approved by the Superior Council of Prosecutors

**Article 94. Proposals on the career of the prosecutors**

(1). The proposals of the Superior Council of Prosecutors presented to the Prosecutor General to be adopted on issues related to the appointment, promotion, encouragement, suspension or dismissal of prosecutors may be rejected by the latter.

(2). If the Superior Council of Prosecutors repeatedly presents the same candidate, the Prosecutor General shall comply with the decision.

**Article 95. Adopting decisions of Superior Council of Prosecutors**

(1) The decisions of the Superior Council of Prosecutors shall be adopted through a direct vote, and shall be supported with arguments.

(2) The decisions of the Superior Council of Prosecutors shall be edited in written form and posted on the website page of the Public Prosecutor's Service, as well as on the website page of the Superior Council of Prosecutors within 20 days from adoption.

**Article 96. Appealing against decisions of the Superior Council of Prosecutors**

The decisions of the Superior Council of Prosecutors can be appealed with a court of law, by any interested person, within 10 days from the moment of communication.

**Article 97. The seal and the headquarters**

(1) The Superior Council of Prosecutors uses the seal of the Public Prosecutor's Service.

(2) The Superior Council of Prosecutors has its headquarters in the Chisinau municipality.

## **Chapter XIV**

### **THE QUALIFICATION BOARD**

#### **SECTION 1**

##### **General Provisions**

##### **Article 98. The Qualification Board**

The Qualification Board shall be set up under the aegis of the Superior Council of Prosecutors and shall serve the purpose of promoting the state policy in the field of selection of candidates for the Public Prosecutor's Service, assessing the level of prosecutors' professional skills and training, their correspondence to the requirements of the offices held, the observance of restrictions and exigencies set for prosecutors.

##### **Article 99. Composition of the Qualification Board**

(1) The Qualification Board is composed from 11 members:

- a) three members elected by the prosecutors of the General Prosecutor's Office;
- b) six members elected by prosecutors of the level of regional and specialized prosecutor's offices
- c) two law professors , appointed by the Superior Council of Magistrates.

(2) The Chairman of the Qualification Board shall be elected through a secret vote at the Board's first session, from among its members.

##### **Article 100. Information on the activity of the Qualification Board**

Qualification Board presents annually to the Superior Council of Prosecutors an activity report which is placed on the webpage of the Public Prosecutor's Service, and on the one of the Superior Council of Prosecutors.

#### **SECTION 2**

##### **Qualification Board's competences and method of operation**

##### **Article 101. The competences of the Qualification Board**

In the exercise of its duties, the Qualification Board shall:

- a) organize the capacity exam for candidates to the post of prosecutor, in accordance with the law;

- b) examine the content of materials presented for the Board's session, the conclusions and recommendations of the superior prosecutor or those of other persons, entitled to give references for the person passing the assessment, and the opinion of the prosecutor being assessed;
- c) hear the person undergoing the assessment and, depending upon the case, the chief-prosecutor or the person entitled to give references for him or her;
- d) assess the activity results of the prosecutor undergoing the assessment, makes proposals for his promotion in post;
- e) adopt decisions and recommendations;
- f) make proposals for applying stimulation measures for prosecutors' professional merits.

### **Article 102. Competences of the Chairman of the Qualification Board**

- (1) The Chairman of the Qualification Board organizes the work of the Board, heads its secretarial activity, and distributes duties among its members.
- (2) In case of an absence of the Chairman, according to the decision of the Qualification Board, his/her functions shall be exercised by one of Board's members.

### **Article 103. Method of operation**

- (1) The Chairman of the Qualification Board shall set the time and venue for the session, and shall announce the candidate or the prosecutor whose case is to be examined.
- (2) The Qualification Board shall convene sessions whenever necessary.
- (3) A Qualification Board's session shall be deliberative if at least 2/3 of its members participate in it.

### **Article 104. Recusation and self-recusation**

- (1) A member of the Qualification Board cannot participate in the examination of the case and shall be recused if there are circumstances that may raise doubts concerning his/her objectivity.
- (2) The recusation shall be supported by arguments and presented in written form prior to the examination of the case.
- (3) The decision on the recusation or self-recusation shall be adopted with the vote of the majority of Board members present at the session, in the absence of the member whose recusation or self-recusation is being decided.

**Article 105. The adoption of decisions of the Qualification Board**

(1) The decision of the Qualification Board shall be adopted, with a simple majority of the votes of members present at the session. The voting procedure is established with the vote of majority of members present of the Board.

(2) The decision of the Qualification Board shall be issued in written form and shall be signed by the session's Chairman and members who had taken part in the session.

(3) The decision of the Qualification Board and the materials that support the Board's proposal shall be submitted to the Superior Council of Prosecutors for validation.

**Article 106. Appealing against the decision**

The decision of the Qualification Board can be appealed against within 10 days before the Superior Council of Prosecutors.

**SECTION 3**

**The capacity exam**

**Article 107. Lodging requests for taking the capacity exam**

(1) The request for taking the capacity exam shall be lodged with the Superior Council of Prosecutors.

(2) The method of organizing and carrying out the capacity exam shall be set by a regulation approved by the Superior Council of Prosecutors.

**Article 108. The capacity exam**

(1) The capacity exam implies a verification of a candidate's theoretical and practical knowledge through written and oral tests.

(2) The person who has not passed the capacity exam may re-take the exam than after 6 months.

**Article 109. Results of the capacity exam**

(1) Following the capacity exam, the Qualification Board shall adopt a decision on the successful passing or the failure to pass the exam.

(2) The results of the capacity exam, indicated in the decision of the Qualification Board, shall serve as a basis for the respective person's participation in the contest for filling in of the vacancies of the posts of prosecutors.

## **SECTION 4**

### **The assessment exam**

#### **Article 110. The purpose of the assessment**

The assessment serves the purpose of evaluating the professionalism of prosecutors, providing stimuli for raising their professionalism, and raising the responsibility in the exercise of prosecutorial functions.

#### **Article 111. The assessment**

(1) For a prosecutor's assessment, the chief-prosecutor of the respective prosecutor or a member of the Superior Council of Prosecutors shall prepare an assessment file, analyzing the prosecutor's professional and moral qualities and professional activity, and shall present the said file to the Qualification Board.

(2) The prosecutor must take notice of the assessment file 15 days prior to the assessment, at latest.

(3) The assessment shall take place in the presence of the person undergoing the assessment.

#### **Article 112. The decision on the assessment**

(1) Based upon the level of professional skills, the length of service and the work experience, the results of the professional activity, and, depending upon the case, the organizational capacities of the person undergoing the assessment, the Qualification Board may recommend to the Prosecutor General:

- a) to stimulate the prosecutor;
- b) to include the prosecutor in the staff reserves;
- c) to confer a classification grade or a superior military grade;
- d) to repeat the assessment procedure within the period set by the Board, after the liquidation of the shortcomings discovered in the person's professional activity;
- e) to downgrade the prosecutor;
- f) to dismiss the person from the post of prosecutor in case of insufficient qualification that was revealed during the assessment.

(2) The results of the assessment shall be brought to the knowledge of the prosecutor immediately after the adoption of the decision of the Qualification Board. About the validation of this decision by the Superior Council of Prosecutors, the prosecutor is informed in term of 3 days.

**Chapter XV**

**THE DISCIPLINARY BOARD**

**SECTION 1**

**General Provisions**

**Article 113. The Disciplinary Board**

(1) The Disciplinary Board shall be set up under the aegis of the Superior Council of Prosecutors and shall serve the purpose of examining the cases involving prosecutors' disciplinary liability.

(2) The mandate of the Disciplinary Board shall be of 4 years.

**Article 114. Composition of the Disciplinary Board**

(1) The Disciplinary Board shall consist of 9 members:

a) three members from the General Prosecutor's Office elected by the prosecutors of the General Prosecutor's Office;

b) six members from the level of regional and specialized prosecutor's offices elected by the prosecutors thereof.

(2) Members of the Superior Council of Prosecutors and members of the Qualification Board cannot be elected to the Disciplinary Board.

(3) The Chairman of the Disciplinary Board shall be elected through a secret vote at the Board's first session, from among its members.

**Article 115. Information on the activity of the Disciplinary Board**

The Disciplinary Boards shall present to the Superior Council of Prosecutors each semester and yearly reports on its activity, which shall be published on the website page of the Public Prosecutor's Service and on the website page of the Superior Council of Prosecutors.

**SECTION 2**

**Disciplinary Board's competences and method of operation**

**Article 116. The competences of the Disciplinary Board**

The Disciplinary Board shall:

a) examine cases involving prosecutors' disciplinary accountability, and applies accordingly disciplinary sanctions;



b) decide on the early termination of disciplinary sanctions.

**Article 117. Disciplinary Board's Chairman competencies**

(1) The Chairman of the Disciplinary Board organizes the work of the Board, heads its secretarial activity, and distributes duties among its members.

(2) In case of an absence of the Chairman of the Disciplinary Board, his/her functions shall be exercised by one of the Board's members.

**Article 118. The right to institute disciplinary proceedings**

(1) The right to institute disciplinary proceedings against the prosecutor belongs to any member of the Superior Council of Prosecutors, to chief-prosecutors of subunits of the General Prosecutor's Office, to regional and specialized prosecutors.

(2) Disciplinary proceedings against members of the Superior Council of Prosecutors, against members of the Disciplinary Board and members of the Qualification Board shall be instituted upon an initiative of at least 4 members of the Superior Council of Prosecutors.

**Article 119. Time-limits for applying disciplinary sanctions**

The prosecutor may be held disciplinary accountable within 6 months from the discovery of the disciplinary violation, without taking into account the period when the prosecutor was sick or on leave, but not later than one year from the date of its commission.

**Article 120. Instituting disciplinary proceedings**

(1) When instituting disciplinary proceedings, the internal security subunit of the General Prosecutor's Office, shall preliminarily verify the grounds for holding the prosecutor accountable and shall ask for written explanations from the prosecutor concerned.

(2) The disciplinary case-file materials, before being sent for examination, shall be presented to the person against whom the procedure is instituted. The said person has the right to offer explanations, to present evidence and to request the carrying out of additional verifications.

**Article 121. Revoking the disciplinary proceedings**

(1) The disciplinary proceedings can be revoked, by the person who has instituted the proceedings, before the case-file is examined by the Disciplinary Board.

(2) The prosecutor, concerning whom a decision is taken to revoke the disciplinary proceedings, has the right to ask for an examination of his/her case, and the Disciplinary Board or, depending upon the case, the Superior Council of Prosecutors, is obliged to give a

ruling on it.

#### **Article 122. The deliberation of the Disciplinary Board on disciplinary proceedings**

The Disciplinary Board shall examine disciplinary cases in the presence of at least 2/3 of its members.

#### **Article 123. Time-limits for examining disciplinary cases**

Disciplinary cases shall be examined within one month from the date of reaching the Disciplinary Board.

#### **Article 124. Participants to the disciplinary proceedings**

(1) At the examination of the disciplinary case, the participation of the prosecutor who is held accountable is mandatory. If the prosecutor is absent from the session unjustifiably, the Disciplinary Board has the right to decide the examination of the disciplinary case in his/her absence.

(2) The person who has instituted the disciplinary proceedings has the right to participate in the examination of the case; other prosecutors may attend the examination.

#### **Article 125. Decisions on disciplinary cases**

(1) The Disciplinary Board may decide:

- a) to apply a disciplinary sanction;
- b) to reject the proposal of applying a sanction and to terminate disciplinary proceedings;
- c) to submit the disciplinary case-file materials to the Superior Council of Prosecutors for initiating the procedure of suspending the competences of the prosecutor .

(2) The Disciplinary Board shall terminate the disciplinary proceedings when:

- a) there are no grounds to hold the prosecutor disciplinary accountable;
- b) the limit term for applying disciplinary sanctions has elapsed;
- c) it is inappropriate to apply disciplinary sanctions, in cases when the mere examination of case-file materials in a session is sufficient.

#### **Article 126. Adopting decisions of the Disciplinary Board**

(1) A decision on the disciplinary proceedings shall be adopted with a majority of the votes of the Disciplinary Board members who participate in the examination of the case.

(2) The member of the Disciplinary Board which initiated the disciplinary proceedings can't

participate at voting.

(3) The decisions shall be issued in written form and shall be signed by the president of the session and by Board members.

(4) The decision of the Disciplinary Board and the materials that support the application of the disciplinary sanction shall be submitted to the Superior Council of Prosecutors for validation. About the validation of this decision, the sanctioned prosecutor is informed in terms of 3 days.

#### **Article 127. Appealing against a decision of the Disciplinary Board**

(1) The decision of the Disciplinary Board can be appealed against to the Superior Council of Prosecutors, by the prosecutor on whom the disciplinary sanction was applied or by the person who had instituted disciplinary proceedings, or by any person who considers herself prejudiced in certain rights by the taken

(2) The decision of the Superior Council of Prosecutors, may be appealed with an administrative court of law, according to legislation.

#### **Article 128. Annuling a disciplinary sanction**

(1) If, during one year from the date when a disciplinary sanction was applied onto the prosecutor, no other disciplinary sanction is applied on him or her, the sanction shall be considered annulled.

(2) At the proposal of the person who had instituted disciplinary proceedings, as well as upon the initiative of the Disciplinary Board that has applied the disciplinary sanction, upon the expiry of at least 6 months from the date when the sanction was applied, the Disciplinary Board may annul the disciplinary sanction before the expiry of its term if the sanctioned prosecutor has not committed another disciplinary violation and has had an irreproachable conduct and conscientious attitude in the exercise of his/her duties.

(3) In the period when the disciplinary sanction is in effect, the sanctioned person shall not receive any stimulation measures.

### **Chapter XVI**

#### **Election of members of Superior Council of Prosecutors, Qualification Board, Disciplinary Board**

#### **Article 129. Method/methodology of election**

(1) The election of members of Superior Council of Prosecutors, Qualification Board, Disciplinary Board shall take place at the General Assembly of prosecutors. The prosecutors' election rights shall not be hindered.

(2) The Superior Council of Prosecutors shall set up the Election Commission composed of 6 persons which shall examine and approve the voting results. Members of the Commission shall appoint the Chairman of the Commission.

(3) The prosecutors who have accumulated the greater number of votes shall be considered elected as members of the Superior Council of Prosecutors, Disciplinary Board or Qualification Board.

(4) If several candidates accumulate an equal number of votes, repeated elections shall be organized with participation of the candidates with the same number of votes.

(5) The Superior Council of Prosecutors shall elaborate and approve the regulation on elections.

### **Article 130. The filling in of vacancies**

In case of termination of a Superior Council of Prosecutors member's mandate, the election and appointment of a new member shall be made in a term of 30 days from the date of vacancy, according to the procedure established by law.

### **Article 131. Ensuring of activity of the Superior Council of Prosecutors, Disciplinary Board and Qualification Board**

The activity of the Superior Council of Prosecutors, Disciplinary Board and Qualification Board shall be ensured by the subunit personnel and the subunit Internal Security of the General Prosecutor's Office.

### **Article 132. Secretariat works**

1. The agenda of the sessions of the Supreme Council of Prosecutors, of the Qualification Committee and of the Disciplinary Committee is placed on the official webpage of the Prosecutors' Offices and that of the Supreme Council of Prosecutors 6 days before the session. The decisions of the Supreme Council of Prosecutors, of the Qualification Committee and of the Disciplinary Committee are placed on the official webpage of the Prosecutors' Offices and the Supreme Council of Prosecutors.

2. The results of the sessions of the Supreme Council of Prosecutors, of the Qualification Committee and of the Disciplinary Committee are presented in minutes.

3. The minutes are finalised within 6 days, are signed by the chairman of the session and is countersigned by the secretary of the session.

**TITLE IV**  
**AUXILIARY PERSONNEL AND THE BUDGET OF THE PUBLIC**  
**PROSECUTOR'S SERVICE**

**Chapter XVII**

**The specialized auxiliary and technical  
personnel**

**Article 133. The auxiliary personnel**

(1) The Public Prosecutor's Service employs auxiliary personnel specialized in law, economy and administration. Auxiliary personnel may have the quality of public servant in conditions of the law nr. 158-XVI from 04 July 2008 regarding the public service and the status of the public servant.

(2) The auxiliary personnel of prosecutor's offices is composed of:

prosecutor's consultants, main specialists, coordinating specialists, and specialists.

(3) The auxiliary personnel of prosecutor's offices is obliged, during its entire activity, to respect human rights and freedoms, as well as the equality of people before the law, to observe deontological norms of the profession and to participate in the continuous training.

(4) The organisation and functioning of the auxiliary departments of the Public Prosecutor's Service, as well as the functions of the personnel of those departments, shall be set forth by a regulation approved by the Prosecutor General.

**Article 134. Conditions for appointment**

To be appointed in the position indicated in Article 133 paragraph (2) of the present law, a person that meets the following conditions:

- a) has the citizenship of the Republic of Moldova, is domiciled on its territory and has full legal capacity;
- b) has no criminal record and a good reputation;
- c) knows the state language;
- d) is capable, from the medical point of view, to exercise this position;
- e) Has specialized higher or secondary education;
- f) has computer or typing skills.

**Article 135. The appointment**

- (1) The appointment of specialized auxiliary personnel shall be done on contest basis, organized at the level of prosecutor's offices.
- (2) The method of organizing and carrying out the contest shall be stipulated in the regulation approved by the Prosecutor General.
- (3) Persons, who successfully pass the contest, shall be appointed to the position by the Prosecutor General, at the suggestion of the chief-prosecutor of the respective prosecutor's office,

**Article 136. The rights and obligations of the auxiliary personnel**

- (1) The rights and obligations for the auxiliary personnel shall be established, taking in due account its place and role in the activity of the Public Prosecutor's Service, the complexity and the liabilities that are inherent for each post, the prohibitions and incompatibilities provided for by the law for the persons employed in public institutions.
- (2) The auxiliary personnel has the right:
  - a) to adequate salary, established according to the level of the respective prosecutor's office, and according to the post held, to the length of service and in the office, and to other criteria set up by the law;
  - b) to continuous training and professional enhancement according to the regulation approved by the Prosecutor General;
  - c) to the freedom of association or to accede to trade unions, as well as to local, national or international professional organizations, in order to protect his/her professional, social and economic interests;
  - d) to be promoted according to his/her professional training and individual qualities;
  - e) to enjoy yearly a paid leave, medical leave, unpaid leave, leave for studies or for other cases, as well as other rights pursuant to the legislation in force.
- (3) The auxiliary personnel has the obligation to carry out their duties in a professional and impartial manner, in accordance with the law, and to abstain from any act, which might cause prejudices to natural or legal persons, or the prestige of the Prosecutor's Office.

**Article 137. The technical specialized personnel**

- (1) The technical specialized personnel shall not enjoy the status of public servant. The employment conditions for the technical specialized personnel shall be regulated by the labour law.
- (2) The leadership of public prosecutor's offices shall organise the activity of the technical specialized personnel, shall employ, promote, transfer and dismiss them, as well as shall apply disciplinary sanctions and incentives to the technical specialized personnel.

## **Chapter XVIII**

### **The budget of the Public Prosecutor's Service, organization of the activity of prosecutor's offices**

#### **Article 138. The budget of the Public Prosecutor's Service/ Prosecution's Office**

- (1) The activity of the Public Prosecutor's Service is financed from the state budget.
- (2) The budget of the Public Prosecutor's Service is approved by the Parliament in the process of approving the budget for the respective year, in conformity with the legislation regarding the budget process.

#### **Article 139. Technical-material assistance to prosecutor's offices/bodies**

- (1) The central and local public administration authorities are obliged to provide the prosecutor's offices with premises to carry out their functions.
- (2) The General Prosecutor's Office shall provide prosecutor's offices with operative technical and forensic equipment, telecommunications equipment and computers, and with official vehicles from the state budget.

#### **Article 140. Ensuring the economic-financial, administrative, secretariat and archive activities of prosecutor's offices**

The economic-financial, administrative, secretariat and archive activities are ensured by the respective subdivisions of the General Prosecutor whose attributions are established through Ruling, approved by the General Prosecutor.

#### **Article 141. Statistical information**

The General Prosecutor's Office, through its specialized subdivisions, ensures:

- a) the collection, processing, systematization, analysis, distribution and publication of statistical information on the state of criminality and the activity of prosecutor's offices;
- b) the coordination of the statistical activity of all prosecutor's bodies in accordance with existing statistical standards;
- c) the management of statistics, the analysis of statistical information, the drafting of forecasts, the calculation of current and prospective estimations and the development of proposals;
- d) the drafting of statistical methodology.

**Article 142. The international relations**

The Public Prosecutor's Service may have direct international relations, conclude contracts and sign agreements with similar foreign institutions, in the limits set by the law.

**Article 143. The seal**

Prosecutor's bodies have a seal with an imprint of the State emblem and the name of the office.

**Article 144. The guard**

(1) Prosecutor's offices dispose of a police subdivision placed in their service free of charge by the Ministry of Internal Affairs, which ensures the guarding of premises and assets owned by prosecutor's offices, the security of the personnel, the public order within the premises of prosecutor's offices, and checks the persons at the entrance to and exit from the building, including body searches.

(2) The staff of the police subdivision shall be approved by the Government upon a proposal submitted by the Prosecutor General, coordinated with the ministry of Internal Affairs.

(3) State guarding of the General Prosecutor's Office headquarters, its subdivisions and, if necessary, of the Prosecutor General shall be provided as prescribed by the law.

**Title IV****FINAL PROVISIONS****Article 145. Entry into force of the present law**

(1) The present law comes into force on the date of its publication, with the exception of article 38(4) which shall enter into force upon the first course graduation from the National Institute of Justice.

(2) Persons which, on the date of entry into force of the present law, hold the position of prosecutor, don't fall under the provisions of article 40 regarding the appointment of prosecutors.

(3) In term of 4 months from the entry in force of the present law, will be formed auto administration bodies of prosecutors. The method of conducting initial elections in auto administration bodies of prosecutors will be established by an election commission, named by the Prosecutor's Board.

**Article 146. The source of finance of monthly living allowances**

Spending for the payment of monthly living allowances are being met as follows: 50 % from the established size- from the Budget of social insurances and 50% - from the state budget.



**Article 147. Bringing the legislation in conformity with present law**

Within 3 months the Government:

- a) will submit to the Parliament proposals for the bringing of current legislation in conformity with present law;
- b) will bring its normative acts in conformity with present law.

**Article 148. Abrogation of legislative acts**

On the date of entry into force of the present Law shall be abrogated: Law No. 118-XV of 14.03.2003 on Public Prosecutor's Service;

Law No. 920-XIII of 11.07.1996 on special ranks and military ranks of the employees of the Public Prosecutor's Service in the Republic of Moldova;

Law No. 921-XIII of 11.07.1996 on stimulation of prosecutors and investigators from prosecutor's offices and their disciplinary liability.

**CHAIRMAN OF THE PARLIAMENT**