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(VENICE COMMISSION)

**DRAFT LAW
OF UKRAINE
ON THE OFFICE OF THE PUBLIC PROSECUTOR**

**Draft No. 2491
adopted in First Reading
on 14 March 2009
by Verkhovna Rada of Ukraine**

Draft law
submitted by people's deputies – members
of the Committee of the Verkhovna Rada of Ukraine
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SECTION I GENERAL PROVISIONS

Chapter 1 Basic Provisions

Article 1. Office of the Public Prosecutor of Ukraine

The Office of the Public Prosecutor of Ukraine shall be an independent state authority, which has a unified and centralised system and which, on behalf of the society and on the grounds, within the powers and in the manner set forth in the Constitution of Ukraine and laws of Ukraine, performs the functions entrusted thereto in the field of protection of human and citizen's rights and legitimate interests and interests of the state and the society against illegal encroachments.

Article 2. Legal Framework for the Activity of the Office of the Public Prosecutor

The Constitution of Ukraine, the present Law, other laws of Ukraine, as well as effective international treaties of Ukraine the Verkhovna Rada of Ukraine has expressed its consent to be bound by and legal regulatory acts issued by the Prosecutor General of Ukraine under applicable laws shall constitute the legal framework for the organisation and activity of the Office of the Public Prosecutor.

Article 3. Objectives and Tasks of the Office of the Public Prosecutor of Ukraine

The activity of the Office of the Public Prosecutor of Ukraine shall be aimed at promoting the rule of law and protecting human and citizen's rights and legitimate interests and the state interests, ensuring legitimacy, strengthening legal order, holding offenders liable, and compensating the damage caused to the state.

Article 4. Functions of the Office of the Public Prosecutor

In accordance with the Constitution of Ukraine, the Office of the Public Prosecutor of Ukraine shall be entrusted with the following functions:

- 1) prosecution in court on behalf of the State;
- 2) representation of the interests of a citizen or the State in court as prescribed by law;
- 3) supervision of the observance of laws by authorities that conduct operational-detective activities, inquiry, and pre-trial investigation;
- 4) supervision of the observance of laws in the execution of judgments delivered in criminal cases, as well as in the application of other coercive measures related to the restraint of personal liberty of a citizen.

5) supervision of the observance of human and civil rights and freedoms and of the observance of laws governing these matters by public authorities, local authorities, officials and officers thereof.

The Office of the Public Prosecutor of Ukraine shall continue to perform the function of supervision of the observance and the application of laws, as well as the function of investigation in criminal cases until laws regulating activity of public authorities in the field of supervision of the observance of laws are enacted, the system of pre-trial investigation is established, and laws regulating its functioning are given effect to.

In order to appropriately perform the above-mentioned constitutional functions, the Office of the Public Prosecutor shall coordinate the activity of law enforcement authorities in the field of combating crime, the international cooperation, and the organisational, statistic, human resource, and legal support for the activity of the Office of the Public Prosecutor of Ukraine.

Article 5. Principles of Organisation and Activity of the Office of the Public Prosecutor

The system of the Public Prosecution Authorities shall be organised on the following principles:

1. unity and centralisation;
2. territoriality and specialisation.

The principles of the activity of the Office of the Public Prosecutor shall be the following:

- 1) legality;
- 2) independence of public prosecutors of all levels in exercising their powers within the relevant competence;
- 3) non-party affiliation;
- 4) equality of citizens before the law, respect for their rights and freedoms;
- 5) publicity with meeting legislative requirements for the access to information.

Chapter 2

Guarantees for the Activity of the Office of the Public Prosecutor

Article 6. Guarantees of the Independence of the Office of the Public Prosecutor

The public prosecutor shall make decisions within his/her powers on his/her own discretion, in accordance with law and his/her own moral certainty.

Any influence on the prosecutor in order to prevent him/her from the exercise of his/her official duties or to seek illegal decisions shall entail liability as prescribed by law.

The public prosecutor shall not be required to give any explanations with regard to the essence of cases and records he/she is proceeding, as well as to disclose them to anybody, except a higher prosecutor and court in cases and according to the procedure prescribed by law. No one shall have the right to disclose information on prosecutorial checks without public prosecutor's permission.

Interference of public authorities, local authorities, officials, political parties, civil society associations, and mass media with the activity of the Office of the Public Prosecutor related to the exercise of its functions shall be prohibited.

Picketing premises of prosecutorial bodies, holding public gatherings in the immediate proximity thereto shall not be permitted.

The prosecutor may not be member of any commissions, committees, and other collective bodies established by the public authorities and local authorities, except advisory bodies.

Independence of public prosecutors in the exercise of their powers shall be guaranteed by:

- special procedure for their appointment, bringing to justice, and dismissal;
- prohibition to interfere with the exercise of prosecutor's powers and legal liability for such actions;
- special legal procedure for the financing of, and organisational support for, the Office of the Public Prosecutor;
- appropriate financial and social support for public prosecutors;
- personal security arrangements for public prosecutors, their family members, and property as prescribed by law, as well as other legal remedies.

Guarantees of the independence of public prosecutors in the exercise of their powers and their legal protection provided by law may not be limited by the newly adopted or amended laws.

Article 7. Guarantees of the Security of Public Prosecutors and Their Family Members

Public prosecutors shall be protected by law.

Public prosecutors shall have the right to bear and keep official firearms and use them under the circumstances and according to the procedure prescribed by law.

Inflicting bodily injuries to, insulting, threatening, and committing other violent acts against, the public prosecutor or his/her close relatives, as well as destroying or damaging their property because of the exercise by the public prosecutor of his/her official duties shall entail liability established by law. Similar liability also arises in case of commitment of the mentioned offences against retired public prosecutors and their close relatives in connection with their exercising official duties in the past.

Losses inflicted by destruction or damage of property of the public prosecutor or retired prosecutor or their close relatives in connection with their exercising official duties shall be reimbursed by the State in the full amount from the State Budget.

Article 8. Procedure for Bringing Public Prosecutors to Justice

Initiating criminal proceedings and conducting investigation in respect of a public prosecutor shall fall within exclusive competence of the Office of the Public Prosecutor.

The Prosecutor General of Ukraine shall be immediately informed on the initiation of criminal proceedings against a public prosecutor.

Whenever a prosecutor's acts contain an element of an administrative offence, records with regard to such a prosecutor shall be forwarded to the Prosecutor General of Ukraine for appropriate verification and taking required measures in accordance with the Disciplinary Statute of the Office of the Public Prosecutor of Ukraine.

A public prosecutor apprehended for having committed an administrative offence shall be immediately released after his/her identity has been established.

Apprehended, arrested, or convicted public prosecutors shall be kept as prescribed for individuals who formerly worked in the law enforcement authorities and court.

Article 9. Binding Nature of the Orders of the Public Prosecutor

Lawful orders of the public prosecutor shall be binding upon all public authorities, local authorities, enterprises, institutions, and organisations whatever their ownership is, officials and citizens, and should be carried out within the time limits established by law or by the prosecutor. Information requested by the public prosecutor shall be provided free of charge.

Officials and citizens shall be required to appear before the public prosecutor upon his/her summons and provide explanations with regard to circumstances being established. In case of non-appearance without a valid excuse, an official or a citizen may be brought by the militia upon prosecutor's decision in accordance with the procedure established by law.

Officials and citizens shall be liable under law for the failure to carry out lawful orders of the public prosecutor.

Article 10. Public Prosecutor's Right to a High Priority Reception

The Prosecutor General of Ukraine shall have a right to a high priority reception by the President of Ukraine, the Speaker of the Verkhovna Rada of Ukraine, the Prime Minister of Ukraine.

The Prosecutor of the Autonomous Republic of Crimea shall have a right to a high priority reception by the Speaker of the Verkhovna Rada of the Autonomous Republic of Crimea and the Head of the Government of the Verkhovna Rada of the Autonomous Republic of Crimea.

The prosecutors of oblasts, Cities of Kyiv and Sevastopil, regions, cities and other public prosecutors entrusted with the same functions shall have the right to a high priority reception by the heads, other officials of the relevant public authorities and local self-government bodies, enterprises, institutions and organisations.

Chapter 3

Activity of the Office of the Public Prosecutor and Individual Rights

Article 11. Consideration of Applications in the Office of the Public Prosecutor

Prosecutorial bodies shall consider applications related to issues specified in Article 4 of the present Law.

The application shall be considered by the public prosecutor who is competent to act on the issue stated in the application. Heads and deputy heads of prosecutorial bodies send replies to applications.

Proceedings initiated on such applications by the prosecutorial bodies shall be terminated after the Prosecutor General of Ukraine has taken an appropriate decision.

If grounds are present, the Prosecutor General of Ukraine may reconsider the application, on which he has already taken the decision.

Article 12. Appealing against the Public Prosecutor's Decision

The decision made by the public prosecutor, his/her actions or inactivity may be appealed against to a higher prosecutor or court.

Decisions, actions or inactivity by a district prosecutor shall be appealed against to the oblast prosecutor, while decisions, actions or inactivity by an oblast prosecutor shall be appealed against to the Prosecutor General of Ukraine.

When considering appeals against decisions, actions or inactivity of subordinated prosecutors, the higher prosecutor or his/her deputy shall have the right to demand submitting records of the case, obtain explanations, and review other materials.

Article 13. Guarantees Provided and Compensations Paid to Citizens Summoned to the Public Prosecutor's Office

Any person summoned by the public prosecutor shall be paid his/her average salary for the time spent in connection with the summons, as well as other expenses incurred in this connection, such amounts being paid from the State Budget. The summons affixed an appropriate notation and the seal of the Public Prosecutor's Office shall be the ground for such compensations.

Remuneration of the experts and other specialists, as well as expenses incurred in connection with summons to the Public Prosecutor's Office shall be paid out from the State Budget.

The Cabinet of Ministries of Ukraine shall determine the procedure and conditions for compensation of expenses incurred in connection with the prosecutor's summons.

Chapter 4

Control of the Activity of the Office of the Public Prosecutor of Ukraine

Article 14. Matters under Control of the Activity of the Office of the Public Prosecutor of Ukraine

Control of the activity of the Office of the Public Prosecutor of Ukraine shall be exercised in accordance with the procedure and within the scope prescribed by the Constitution of Ukraine, the present Law, and other laws of Ukraine.

Article 15. System and Subjects of Control of the Activity of the Office of the Public Prosecutor

The system of control of the activity of the Office of the Public Prosecutor of Ukraine shall be composed of:

- parliamentary control;
- presidential control;
- judicial control;
- civil society control.

The subjects of control of the activity of the Office of the Public Prosecutor of Ukraine shall be the following:

- Verkhovna Rada of Ukraine;
- President of Ukraine;
- judicial authorities of Ukraine;
- citizens and civil society organisations.

Article 16. Powers of the Control Subjects

The Verkhovna Rada of Ukraine, when exercising the parliamentary control of the activity of the Office of the Public Prosecutor, shall:

Specify, through laws, the way in which the Office of the Public Prosecutor should be organised and should operate;

grant consent to the appointment and dismissal of the Prosecutor General of Ukraine by the President of Ukraine;

declare no confidence in the Prosecutor General of Ukraine that results in his/her resignation from the office;

annually hear the information of the Prosecutor General of Ukraine on the activity of the Office of the Public Prosecutor;

establish special temporary commissions and temporary inquiry commissions as prescribed by law.

In accordance with the procedure established by law, people's deputies of Ukraine shall have the right to apply to heads of prosecutorial bodies of all levels with requests and applications, which may not contain instructions in respect of specific cases or materials proceeded by the Public Prosecutor's Office.

When exercising the parliamentary control of the observance of constitutional human and civil rights and freedoms, the Commissioner of the Verkhovna Rada for Human Rights shall cooperate with the prosecutorial bodies as prescribed in the Constitution of Ukraine and the Law "On the Commissioner of the Verkhovna Rada for Human Rights."

The Accounting Chamber shall exercise control of the use of budgetary funds by the Public Prosecutor's Office.

The President of Ukraine shall:

Appoint the Prosecutor General of Ukraine to his/her office and dismiss him/her therefrom upon consent of the Verkhovna Rada of Ukraine;

annually consider the information of the Prosecutor General of Ukraine on the activity of the Office of the Public Prosecutor.

Requests of the President of Ukraine with regard to issues falling within the competence of the Office of the Public Prosecutor shall be addressed to the Prosecutor General of Ukraine and may not contain instructions in respect of specific cases or materials proceeded by the Public Prosecutor's Office.

Judicial control of the activity of the Office of the Public Prosecutor shall be exercised through trial of specific cases by courts, including cases related to the challenging by citizens and legal persons of

decisions, acts, or inactivity of prosecutorial bodies, disposing by courts matters related to the observance by prosecutorial bodies of laws in procedural activities.

Citizens of Ukraine and civil society organisations registered as required by law shall have the right to apply to prosecutorial bodies with applications, complaints, and proposals related to matters falling within the competence of the Office of the Public Prosecutor, take part in consideration of their applications, appeal against decisions, acts or inactivity of the public prosecutor before a higher prosecutor or court.

Representatives of civil society organisations may be invited to participate in meetings of the boards and operational meetings of prosecutorial bodies during consideration of issues related to their statutory activities.

SECTION II SYSTEM AND ORGANISATION OF THE ACTIVITY OF THE OFFICE OF THE PUBLIC PROSECUTOR

Chapter 5 System and Structure of the Office of the Public Prosecutor

Article 17. System of the Office of the Public Prosecutor

The system of the Office of the Public Prosecutor of Ukraine shall comprise the Prosecutor General's Office of Ukraine, the Public Prosecutor's Office of the Autonomous Republic of Crimea, the Public Prosecutor's Offices of Oblasts, cities of Kyiv and Sevastopol (assimilated to the Public Prosecutor's Offices of Oblasts), municipal, district, and interdistrict public prosecutor's offices.

The system of prosecutorial bodies shall also include regional military prosecutor's offices and the Military Prosecutor's Office of the Naval Forces of Ukraine (assimilated to the Public Prosecutor's Offices of Oblasts), intergarrison military prosecutor's offices, military garrison prosecutor's offices, as well as transport and environmental prosecutor's offices and prosecutor's offices in charge of observance of laws in the execution of judgments rendered in criminal cases (assimilated to municipal public prosecutor's offices).

The Prosecutor General of Ukraine shall delimit the competence between the territorial and special public prosecutor's offices.

The National Academy of the Public Prosecutor's Office of Ukraine and other departmental research and educational institution shall operate within the system of the Office of the Public Prosecutor.

Article 18. Structure and Regular Staffing of the Prosecutorial Bodies

The Prosecutor General of Ukraine shall approve the structure of the Prosecutor General's Office of Ukraine, the Public Prosecutor's Office of the Autonomous Republic of Crimea, the Public Prosecutor's Offices of Oblasts, cities of Kyiv and Sevastopol, regional military prosecutor's offices and the Military Prosecutor's Office of the Naval Forces of Ukraine.

The Prosecutor General of Ukraine shall approve the regular staffing of the Prosecutor General's Office of Ukraine, the Public Prosecutor's Office of the Autonomous Republic of Crimea, the Public Prosecutor's Offices of Oblasts, cities of Kyiv and Sevastopol, regional military prosecutor's offices and the Military Prosecutor's Office of the Naval Forces of Ukraine within the limits of the wages fund available.

Chief prosecutors of the Public Prosecutor's Office of the Autonomous Republic of Crimea, the Public Prosecutor's Offices of Oblasts, cities of Kyiv and Sevastopol, regional military prosecutor's offices and the Military Prosecutor's Office of the Naval Forces of Ukraine shall approve the regular staffing of municipal and district prosecutor's offices and prosecutor's offices assimilated thereto, within the limits of the wages fund available.

Article 19. Prosecutor General's Office of Ukraine

The Prosecutor General's Office of Ukraine shall be the highest authority in the system of prosecutorial bodies of Ukraine.

The Prosecutor General's Office of Ukraine shall be headed by the Prosecutor General of Ukraine who shall have the first deputy and the deputies, counselors, senior assistants and assistants for special assignments. The first deputy and deputies of the Prosecutor General of Ukraine shall have assistants.

The structure of the Prosecutor General's Office of Ukraine shall consist of the central departments, departments, and divisions.

Staffing of central departments, departments, and divisions shall include positions of heads, their deputies, senior public prosecutors and public prosecutors, senior prosecutors-criminologists, as well as prosecutor-criminologists.

The Prosecutor General's Office of Ukraine shall directly supervise the observance of laws by the Cabinet of Ministers of Ukraine, central public authorities and law enforcement authorities; conduct pre-trial investigation in cases related to crimes committed by officials and officers of these authorities and in other high-profile cases falling within the investigative jurisdiction of the Public Prosecutor's Office; prosecute on behalf of the State in the Supreme Court of Ukraine, represent the interests of a citizen or the State in higher specialised courts and the Supreme Court of Ukraine.

The Prosecutor General's Office of Ukraine shall be empowered, within the scope of its competence, to:

- 1) direct the activity of subordinated public prosecutor's offices and exercise control of their activity;
- 2) elaborate single approaches to the mechanisms of realisation of constitutional functions by the public prosecutor's office;
- 3) coordinate the activity of central law enforcement agencies in the field of combating crime and corruption;
- 4) shape personnel policies of prosecutorial bodies, organise professional seminars, and provide methodological assistance to officers of the public prosecution;
- 5) maintain international cooperation;
- 6) summarise and analyze the activity of subordinated public prosecutor's offices;
- 7) work out plans of the financial and logistic support for prosecutorial bodies;
- 8) exercise other powers as determined by law and international treaties of Ukraine.

Article 20. Public Prosecutor's Office of the Autonomous Republic of Crimea, Public Prosecutor's Offices of Oblasts, Cities of Kyiv and Sevastopol, and Public Prosecutor's Offices Assimilated thereto

The Public Prosecutor's Office of the Autonomous Republic of Crimea, the Public Prosecutor's Offices of Oblasts, Cities of Kyiv and Sevastopol, and public prosecutor's offices assimilated thereto shall be headed by the respective public prosecutors who have the first deputy and deputies appointed by the Prosecutor General of Ukraine on their recommendation.

The structure of these public prosecutor's offices shall include departments and divisions and positions of heads and deputy heads of these structural subdivisions, senior assistants and prosecutors' assistants, senior prosecutors and prosecutors of departments and divisions, senior prosecutors-criminologists, as well as prosecutors-criminologists.

The Public Prosecutor's Offices of the Autonomous Republic of Crimea, oblasts, Cities of Kyiv and Sevastopol shall directly supervise the observance of laws by the respective public authorities and local authorities, law enforcement agencies; conduct pretrial investigation in cases related to crimes committed by officials and officers of these authorities and in other high-profile cases falling within the investigative jurisdiction of the Public Prosecutor's Office; ensure prosecution on behalf of the State in general appellate courts, organisation of the representation of interests of a citizen or the State in local, district specialised courts and the courts of appeals.

The Public Prosecutor of the Autonomous Republic of Crimea, Public Prosecutors of Oblasts, Cities of Kyiv and Sevastopol and public prosecutors assimilated thereto shall be empowered, within the scope of their competence, to:

- 1) organise the activity of subordinated public prosecutor's offices, direct such activity, ensure general management of the activity of subordinated public prosecutor's offices and exercise control of their operation;
- 2) coordinate the activity of the respective level law enforcement agencies in the field of combating crime and corruption;
- 3) submit to the Prosecutor General of Ukraine recommendations on the appointment and dismissal of their first deputies, deputies, prosecutors of the cities, districts and public prosecutors assimilated thereto;
- 4) appoint and dismiss officers of these public prosecutor's offices and subordinated public prosecutor's offices, except those appointed by the Prosecutor General of Ukraine or a lower public prosecutor;
- 5) submit proposals with regard to amending regular staffing of these public prosecutor's offices and approve regular staffing of subordinated public prosecutor's offices within the wages fund available;
- 6) confer class ranks of the lawyer of the 3rd, 2nd, and 1st degree, apply to the Prosecutor General of Ukraine for the conferment of other class ranks to subordinated public prosecutors;
- 7) submit proposals for the encouragement of officers of the public prosecutor's offices and the imposition of sanctions thereon;
- 6) within the scope of their competence, issue orders, instructions, approve regulations.

Article 21. Public Prosecutor's Offices of Cities, Districts, Inter-District Public Prosecutor's Offices and Public Prosecutor's Offices Assimilated thereto

The public prosecutor's offices of cities, districts, inter-district public prosecutor's offices and public prosecutor's offices assimilated thereto shall be headed by the respective public prosecutors who are appointed by the Prosecutor General of Ukraine on the recommendation of the public prosecutors of the Autonomous Republic of Crimea, oblasts, Cities of Kyiv and Sevastopol and public prosecutors assimilated thereto. Regular staffing of these public prosecutor's offices includes positions of deputies, senior assistants, and prosecutors' assistants.

Municipal, district, inter-district public prosecutor's offices and other public prosecutor's offices assimilated thereto shall supervise, in the territory under their authority, the observance of laws by the local public authorities, local authorities, law enforcement authorities, enterprises, institutions, and organisations whatever their ownership, subordination or affiliation is, their officials and officers, and citizens; conduct pre-trial investigation; prosecute on behalf of the State, represent interests of a citizen or the State in local general courts as prescribed by law.

Public prosecutors of the mentioned public prosecutor's offices, within the scope of their competence, shall:

- 1) organise and direct the activity of the public prosecutor's offices they head;
- 2) coordinate the activity of the respective level law enforcement agencies in the field of combating crime and corruption;
- 3) employ and dismiss officers of the public prosecutor's offices who are not subject to the provisions of the Disciplinary Statute of the Public Prosecutor's Office of Ukraine;
- 4) submit proposals with regard to amending regular staffing of the respective public prosecutor's offices to higher public prosecutors;
- 5) apply to the higher public prosecutor for conferring class ranks to subordinated officers of the public prosecutor's office, as well as for encouraging them and imposing sanctions thereon;

Chapter 6

Management of the Office of the Public Prosecutor

Article 22. Prosecutor General of Ukraine

The Prosecutor General of Ukraine shall lead the Office of the Public Prosecutor of Ukraine; he/she shall be the highest official in prosecutorial bodies.

The Prosecutor General of Ukraine shall direct bodies, institutions, and organisations of the Office of the Public Prosecutor of Ukraine and shall control how tasks entrusted to the Office of the Public Prosecutor are implemented.

The tenure of the Prosecutor General of Ukraine shall be five years. The Prosecutor General of Ukraine may be reappointed to his/her office but only once after expiry of this tenure.

The Prosecutor General of Ukraine shall be *ex officio* member of the High Council of Justice.

Article 23. Powers of the Prosecutor General of Ukraine

In order to exercise managerial powers in respect of prosecutorial bodies, the Prosecutor General of Ukraine shall:

- 1) streamline and direct the activity of bodies, institutions, and organisations of the Office of the Public Prosecutor, as well as exercise control of their activity;
- 2) coordinate activity of the enforcement authorities in the field of law and legal order;
- 3) approve the structure, staffing, and rules of procedure of the Prosecutor General's Office of Ukraine, as well as regulations concerning its structural subdivisions;
- 4) establish, reorganise, and liquidate bodies, institutions, and organisations of the Office of the Public Prosecutor, determine the scope of their competence;
- 5) be the main administrator of budgetary funds and shall submit proposals in respect of the amount of financing required by the Public Prosecutor's Office to the Ministry of Finance of Ukraine in the course of drafting the Law of Ukraine on the State Budget of Ukraine for the relevant year, approve, within the limits of wages fund, the structure and the regular staffing of subordinated prosecutorial bodies, institutions and organisations, allocate financial resources for their maintenance;
- 6) appoint and dismiss the first deputy, the deputies of the Prosecutor General of Ukraine, the heads of structural subdivisions, the chief accountant, as well as the heads of institutions and other officers of the Prosecutor General's Office of Ukraine in accordance with the procedure established by law;
- 7) appoint and dismiss rectors, and upon recommendation of the latter, pro-rectors and directors of institutes of the Academy of the Office of the Public Prosecutor of Ukraine in accordance with the procedure established by law;
- 8) appoint and dismiss the Public Prosecutor of the Autonomous Republic of Crimea; oblast, city, district, and inter-district public prosecutors, as well as public prosecutors of equal classification;
- 9) appoint and dismiss the first deputies, deputies prosecutors of the Autonomous Republic of Crimea, oblasts, Cities of Kyiv and Sevastopol, as well as public prosecutors of equal classification;
- 10) confer class ranks of the Junior Counselor of Justice, Counselor of Justice, and Senior Counselor of Justice. Submit, to the President of Ukraine, recommendation with regard to conferring class ranks of the State Counselor of Justice of the 1st, 2nd, and 3rd degrees, as well as higher military ranks to officers of the military prosecutor's offices;
- 11) issue orders, instructions, decrees, approve regulations and guidelines;
- 12) approve the personal composition of the Board of the Prosecutor General's Office of Ukraine, membership of the Scientific and Methodological Council at the Prosecutor General's Office of Ukraine, as well as appoint members of the Higher Performance Appraisal Commission, Performance Appraisal Commission for Civil Servants, and Competition Commission for Civil Servants;
- 13) award the breastplate «Honorary Worker of the Public Prosecutor's Office of Ukraine» and other departmental distinctions to members of the Public Prosecutor's Office;
- 14) apply to the President of Ukraine for awarding State decorations and presidential distinctions to officers of the Public Prosecutor's Office, as well as apply to the Verkhovna Rada of Ukraine for encouraging them;
- 15) convene the All-Ukrainian Conference of the Officers of the Public Prosecutor's Office of Ukraine;

In case of absence of the Prosecutor General of Ukraine, his/her duties shall be discharged by the First Deputy or one of the Deputies Prosecutor General of Ukraine.

Article 24. Appointment of the Prosecutor General of Ukraine

The Prosecutor General of Ukraine shall be appointed and dismissed from his/her office by the President of Ukraine upon consent of the Verkhovna Rada of Ukraine.

Article 25. Dismissal of the Prosecutor General of Ukraine

The Prosecutor General of Ukraine shall be dismissed from his/her office in connection with the termination of his/her tenure.

The pre-term dismissal of the Prosecutor General of Ukraine shall be allowed only on the following grounds:

- 1) at his/her own will;
- 2) inability to exercise his/her powers because of his/her state of health, which should be confirmed by a medical report;
- 3) if the judgment of conviction against him or her has taken legal effect;
- 4) if a court decision to find him/her incapable or partially capable or missing, or dead has taken legal effect;
- 5) inaptitude established by the decision of the Higher Council of Justice;
- 6) in case of termination of his/her citizenship of Ukraine or leaving for abroad for permanent residence.

If any reason for dismissal is present, the Prosecutor General of Ukraine shall notify the President of Ukraine thereof within one month from the day on which grounds specified in the present Law have become present. Documents evidencing the present of grounds for dismissal should be attached to such notification.

Article 26. Grounds and Procedure for Expressing No Confidence in the Prosecutor General of Ukraine

The Verkhovna Rada of Ukraine may express no confidence in the Prosecutor General of Ukraine that results in his/her resignation.

The item of no confidence in the Prosecutor General of Ukraine shall be included in the agenda of the session of the Verkhovna Rada of Ukraine upon request of at least one third of people's deputies of Ukraine who make up the constitutional membership of the Verkhovna Rada of Ukraine and for which request more than a half of people's deputies of Ukraine who make up the constitutional membership of the Verkhovna Rada of Ukraine have voted.

The committee, which is competent to deal with such an issue, shall preliminary consider it at its meeting and shall be entitled for its representative to speak on this matter at the plenary meeting of the Verkhovna Rada of Ukraine.

After the Verkhovna Rada of Ukraine has taken decision of no confidence in the Prosecutor General of Ukraine and till the appointment of a new Prosecutor General of Ukraine, the first deputy Prosecutor General of Ukraine (and in case of his/her absence – one of the deputies) shall discharge the duties of the Prosecutor General of Ukraine in accordance with the procedure established in the Law of Ukraine "On Temporarily Discharging Duties of Officials who are Appointed by the President of Ukraine upon consent of the Verkhovna Rada of Ukraine or by the Verkhovna Rada of Ukraine upon recommendation of the President of Ukraine."

Article 27. Deputies Prosecutor General of Ukraine

The Prosecutor General of Ukraine shall have a first deputy and deputies whom he/she appoints and dismisses in accordance with the procedure established by law.

The first deputy and deputies Prosecutor General of Ukraine, according to their lines of responsibilities, shall coordinate the activity of the prosecutorial bodies in areas determined by the Prosecutor General of Ukraine and shall be accountable to him/her for the state of its organisation.

Chapter 7
Advisory and Consultative Bodies, Scientific-Educational and other Institutions
of the Office of the Public Prosecutor, Civil Society Professional Associations
and Conferences of Officers of the Office of the Public Prosecutor

Article 28. Boards of Prosecutorial Bodies

The Prosecutor General's Office of Ukraine, Public Prosecutor's office of the Autonomous Republic of Crimea, Public Prosecutor's Offices of Oblasts, Cities of Kyiv and Sevastopol and public prosecutor's offices assimilated thereto shall set up boards, which should be headed by the respective public prosecutors.

The boards shall be advisory bodies whose decisions shall be executed, as necessary, by orders of the respective public prosecutors.

The Board of the Prosecutor General's Office of Ukraine shall be established and composed of the Prosecutor General of Ukraine (Chairman), his/her first deputy, the deputies, the prosecutor of the Autonomous Republic of Crimea, other decision-makers of the prosecutorial bodies. The personal composition of the Board is approved by the Prosecutor General of Ukraine in his/her order.

The Public Prosecutor's Office of the Autonomous Republic of Crimea, public prosecutor's offices of oblasts, Cities of Kyiv and Sevastopol, and public prosecutor's offices assimilated thereto shall establish boards composed of the respective public prosecutor (Chairman), his/her first deputy, the deputies, other decision-makers of the public prosecutor's office. The personal composition of the board shall be approved by the respective public prosecutor.

The boards may hear reports and explanations of the heads of the public authorities and local authorities, law enforcement agencies, enterprises, institutions, and organisations, as well as other officials on the compliance with legislation.

In case of disagreement between the public prosecutor and the board, the public prosecutor shall give preference to his/her decision, but is required to inform the Prosecutor General of Ukraine thereon. Members of the board may notify their own opinions to the Prosecutor General of Ukraine.

Article 29. Scientific and Methodological Council at the Prosecutor General's Office of Ukraine

The Scientific and Methodological Council shall be established at the Prosecutor General's Office of Ukraine for the purpose of development and consideration of scientific and methodological recommendations and other proposals concerning the improvement of organisation and activity of the Office of the Public Prosecutor, as well as the improvement of legislation.

The personal composition and the Regulations concerning the Scientific and Methodological Council shall be approved by the Prosecutor General of Ukraine.

Scientific and methodological councils may be set up at the public prosecutor's offices of the Autonomous Republic of Crimea, public prosecutor's offices of oblasts, Cities of Kyiv and Sevastopol, and public prosecutor's offices assimilated thereto.

Article 30. National Academy of the Public Prosecutor's Office of Ukraine

The National Academy of the Public Prosecutor's Office of Ukraine shall be a state higher educational institution, which provides training and postgraduate education for officers of the Public Prosecutor's Office, as well as carries out research activities.

The National Academy of the Public Prosecutor's Office of Ukraine shall be a legal entity, which acts in accordance with the legislation of Ukraine and its Statute.

Article 31. Other Institutions of the Office of the Public Prosecutor

The Prosecutor General's Office of Ukraine, the Public Prosecutor's Office of the Autonomous Republic of Crimea, oblasts, Cities of Kyiv and Sevastopol and public prosecutor's offices assimilated thereto may have in their operational management printing enterprises, social, medical, and economic entities. The Prosecutor General's Office of Ukraine may be the founder of the printed outlets.

Article 32. All-Ukrainian Conference of Officers of the Public Prosecutor's Office

The Prosecutor General of Ukraine shall convene the All-Ukrainian Conference of Officers of the Public Prosecutor's Office for addressing the issues specified in Article 131 of the Constitution of Ukraine, Law of Ukraine "On the Higher Council of Justice", the present Law, as well as for considering other issues raised by the Prosecutor General of Ukraine or delegates to the Conference. The All-Ukrainian Conference of Officers of the Public Prosecutor's Office shall appoint two members of the Higher Council of Justice in accordance with the procedure established by the Law of Ukraine "On the Higher Council of Justice," approve the Code of Professional Ethics and Behavior of Officer of the Public Prosecutor's Office.

Delegates to the All-Ukrainian Conference of Officers of the Public Prosecutor's Office shall be elected at conferences of officers of the Prosecutor General's Office of Ukraine, the prosecutorial bodies of the Autonomous Republic of Crimea, oblasts, Cities of Kyiv and Sevastopol, military prosecutor's offices of regions, Military Prosecutor's Office of the Naval Forces of Ukraine, such conferences being convened by heads of the respective public prosecutor's offices, - on the basis of three delegates from the Prosecutor General's Office of Ukraine, one to three representatives from other public prosecutor's offices depending on the regular staffing of the respective public prosecutor's offices.

The officers of the Office of the Public Prosecutor who have class ranks and military grades shall take part in these conferences.

The All-Ukrainian Conference of Officers of the Public Prosecutor's Office shall approve the agenda; elect credentials commission, the chairman and the secretariat.

The All-Ukrainian Conference of Officers of the Public Prosecutor's Office shall take decisions by a majority vote of all registered members of the Conference through open or secret ballot.

Decisions of the All-Ukrainian Conference of Officers of the Public Prosecutor's Office shall be signed by the Chairman and the Secretary of the Conference and notified to all officers of the Office of the Public Prosecutor.

Article 33. Civil Society Professional Associations of Prosecutors

Public prosecutors and pensioners from among officers of the Office of the Public Prosecutor may set up civil society organisations (associations, councils, unions etc.) for the purpose of protecting legitimate rights and interests of their members, who has been working or worked in the prosecutorial bodies of Ukraine, supporting prestige and positive image of the Office of the Public Prosecutor, assisting in carrying out tasks of the Office of the Public Prosecutor in the field of promotion of the rule of law and legal order, bringing up the staff in the spirit of commitment to the profession.

Citizens of Ukraine who served as public prosecutors, investigators of the Office of the Public Prosecutor, or at positions in the scientific and educational institutions of the Office of the Public Prosecutor throughout 25 years or more shall be veterans of the Office of the Public Prosecutor. An appropriate certificate and breastplate are awarded to veterans of the Office of the Public Prosecutor. They are subject to the Law of Ukraine "On the Status of Military Veterans, Veterans of the Interior, and Some Other Individuals, and Social Protection."

SECTION III FUNCTIONS OF THE OFFICE OF THE PUBLIC PROSECUTOR

Chapter 8 Prosecution on behalf of the State in Court

Article 34. Subject Matter of the Prosecution on behalf of the State in Court

The public prosecution in court shall be a procedural action of the public prosecutor aimed at proving charges before court in order to hold liable a person who committed a crime or release him/her from criminal responsibility in cases prescribed by law.

The public prosecution in court shall be carried out with prosecutor's participation in all stages of the judicial procedure and initiation of review of judicial decisions.

The public prosecutor's participation in the trial criminal cases, except cases of private prosecution, shall be compulsory.

The public prosecutor shall prosecute on behalf of the State and, while discharging this function, shall be independent, guided by the Constitution of Ukraine, laws of Ukraine, his/her legal consciousness and moral certainty.

Article 35. Tasks of the Prosecutor in Public Prosecution in Court

The public prosecutor who prosecutes on behalf of the State in court shall be required, adhering to the principal of independence of judges, to assist the court in thorough, complete and objective examination of the case, in rendering lawful judicial decision so that everyone who has committed a crime should be brought to justice and no one innocent would be punished, in the protection of rights and legitimate interests of natural and legal persons that participate in criminal proceedings, to take legal measures to eliminate violations of law.

Article 36. Powers of the Prosecutor in Public Prosecution in the Court

Powers of the public prosecutor who prosecutes on behalf of the State in court shall be determined by the criminal procedure statute of Ukraine and the present Law.

In prosecuting of behalf of the State in court, the public prosecutor shall have equal rights with other parties to trial in producing proofs, participating in their examination, and proving the cogency of evidence before court, filing requests and upholding other procedural interests.

If the public prosecutor comes to a conclusion that findings of the judicial investigation contradict charges brought, he/she shall be required to withdraw such charges or change them through taking appropriate decision.

In case of disagreement with the withdrawal of charges by the public prosecutor who takes part in the case or with his/her changing charges, the higher public prosecutor, within the scope of his/her competence, shall overturn the decision to withdraw or changes charges and shall replace the public prosecutor concerned.

In order to dispose the issue of the presence of grounds for requesting a review of judicial decisions, the public prosecutor, within the scope of his/her competence, shall have the right to familiarise himself/herself with records of the case directly in court or demand that the court produces required records in accordance with the procedure established by law.

If the public prosecutor who has already conducted procedural actions in a case has left his/her office or is unable to perform his/her official duties for other valid reasons, his/her further powers in this case extend to the acting or newly appointed public prosecutor.

In case of detecting violations of citizens' rights during trial of a case in court, the public prosecutor shall take measures to restore violated rights.

Article 37. Acts of the Public Prosecutor with regard to the Review of Court Decisions in Criminal Cases

Should there be grounds for a review of court decisions, the public prosecutor who participated in the case or approved the indictment, shall have the right to file an appeal or a cassation submission. Irrespectively whether they participated in the trial of the case or not, the Prosecutor General of Ukraine, public prosecutors of the Autonomous Republic of Crimea, oblasts, Cities of Kyiv and Sevastopol and their deputies, within the scope of their competence, shall have the right to file cassation submissions, submissions to review court decisions upon discovery of new facts, and requests to review court decisions on an exceptional basis,. Such submissions may be changed, amended, or withdrawn by the filing public prosecutor or by a higher public prosecutor.

Article 38. Participation of the Public Prosecutor in the Review of Court Decisions by Higher Courts

Public prosecutors of respective level shall participate in the review of court decisions by the Court of Appeals and the Supreme Court of Ukraine. Participation of the public prosecutor in the trial of cases by courts of appeal and cassation instance shall be mandatory. Public prosecutor, who takes part in the review of court decisions by higher courts, shall provide motivated opinions concerning their legality, validity of procedural acts of the public prosecutor's office, and other participants to the trial.

Chapter 9 Representation of Citizens or State's Interests in Court

Article 39. The Subject-Matter and Tasks of Representation of Citizens or State's Interests by the Office of the Public Prosecutor in Court

The representation of citizens or state's interests in court by the Office of the Public Prosecutor shall consist in the conduct of procedural actions by public prosecutors on behalf of the state, as well as other actions aimed at protecting citizen or state's interests in court in cases stipulated by law. The tasks of representation shall be the following:

- 1) protecting rights and legitimate interests of citizens, who, for some reasons, cannot protect their rights themselves or exercise procedural powers, of the undetermined circle of individuals whose rights are also violated, as well as protection of property and other interests of the state, which are violated or may be violated as a result of unlawful acts by natural or legal persons;
- 2) taking measures to restore violated rights and legitimate interests of a citizen and the state, eliminating causes and conditions, which contributed to such violations;
- 3) bringing persons guilty of violation of the rights and legitimate interests of a citizen or the state to justice as prescribed by law.

Article 40. Reasons and Grounds for Representation in Court

The reasons for representation in court shall be applications of citizens, legal entities, and officials to the Public Prosecutor's Office, mass media reports or a public prosecutor's own initiative. The grounds for representation in court shall be the following:

- 1) inability of citizens referred to in Article 38, paragraph 1, of the present Law to protect their rights themselves or exercise procedural powers;
- 2) violation or threat of violation of the state's interests as a result of unlawful acts (inactivity) of physical or legal persons that occur in the relations between them or with the state.

Article 41. Powers of the Public Prosecutor in the Representation in Court

The public prosecutor shall on his/her own initiative identify the presence of grounds for representation of citizens or state's interests in court, as well as take part in any stage of the trial in accordance with the procedure established by the procedural legislation.

When representing someone's interests in court, the public prosecutor shall have the following procedural rights:

- 1) to file with court suits (applications) for the protection of citizens' rights and freedoms, undetermined circle of individuals, rights of legal entities in case of violation of the state's interests;
- 2) to file with court suits for founding invalid legal acts, actions, and decisions of the officials;
- 3) to take part in trials for the purpose of protection of citizens' rights or interests of the state;
- 4) to provide opinions at the court sessions concerning cases being considered with participation of the public prosecutor;
- 5) to challenge court decisions by way of appeal or cassation irrespectively of participation in the trial of the case, initiate review of court decisions upon discovery of new facts and on a exceptional basis;
- 6) to familiarise himself/herself with case records in court, take notes therefrom, obtain copies of documents attached to records of the case, in order to decide on joining the case, which is being tried or has been tried without participation of the public prosecutor;
- 7) to request that the court suspend execution of his/her decisions in cases specified by law.

The powers referred to paragraphs 1, 2, 5 and 7 shall be vested in the Prosecutor General of Ukraine, public prosecutors of the Autonomous Republic of Crimea, oblasts, Cities of Kyiv and Sevastopol, public prosecutors of cities, districts, public prosecutors assimilated thereto, as well as their deputies.

The public prosecutor who participated in the trial of the case shall also have the right to challenge court decisions and initiate a review of such decisions.

Acts produced by the public prosecutor during representation in court may be changed, amended, or withdrawn by the public prosecutor himself/herself or by a higher public prosecutor.

Article 42. Representation of the Public Prosecutor during Trial of Cases in the Supreme Court of Ukraine and Higher Specialised Courts

Public prosecutor may participate in the trial of civil, economic, administrative cases by chambers of the Supreme Court of Ukraine or by a joint session of these chambers, as well as by higher specialised courts on his/her own initiative or upon court's initiative.

The Prosecutor General's Office of Ukraine shall exercise powers with regard to organising public prosecutor's participation in trials conducted by these courts.

Article 43. Powers of the Public Prosecutor with regard to the Protection of Citizens' Rights and Freedoms or Interests of the State in the Execution of Court Decisions and Decisions Made by other Bodies and Officials

In order to protect citizens' rights and freedoms or interests of the state in the execution of court decisions and decisions made by other bodies and officials, public prosecutor shall have the right to verified how law are observed, review records of executive proceedings, request copies of such records which should be duly attested, summon officials and citizens, request that they provide explanations with regard to violations committed and documents related to executive proceedings, exercise other powers specified by law.

Public prosecutor shall take measures to eliminate violations of the law, restore violated rights, and bring those guilty to justice in accordance with the procedure established by the law.

Public prosecutor shall have the right to apply to court with regard to decisions, actions or inactivity of bodies of the State Executive Service and officials thereof and exercise other powers of the participant to executive proceeding.

Chapter 10
Supervision of the Observance of Law by Authorities Conducting Operational and Search Activity, Inquiry, and Pretrial Investigation

Article 44. Subject Matter and the Task of the Supervision of Observance of Law by Authorities Conducting Operational and Search Activity, Inquiry, and Pretrial Investigation

The subject matter of supervision shall be the observance of law by authorities conducting operational and search activity, counterintelligence activities, inquiry, and pretrial investigation.

The task of the supervision shall consist in promoting:

- 1) detection, prevention and resolution of crimes, protection of legitimate interests of a person, his/her rights, freedoms, property, of enterprises, institutions, and organisations from criminal transgressions;
- 2) compliance with the law in the course of initiation and closure of criminal cases, termination of pretrial investigation, investigation of crimes, as well as the observance of time limits established for inquiry, pre-trial investigation, and custody;
- 3) a high degree of compliance with legal requirements for a thorough, complete and objective examination of all circumstances of the case during investigation of crimes, ascertainment of circumstances exposing or acquitting a defendant, as well as mitigating and aggravating his/her responsibility;
- 4) prevention of unlawful prosecution of a person, protection of the rights and legitimate interests of citizens who are participants to criminal proceedings;
- 5) coordination of activity of law enforcement agencies in the field of detection and investigation of crimes;
- 6) taking measures to prevent crimes, eliminate causes and conditions, which contribute thereto.

Article 45. Powers of the Public Prosecutor in the Process of Supervision of the Observance of Law by Authorities Conducting Operational-Detective Activity

The public prosecutor within his/her competence shall be entitled to:

- 1) supervise the observance of law in the conduct of operational- detective and counterintelligence activity;
- 2) enter freely and at any time all premises of the authorities conducting operational- detective;
- 3) verify directions, instructions, orders, and other acts on operational- detective activity, records of operational- detective cases, registration, accounting, reporting, statistical, analytical documents and other records on operational- detective actions;
- 4) in order to eliminate violations of legal requirements, instruct the heads of the relevant agencies to verify how their subordinated units and officials thereof comply with law in carrying out operational- detective activity and how human and citizen's rights and freedoms and lawful interests of legal persons are respected;
- 5) summon officials and other officers of agencies conducting operational- detective activity to appear for providing explanations concerning violations of Ukrainian legislation;
- 6) review complaints on violation of legislation by authorities conducting operational- detective activity, and, if necessary, familiarise himself/herself with records related to operational- detective and counterintelligence activity;
- 7) repeal unlawful decisions on initiation, suspension, termination or renewal of operational- detective proceedings, as well as other decisions contradicting the law;
- 8) give consent to extending time limits established for operational- detective activity, as well as to the closure and destruction of operational-search cases;
- 9) give sanction or consent to the conduct of operational- detective activity in cases specified by law;
- 10) request that a head suspend his/her subordinated officer from operational- search activity if such officer has violated law, human and civil rights and freedoms or legitimate interests of a legal person;
- 11) give consent that units conducting operational- detective activity apply to court for obtaining court permission to carry out appropriate operational- detective activities, take part in consideration of such issues by courts, as well as appeal against court ruling if necessary;

12) take measures to eliminate violations of legislation and bring those guilty to justice as prescribed by law;

13) give written instructions to conduct operational-detective activities for the benefit of criminal proceedings, as well as to search for missing persons;

The Prosecutor General of Ukraine, public prosecutors of the Autonomous Republic of Crimea, oblasts, Cities of Kyiv and Sevastopol, public prosecutors of cities, districts and public prosecutors assimilated thereto and their deputies, as well as other public prosecutors authorised by the Prosecutor General of Ukraine shall have powers of the public prosecutor in the process of supervision of the observance of law by authorities conducting operational-detective activities.

Article 46. Powers of the Public Prosecutor in the Process of Supervision of the Observance of Law by Authorities Conducting Inquiry and Pretrial Investigation

Powers of the public prosecutor in the process of supervision of the observance of law by agencies conducting inquiry and pretrial investigation shall be determined by the Code of Criminal Procedure of Ukraine and the present Law.

Public prosecutor shall have the right to request that heads of the agencies conducting inquiry and pretrial investigation verify the operation of their subordinated units with a view to detecting and eliminating violations of law and ensuring full resolution of acts containing elements of crime. The public prosecutor refers criminal cases from one pretrial investigation agency to another, as well as from one investigator to another according to the Code of Criminal Procedure.

The public prosecutor shall have the right to take part in the investigation or to take charge of proceedings in a case or entrust a subordinated prosecutor with an investigation of any crime.

The Prosecutor General of Ukraine, public prosecutors of the Autonomous Republic of Crimea, oblasts, Cities of Kyiv and Sevastopol, public prosecutors of cities, districts and public prosecutors assimilated thereto and their deputies, as well as public prosecutors authorised thereto shall have powers of the public prosecutor in the process of supervision of the observance of law by agencies conducting inquiry and pre-trial investigation.

Article 47. Powers of the Office of the Public Prosecutor in the Sphere of Coordination of the Combat against Crime and Corruption

The Prosecutor General of Ukraine and public prosecutors subordinated to him/her shall coordinate activities of law enforcement agencies in the field of combating crime and corruption.

The public prosecutor's office shall exercise its coordinating powers through holding joint meetings, setting up interdepartmental working groups, carrying out agreed actions, analytical activity, etc.

Chapter 11

Pretrial Investigation in the Office of the Public Prosecutor

Article 48. Pretrial Investigation Procedures

The Office of the Public Prosecutor shall conduct pretrial investigation in criminal cases within the scope and in accordance with the procedure established in the Code of Criminal Procedure of Ukraine.

Article 49. Investigators of the Office of the Public Prosecutor

In the Prosecutor General's Office of Ukraine, Public Prosecutor's Office of the Autonomous Republic of Crimea there shall be senior investigators for especially important cases and investigators for especially important cases; in the public prosecutor's offices of oblasts, cities and public prosecutor's offices of equal classification there may be investigators for especially important cases and senior investigators; in the district, interdistrict, and municipal public prosecutor's offices there may be senior investigators and investigators.

Investigators of the public prosecutor's office shall conduct pretrial investigation in cases related to actions that contain elements of crime referred to their investigative jurisdiction by law, as well as in other cases referred by the public prosecutor.

The provisions of Articles 6, 7, 8, 9, 13, 32, 33, 64, 65, second paragraph of Article 71, Articles 73, 74, 75, 78, 79, 80, 81, 82, 83, 86, 87, 88, and 89 of the present Law concerning public prosecutors shall apply also to the investigators of the Office of the Public Prosecutor.

Article 50. Public Prosecutors-Criminologists

Public prosecutors-criminologists shall ensure that scientific recommendations and best practices in the sphere of organisation of the investigation, investigative tactics, application of scientific and technical aids are introduced in the investigative practices, provide practical assistance in the investigation of crimes and participate in the investigative actions when necessary.

The Prosecutor General's Office of Ukraine shall have senior prosecutors- criminologists; public prosecutor's offices of the Autonomous Republic of Crimea, oblasts, Cities of Kyiv and Sevastopol, as well as public prosecutor's offices of equal classification shall have senior prosecutors-criminologists and prosecutors- criminologists.

Chapter 12

Supervision of the Observance of Laws in the Execution of Judgments in Criminal Cases, as well as in Application of other Coercive Measures related to the Restraint of Personal Liberty of Citizens

Article 51. Subject Mater and Tasks of Supervision of the Observance of Laws in the Execution of Judgments in Criminal Cases, as well as in Application of other Coercive Measures related to the Restraint of Personal Liberty of Citizens

The subject of supervision shall be:

- 1) observance of laws during the stay of detainees in places of confinement, preliminary detention facilities, authorities and institutions that execute sentences or measures of coercion imposed by the court in criminal cases;
- 2) observance of the procedure and conditions established by criminal executive and other legislation for detention or service of sentences in these authorities and institutions, as well as observance of their rights and discharging of their duties;
- 3) observance of laws during the application of measures of medical or educational nature, which restraint personal liberty of citizens, administrative apprehensions and arrests, during stay in reception-distribution centers, temporary detention facilities for foreigners and stateless citizens, who illegally stay in Ukraine, as well as secondary schools and social rehabilitation vocational schools and shelters for minors.

The task of supervision shall consist in:

- 1) executing judgments in criminal cases, as well as decisions to apply other measures of coercion, which restraint citizens' personal liberty, in accordance with existing laws;
- 2) preventing unlawful restrictions on, and ensuring respect for, human and civil rights and personal liberty as laid down in applicable laws and the Constitution of Ukraine;
- 3) having recourse to restrictions on personal liberty only in cases when other measures are insufficient or inefficient to immediately ensure protection of citizens or state's interests;
- 4) keeping a person in custody in places of application of coercive measures, preliminary detention, and institutions of execution of sentences on lawful grounds;
- 5) applying compulsory measures of medical and educational nature against persons who have committed socially dangerous acts, upon decisions of specially authorised bodies or institutions and upon court decision;
- 6) complying with legislative provisions relating to the release of sentenced persons and to other issues in the field of sentence execution.

Article 52. Public Prosecutor's Powers in the Process of Supervision of the Observance of Law in the Execution of Judgments in Criminal Cases, as well as in the Application of other Coercive Measures related to the Restraint of Personal Liberty of Citizens

Public prosecutor, within his/her competence, shall:

- 1) have the right to unimpeded access at any time to all premises where persons are detained against whom compulsory measures of medical and educational nature have been applied and where persons apprehended, arrested in an administrative proceeding are kept, preliminary detention facilities, penitentiary bodies and institutions; interview those apprehended, arrested, convicted, as well as persons to whom coercive measures restraining personal liberty have been applied;
- 2) verify the legality of detaining persons in places of preliminary detention and institutions of execution of sentences, in psychiatric facilities, as well as in the application of measures of coercion related to the restraint of personal liberty of citizens;
- 3) sanction actions of the administration of preliminary detention facilities in cases established by law;
- 4) by his/her motivated decision, immediately release persons who are groundlessly detained in preliminary detention facilities, institutions of execution of sentences, disciplinary wards, sweat boxes, ward type premises (one-man cells) and other places of custody and restraint of personal liberty;
- 5) take legal measures to reverse judgments in criminal cases which are contrary to law, as well as administrative detentions, arrests, application of coercive measures related to the restraint of personal liberty;
- 6) verify the legality and take legal measures to reverse unlawful orders, rulings, resolutions, instructions, other regulations of the bodies and institutions of preliminary detention, execution of sentences, as well as application of coercive measures;
- 7) immediately terminate unlawful application of special aids against persons detained in the places of execution of coercive measures related to the restraint of personal liberty, preliminary detention facilities and institutions of execution of sentences;
- 8) request that officials of bodies and institutions of preliminary detention, execution of sentences and coercive measures provide explanations in respect of committed violations, as well as carry out verifications;
- 9) take measures to hold liable persons who have committed violations of law.

Article 53. Binding Nature of Public Prosecutor's Decisions and Instructions

Public prosecutor's decisions and instructions with regard to the observance of procedures and conditions established by law for detention of apprehended, arrested persons and persons sentenced to deprivation of freedom, and execution of other sentences, as well as persons against whom measures of coercion have been applied, shall be binding and subject to execution within time limit specified by the public prosecutor.

Chapter 13**Supervision of the Observance of Human and Civil Rights and Freedoms
and the Observance of Laws on these Matters by Public Authorities,
Local Authorities, Officials and Officers thereof,
and the Supervision of the Observance and Application of Laws****Article 54. Subject Matter and Tasks of Supervision of the Observance of Human and Civil Rights and Freedoms, and the Observance of Laws on these Matters by Public Authorities, Local Authorities, Officials and Officers thereof**

Subject matter of supervision shall be as follows:

- 1) compliance of the regulations issued by public authorities and local authorities, officials and officers thereof and related to human and civil rights and freedoms with requirements of the Constitution and laws of Ukraine;

2) observance of laws on personal immunity, social and economic, political, labor, personal human and civil rights and freedoms, protection of their honor and dignity.
Tasks of supervision consists in preventing, detecting, and suppressing violations of laws on human and civil rights and freedoms and protection of their interests.

Article 55. Subject Matter and Tasks of Supervision of the Observance and Application of Laws

Subject matter of supervision of the observance and application of laws shall be as follows:

- 1) compliance of the regulations issued by all bodies, enterprises, institutions, organisations, officials and officers with requirements of the Constitution of Ukraine and applicable laws;
- 2) observance of laws in the sphere of social and economic and other public relations.

Tasks of supervision consists in preventing, detecting, and suppressing violations of laws

Article 56. Public Prosecutor's Supervisory Powers

When carrying out supervision of the observance and application of laws, the public prosecutor shall have the right to:

- 1) freely, upon producing a document certifying his/her position, enter premises of public authorities and local authorities, citizens' associations, enterprises, institutions, and organisations whatever their ownership, subordination or affiliation are, military units, institutions without special passes where such passes are required; have access to documents and materials, which are necessary for verification, including upon a written request, and documents and materials that contain any commercial secret or confidential information. Public prosecutor may request in written that the above-mentioned documents and materials be produced to the Public Prosecutor's Office, necessary certificates, including those concerning transactions and accounts of legal entities and other organisations issued in order to address matters related to verification. Information that contains bank secret is obtained from banks in accordance with the procedure and in the amounts established by the Law of Ukraine "On Banks and Banking";
- 2) request that decisions, instructions, orders, and other acts and documents be produced for verification, obtain information on the status of legality and measures to ensure it;
- 3) request that chief executives and collective bodies carry out verifications, audits of the activities of subordinate and controlled enterprises, institutions, organisations, and other structures whatever their ownership is, as well as dispatch specialists to conduct verifications, departmental and extradepartmental expert examinations;
- 4) summon officials and citizens and demand from them explanations concerning violations of law.
In case of detection of violations of law, the public prosecutor or his/her deputy, within the scope of their competence, shall have the right to:

- 1) appeal against acts issued by the Prime Minister of Ukraine, the Cabinet of Ministers of Ukraine, the Council of Ministers of the Autonomous Republic of Crimea, ministries and other central public authorities, executive bodies of local councils, local state administrations, enterprises, institutions, organisations, civil society associations, as well as decisions and actions of officials;
- 2) file representations or protests against decisions of local councils according to the nature of offences;
- 3) institute criminal proceedings, disciplinary proceedings or administrative proceedings as prescribed by law;
- 4) file representations with public authorities, civil society organisations, and officials with regard to elimination of violations of law and conditions that contribute thereto;
- 5) file with the court suits (motions) for the protection of rights and freedoms of citizens, undetermined circle of individuals, interests of the State, legal persons, as well as for founding invalid legal acts, actions and decisions of officials.

Article 57. Verifications of the Observance of Laws in the Exercise of Supervisory Powers

Verification of the observance of laws shall be carried out upon applications and other reports of violations of legality that require public prosecutor's reaction, and in the presence of grounds – on public prosecutor's own initiative as well.

The Office of the Public Prosecutor shall not substitute departmental management and control bodies, overlap their functions, nor interfere with managerial and economic activities unless such activities are contrary to applicable laws.

Chapter 14**International Cooperation of the Office of the Public Prosecutor****Article 58. Cooperation with the Law Enforcement Authorities of Foreign Countries in the sphere of Criminal Proceedings and Combating Crime**

Pursuant to effective interstate treaties of Ukraine, the prosecutorial bodies shall cooperate with relevant institutions of other countries in conducting procedural actions during investigation of crimes, extraditing offenders, transferring criminal proceedings, and in others matters governed by such treaties.

In cases specified by the legislation, the Prosecutor General's Office of Ukraine shall be the central authority responsible for the implementation of international treaties.

Article 59. Interdepartmental International Treaties of Ukraine Concluded by the Prosecutor General's Office of Ukraine

The Prosecutor General's Office of Ukraine shall conclude interdepartmental international treaties of cooperation in the matters related to activities of the public prosecutor's office with relevant public authorities of foreign States and international organisations, which deal with matters regulated by the treaties.

Article 60. Procedure for Concluding, Implementing and Denouncing International Interdepartmental Treaties of Ukraine Concluded by the Prosecutor General's Office of Ukraine

Proposals with regard to concluding Ukraine's international treaties of interdepartmental nature shall be agreed with the Ministry of Foreign Affairs of Ukraine.

Decisions to conduct negotiations and sign such treaties shall be taken by the Prosecutor General of Ukraine upon agreement with the Ministry of Foreign Affairs of Ukraine.

Only authorised officials may conduct negotiations to prepare the text of an international interdepartmental treaty of Ukraine, adopt the text of such treaty, authenticate it and sign.

The authority to hold negotiations and sign the above-mentioned international treaties shall be given by the Prosecutor General of Ukraine and the Ministry of Foreign Affairs of Ukraine.

The Prosecutor General's Office of Ukraine shall ensure the fulfillment of obligations of the Ukrainian Party, control the compliance with requirements, which arise out of such treaties for the Ukrainian party.

Ukraine's international treaties of interdepartmental nature that entered into force for Ukraine shall be published in the Collection of Ukraine's Applicable International Treaties and the information bulletin "Ofitsiyni visnyk Ukrainy."

International interdepartmental treaties of Ukraine shall be registered at the Ministry of Justice of Ukraine through entering them into the Unified State Register of Legal Regulatory Acts.

Original texts of international interdepartmental treaties of Ukraine shall be deposited with the Ministry of Foreign Affairs of Ukraine.

The Ministry of Foreign Affairs of Ukraine shall control the authenticity of Ukrainian and foreign texts.

The Prosecutor General's Office of Ukraine shall have the authority to denounce international interdepartmental treaties of Ukraine.

**SECTION IV
PUBLIC PROSECUTOR'S ACTS**

**Chapter 16
Types of Public Prosecutor's Acts**

Article 61. Public Prosecutor's Acts

When exercising his/her powers, the public prosecutor shall file appeals and representations, take decisions, submit applications, suits, complaints, draw up reports, and give instructions. Whenever officials or officers take no action on prosecutor's acts or consider them at inappropriate time, those guilty thereof shall be held liable under law.

Article 62. Requirements to Public Prosecutor's Acts

The public prosecutor's acts shall be well-motivated, based on legal requirements and adopted within the scope of public prosecutor's powers.

The public prosecutor's protest, representation, or decision shall specify who committed the violation of law and what provision of the law has been violated, what the violation consists in, which measures an official or a body shall take for elimination thereof and within which time limit.

Article 63. Protest

A protest shall be a written request of the public prosecutor or his/her deputy to review unlawful legal acts of public authorities and local authorities, enterprises, institutions, organisations, civil society associations, as well as decisions and actions of their officials.

The protest shall raise the questions of repealing an act, parts thereof or bringing it in line with law, as well as ceasing an unlawful action of an official, restoring violated right.

The protest against an act, which is contrary to law, shall be filed with the body that issued such act or a higher body.

The protest shall affect the validity of the legal act concerned or parts thereof and shall be examined within 10-days after it has been received, unless the law provides otherwise. The public prosecutor shall be immediately informed of the protest consideration results.

If the protest is denied or its consideration avoided, the public prosecutor may apply to court by way of administrative proceedings for finding unlawful the act, decisions, and actions concerned.

Article 64. Representation

A representation shall be an act of reaction to detected violations of law, their causes and conditions that contributed to such violations.

The public prosecutor, his/her deputy shall submit the representation to public authorities, local authorities, enterprises, institutions, organisations and officials, such representation requesting to eliminate violations of law, causes and conditions that contributed to such violations. The representation should be immediately considered. The public prosecutor should be informed on taken measures within one month after the representation has been received.

The public prosecutor may also submit a representation in other cases established by law.

The collective body that received the representation is required to inform the prosecutor on the date of its meeting and the prosecutor has the right to personally participate in its consideration.

Article 65. Decision

A decision shall be a written act of the public prosecutor or his/her deputy to institute or terminate criminal proceedings, disciplinary or administrative proceedings, refuse opening a criminal case,

change the indictment, repeal unlawful decisions of bodies conducting operational-search activities, inquiry, pre-trial investigation, as well as decisions of bodies and officials in the execution of judgments delivered in criminal cases and the application of other measures of coercion related to the restraint of personal human and civil liberty and concerning the commission of other actions punishable by law.

A decision should be considered by an official or a relevant body within 10 days after the date of its receipt unless the law provides otherwise.

Article 66. Application, suit, complaint

Application, suit, complaint shall be instruments for the public prosecutor or his/her deputy to apply to court for representing the interests of a citizen or the State, such instruments being drawn up and filed according to the procedural statute.

Article 67. Record

A record shall be an act of prosecutor's reaction, which is drawn up by the public prosecutor to state facts of violations in cases specified by law.

Article 68. Instruction

An instruction shall be a request of the public prosecutor related to operational- search activity, inquiry, pre-trial investigation, and supervision of the observance of laws in the execution of judgments in criminal cases and in the application of other measures of coercion related to the restraint of civil personal liberty, such instruction being given within the scope of his/her powers established by law. The public prosecutor's instruction is binding.

Article 69. Publication of Public Prosecutor's Acts

With a view to ensuring publicity of their activity, prosecutorial bodies may publish, in mass media, the acts of prosecutor's reaction to unlawful actions and decisions of bodies and officials that infringe constitutional and other protected by law human and civil rights, interests of legal entities and the State, with informing on measures taken in this respect.

Publicising prosecutor's acts may not violate legal requirements for the use of restricted information, including relevant provisions of the Code of Criminal Procedure of Ukraine.

SECTION V STAFF OF THE OFFICE OF THE PUBLIC PROSECUTOR

Chapter 17 Members of the Public Prosecutor's Office

Article 70. Appointment of Members of the Public Prosecutor's Office

The Prosecutor General of Ukraine shall define powers of the public prosecutors of the Autonomous Republic of Crimea, oblasts, Cities of Kyiv and Sevastopol, regional military prosecutors in the field of appointment and dismissal of members of the Public Prosecutor's Office.

Article 71. Eligibility Criteria for Persons to be Appointed at Public Prosecutor Positions

Citizens of Ukraine who have university degree in law and were awarded Specialist or Master of Law degree, who are permanent residents of Ukraine, and whose state of health, level of training, morals, and professional abilities allow discharging their duties may be appointed to the office of public prosecutors.

Persons who have no practical experience in the field of their specialisation shall be provided one-year practical training in prosecutorial bodies. The Prosecutor General of Ukraine determines the procedure for such practical training.

Persons who have attained at least thirty five years of age and who have at least ten-year experience of work in the prosecutorial bodies may be appointed to the office of public prosecutors of the Autonomous Republic of Crimea, oblasts, Cities of Kyiv and Sevastopol, and public prosecutors assimilated thereto, while persons who have attained at least twenty seven years of age and who have at least five-year experience of work in the prosecutorial bodies may be appointed to the office of district and municipal public prosecutors and public prosecutors assimilated thereto.

A citizen of Ukraine who has attained 40 years of age as of the day of appointment, who has university degree in law, and at least fifteen years of practical experience of work, including no less than ten years in the prosecutorial bodies, who is a permanent resident of Ukraine, who has knowledge of the State language, and whose state of health, morals, and professional abilities allow discharging his/her duties may be appointed to the office of the Prosecutor General of Ukraine.

Article 72. Restrictions Related to the Appointment to Positions of Public Prosecutors and to the Service in the Prosecutorial Bodies

May not be appointed to the position of the public prosecutor and may not serve in the prosecutorial bodies persons, who:

- 1) have been found incapable or under a special ability in accordance with the procedure established by law;
- 2) have been convicted for having committed a crime, except vindicated persons;
- 3) have been prosecuted and whose cases were dropped on the non-discharging circumstances;
- 4) have a foreign citizenship or lost citizenship of Ukraine;
- 5) refuse to take oath of office;
- 6) refuse to undergo security clearance to have access to the information containing State secrets if discharging official duties on the positions sought implies the use of such information;
- 7) have a disease which, in accordance with the medical examination, impedes the discharge of their duties;
- 8) in case of the appointment, will be directly subordinated to persons who are their close relatives or brother (sister)-in-law.

The public prosecutor may not combine his/her official activities with another job, except teaching, research, and creative one, be a founder (co-founder) of a legal entities, a member of a governing or supervisory board of a profit-making company.

The public prosecutor may not affiliate to any political parties.

Article 73. Practical Training in Prosecutorial Bodies and Probation in the Prosecutorial Bodies

Practical training in the prosecutorial bodies shall aim at acquiring the necessary professional experience, verifying professional level, and professional abilities of their members.

In order to verify their suitability in job, an up-to-six month probation may be fixed for individuals who have practical experience of work in the field of their specialty. Duration of probation shall be determined upon consent of both parties.

Duration of probation may be either extended or shortened within the six- month period upon consent of both parties. Temporary inability to work and any other periods when the probationer did not report on duty for valid reasons are not credited to the probation period. Probation is credited to the overall length of service in the prosecutorial bodies.

Individuals referred to in the first and second paragraphs of the present Article shall be appointed to the office without being awarded a class rank and shall discharge their official duties during practical training and probation period.

Article 74. Oath of the Public Prosecutor

A person who has been appointed to the office of the public prosecutor for the first time shall take the following oath:

“Taking up the service at the Public Prosecutor’s Office, I dedicate my work to the Ukrainian People and the Ukrainian State and I solemnly swear:

To abide with the Constitution, laws and international obligations of Ukraine;

To loyally discharge my official duties and thereby promote the rule of law, legality, and legal order;

To protect human and civil rights and freedoms, the interests of the society and the State;

To constantly improve my professional excellence, to have solid principles, to honestly, loyally, and impartially discharge my duties, and to keep the flag of the Public Prosecutor’s Office flying with dignity.

I do realise that breaking my oath is inconsistent with further service in the prosecutorial bodies.”

Public prosecutor shall sign the text of the oath taken, which is attached to his/her personal file. The fact that the oath has been taken is entered in the work record book. The Prosecutor General of Ukraine determines the way in which the oath should be taken.

Article 75. Candidate Pool of the Office of the Public Prosecutor

The candidate pool shall be created within the prosecutorial bodies to fill vacancies and promote members at higher decision-making positions.

Decision-making positions in the prosecutorial bodies, as a rule, shall be filled from among individuals on the list of the candidate pool.

The most trained officers who posses systematic professional knowledge, who mastered the main areas of the prosecutorial-investigative activities, who cope successfully with their official duties, who display initiative, efficiency, improve their professional level, posses organisational skills and appropriate morals, as well as who have been working in the prosecutorial bodies for at least three years shall be entered on the list of the candidate pool for the appointment to higher decision-making positions.

The Prosecutor General of Ukraine shall determine the way in which the candidate pool should be shaped and the work therewith organised.

Article 76. Specialists and Other Officers of the Public Prosecutor’s Office

Civil servant, employees, and different technicians shall ensure technical and economic activities at the Public Prosecutor’s Office.

Article 77. Scientists and Educators of the Office of the Public Prosecutor

Provisions of the present Law shall apply to scientists and educators of the academic institutions of the Public Prosecutor’s Office who have class ranks.

**Chapter 18
Service the Office of the Public Prosecutor****Article 78. Class Ranks in the Public Prosecutor’s Office**

Prosecutors shall be awarded class ranks according to the offices they hold and the length of service they have. The Prosecutor General of Ukraine may award class ranks to other officers of the bodies and institutions of the Public Prosecutor’s Office.

The President of Ukraine shall award class ranks “State Counselor of Justice of Ukraine”, “State Counselor of Justice” (1st, 2nd, and 3rd degree) based on the recommendation of the Prosecutor General of Ukraine. The Prosecutor General of Ukraine awards class ranks “Junior Counselor of Justice,” “Counselor of Justice,” and “Senior Counselor of Justice”; the Public Prosecutors of the

Autonomous Republic of Crimea, oblasts, Cities of Kyiv and Sevastopol and public prosecutor's offices of equal classification award class ranks "Lawyer" (3rd, 2nd, and 1st degree.)

The way in which class ranks should be awarded and revoked shall be determined in the Regulation concerning Class Ranks of the Members of the Office of the Public Prosecutor of Ukraine, such Regulation being approved by the Prosecutor General of Ukraine.

Wage premium to class rank shall be paid every month as a percentage of the basic wage of the member of the public prosecutor's office in the following amounts:

State Counselor of Justice of Ukraine – 35;

State Counselor of Justice of the first degree – 33;

State Counselor of Justice of the second degree – 30;

State Counselor of Justice of the third degree – 27;

Senior Counselor of Justice – 25;

Counselor of Justice – 23;

Junior Counselor of Justice – 20;

Lawyer of the first degree – 17;

Lawyer of second degree – 15;

Lawyer of the third degree – 10.

Article 79. Public Prosecutor's Performance Appraisal

Public prosecutors, investigators of the public prosecutor's office, researchers and educators who have been awarded class ranks, as well as seekers for such positions shall be subject to a performance appraisal in order to verify the level of their professional training at the time of admission to the service in the prosecutorial bodies or their suitability to job.

Performance appraisal shall be conducted every five years and, in case of improper discharge of official duties or promotion to higher decision-making positions, early.

The Higher Performance Appraisal Commission shall be established at the Prosecutor General's Office of Ukraine. The Prosecutor General of Ukraine approves membership of this Commission in his/her order.

Performance appraisal commissions shall be set up in the Public Prosecutor's Office of the Autonomous Republic of Crimea, oblast public prosecutors' offices, Cities of Kyiv and Sevastopol, public prosecutor's offices assimilated thereto, as well as in the National Academy of the Public Prosecutor's Office of Ukraine. Membership of these commissions is approved by the respective public prosecutors and the rector of the National Academy of the Public Prosecutor's Office of Ukraine.

Performance appraisal commissions of the Public Prosecutor's Office shall operate in accordance with the Regulation concerning the way in which performance appraisal of members of the public prosecutor's office should be conducted, such Regulation being approved by the Prosecutor General of Ukraine.

Article 80. Disciplinary Statute of the Office of the Public Prosecutor of Ukraine

The Disciplinary Statute of the Office of the Public Prosecutor of Ukraine shall be approved in a law and specify types of encouragements and disciplinary sanctions which may be imposed on public prosecutors, researchers and educators who have been awarded class ranks, as well as the way in which such encouragements and disciplinary sanctions should be applied.

Article 81. Code of Professional Ethics and Behavior of Officers of the Public Prosecutor's Office

The Code of Professional Ethics and Behavior of Officers of the Public Prosecutor's Office shall be endorsed by the All-Ukrainian Conference of Officers of the Public Prosecutor's Office and approved by the Prosecutor General of Ukraine.

Prosecutors shall be required to display a high degree of compliance with this Code both in their official and outside activities.

If a public prosecutor breaks this Code, he/she shall be liable under law.

Article 82. Prosecutors' Income Declaration

Individuals being appointed to the office of the prosecutor shall file information on income and financial obligations, including abroad, in respect of themselves and their family members in the place of future service.

Individuals being appointed to the office of the Prosecutor General of Ukraine, public prosecutor of the Autonomous Republic of Crimea, oblasts, Cities Kyiv and Sevastopol, district, city, as well as prosecutors assimilated thereto and their deputies shall also file information on immovables and valuable movables, bank deposits and securities, which belong to them and their family members. Such information shall be filed by prosecutors annually. The manner in which such information should be stored and used is prescribed by the Prosecutor General of Ukraine in accordance with laws governing the civil service.

Article 83. Training and Skills Upgrading for Members of the Office of the Public Prosecutor

One unified system of training, postgraduate education, and skills upgrading for public prosecutors shall operate in the prosecutorial bodies. This system include study in the National Academy of the Public Prosecutor's Office of Ukraine, practical training for young specialists and other members who have no work experience, self-study, holding permanent seminars, scientific and practical conferences, practical training in structural subdivisions, criminal law rooms.

Skills upgrading shall be an official duty of members of the Public Prosecutor's Office and shall be taken into account when deciding on suitability for job, career promotion, and encouragement of members of the Public Prosecutor's Office.

Article 84. Resignation of Public Prosecutors

The resignation shall mean the termination of service by the First Deputy and other Deputies of the Prosecutor General of Ukraine, prosecutors of the Autonomous Republic of Crimea, oblasts, Cities of Kyiv and Sevastopol, and public prosecutors assimilated thereto upon resignation letter.

Grounds for resignation shall be as follows:

- 1) Disagreement in principle with a decision taken by the higher prosecutor, as well as ethical barriers to holding the office;
- 2) Forcing the prosecutor to execute a decision taken by the higher prosecutor, which is contrary to the Constitution and laws of Ukraine and which may cause a large financial and moral damage to the State, enterprises, institutions, organisations, or citizens' associations or a citizen;
- 3) State of health, which disallows discharging official duties (based on the medical opinion).

Resignation shall be accepted or denied by the Prosecutor General of Ukraine with stating reasons therefor.

Decision to accept or deny the resignation shall be taken within one month after the day on which the letter of resignation has been received.

If the resignation is denied, the prosecutor concerned shall continue discharging his/her official duties and has the right to dismissal in accordance with regular procedure.

In case of resignation of a prosecutor whose length of service is insufficient for awarding a pension benefit, he/she shall be paid 85 percent of his/her monthly wage including premiums for the class rank and length of service until he/she acquires the right to pension benefit.

Article 85. Dismissal of Public Prosecutors

Public prosecutors, except the Prosecutor General of Ukraine, may be dismissed general grounds laid down in labor laws.

Public prosecutors may also be dismissed on the following grounds:

1. resignation under Article 84 of the present Law;

2. unsuitability for job determined as a result of performance appraisal;
3. ignoring provisions of Article 71 of the present Law;
4. disclosure or occurrence of circumstances referred to in Article 72 of the present Law;
5. termination of the citizenship;
6. bringing to justice under the Disciplinary Statute of the Public Prosecutor's Office of Ukraine.

Article 86. Identity Card of the Public Prosecutor

Public prosecutors shall have identity cards i.e. an official document that attests his/her identity and powers. The Prosecutor General of Ukraine approves the Regulation concerning the prosecutor's identity card and its specimen.

SECTION VI LEGAL AND SOCIAL PROTECTION OF MEMBERS OF THE PUBLIC PROSECUTOR'S OFFICE AND THEIR FAMILY MEMBERS

Chapter 19 Particular Characteristics of Legal and Social Protection of Members of the Public Prosecutor's Office

Article 87. Financial and Social Support for Members of the Public Prosecutor's Office and Their Family Members

The wage of prosecutors shall consist of an official salary, premiums for class ranks, length of service, bonuses, welfares, other adds-on and extra payments to basic pay and payments provided for in legislative acts and shall ensure sufficient financial conditions for appropriately discharging official duties and retention of qualified personnel.

The lag among official salaries of members of the Public Prosecutor's Office shall be established by the Cabinet of Ministers of Ukraine upon recommendation of the Prosecutor General of Ukraine.

The premium for the length of service shall be paid to public prosecutors every month as a percentage of their basic salary taking into account the premium for a class rank and dependently on the length of service in the following amounts: from 2 to 5 years – 20 %, from 5 to 10 years – 30%, from 10 to 15 years – 40%, from 15 to 20 years – 50%, over 20 years – 60%.

The following premiums may be fixed to public prosecutors: for a special type of work and intensity of work, high achievement in work and carrying out especially important work, fulfillment of absent officers' duties, as well as other premiums and extra payments; a financial assistance may be provided for the solution of social and household problems. The amount of basic pay, premiums for class ranks and the length of service, and other extra payments and financial assistance shall be set by the Cabinet of Ministers of Ukraine.

Public prosecutors shall be paid from the State budget.

Public prosecutors shall be granted annual 30-calendar day leave with payment of travel to the place of rest and therefrom within the limits of Ukraine and with payment of health improvement benefit in the amount of average monthly salary.

Public prosecutors who have over ten-year length of service in the prosecutorial bodies shall be granted additional annual 5-calendar day leave and, beginning from the 11th year, this leave is increased by 2 calendar days for the each following year of service. The duration of such additional paid leave may not exceed 15 calendar days.

The relevant local public authorities shall provide public prosecutors who have no accommodation or require improvement of housing conditions a separate apartment or house from the state housing stock out of turn no later than within six months after an application for an accommodation has been filed. Servicemen of military prosecutor's officers are provided accommodation within the same time limit at the expense of the Ministry of Defense of Ukraine. If public prosecutors are not provided an accommodation within this time limit, the public prosecutor's office may purchase an apartment or a house at market prices at the expense of the state budget and transfer them to those officers for use.

The Cabinet of Ministers of Ukraine prescribes the way in which the public prosecutor's office should be financed for this purpose, as well as the way in which the public authority that failed to timely provide accommodation to public prosecutors should settle accounts with the State budget. If a public prosecutor and his/her family vacate accommodation which belongs to the state housing stock, such accommodation should be given to the relevant public prosecutor's office for the resettlement. Public prosecutors are entitled to an extra living space under Article 49 of the Housing Code of Ukraine, as well as to the compensation of expenses related to renting (subleasing) an accommodation until they receive accommodation for permanent residence in accordance with established procedure. The Cabinet of Ministers of Ukraine prescribes conditions, mechanisms and cut-off amounts of compensations, which may be paid to public prosecutors to cover expenses incurred for the rent (sublease) of an accommodation.

Public prosecutor and members of his/her family who live together with him/her shall be granted a 50% discount for the rent costs (including a privatised housing), public utilities (water, gas, electricity and heating), purchasing fuel, and individual telephone station, as well as household alarm systems.

The local state administrations, local authorities and their executive bodies may sell to public prosecutors, on preferential terms, living space with up to 50% discount in case the public prosecutor has no accommodation.

Public prosecutors who require improvement of living conditions shall be allotted land parcels and interest-free credit with up to 20 years repayment period for individual and cooperative housing construction or for the purchase of an apartment or individual house. The Cabinet of Ministers of Ukraine determines credit terms.

Public prosecutors may be provided a living space on the basis of long-term state credits.

Public prosecutors shall be entitled to the out-of-turn placement of their children in the pre-school educational centers, to the out-of-turn and free of charge installation of an individual telephone station, household alarm systems.

Officers of the public prosecutor's office and their family members shall be entitled to free medical services (including medicaments) at public health facilities in accordance with the established procedure. Family members of public prosecutors residing together with them receive medical services at the same health facilities as members of the public prosecutor's office. Members of the public prosecutor's office are annually granted a voucher for sanatorium-and-spa treatment, which is half paid from the State budget while their family members pay such vouchers in full.

Public prosecutors shall be provided official uniform whose specimen is approved by the Cabinet of Ministers of Ukraine upon recommendation of the Prosecutor General of Ukraine.

Article 88. Social Protection of Public Prosecutors and Their Family Members

In case of mutilation or disability that happened in line of duty, public prosecutor shall receive compensation in the amount from one to five annual wages depending on the degree of disability, and, in case of his/her death in line of duty, the family or dependants shall be paid lump sum financial benefit in the amount of ten annual wages earned by the deceased at the last position and shall be granted the survivor benefit in the amount of the basic monthly salary of the deceased. The Cabinet of Ministers of Ukraine prescribes the way in which compensation and lump sum benefit should be paid.

Public prosecutor who perished (died) in line of duty, as well as dismissed public prosecutor who died because of bodily injuries or any other harm to health were caused in connection with his/her exercising official duties shall be buried at the expense of the funds allocated for the maintenance of the prosecutorial bodies in accordance with the procedure and in the amount established by the Cabinet of Ministers of Ukraine.

The family of the deceased shall retain the entitlement to obtain a comfortable accommodation on the conditions and grounds that existed at the time of death of the officer.

Article 89. Pension Provision for Public Prosecutors

The public prosecutors with the length of service no less than 20 years, including those of them with the length of service on the position of prosecutor and investigator no less than 10 years, shall be entitled to the provision of a seniority pension benefit irrespectively of age. Such pension is granted in

the amount of 80 % of their monthly (current) wage and 90% for disabled persons, the wage including all types of pensionable earnings, which he or she received a month before the application for pension provision. Official salary, premiums for a class rank and seniority are taken into account in the amounts set on the day of dismissal which gives rise to the entitlement to this type of pension. For every full year of service over ten years on the posts of public prosecutors, the pension is increased by 2 %, but not more than 90 % of the monthly (current) earnings.

Amount of payments (except official salary, premiums for a class rank and seniority) included into the earnings for pension calculation shall be determined at the choice of the person applying for pension, for the last successive 24 calendar months of service that gives rise to the entitlement to this type of pension either before application for the pension provision or for any 60 successive calendar months of such service before application for the pension provision irrespective of breaks in service during this periods.

Average monthly amount of such payments for 24 and 60 calendar months shall be determined by dividing the total sum of these payments for 24 successive calendar months of service before application for the pension provision or for 60 successive calendar months of service by 24 or 60 respectively. Such payments are adjusted by using the coefficient of general increase in the official salary, premiums for a class rank.

To the 20-year length of service, which gives rise to the entitlement to a seniority pension, shall be credited the period of service at prosecutor positions referred to in Article 96 of the present Law, including military prosecutor's office; by trainees in the prosecutorial bodies, investigators, judges at command positions in the Interior agencies, tax militia, criminal executive service, commissioned officers at the Security Service, at civil servant positions held by persons with university degree in Law, at positions in scientific and educational institutions of the Prosecutor General's Office of Ukraine, whom class ranks were conferred to, including periods of scientific and teaching experience in other scientific and educational institutions if holders of the position were awarded a scientific degree or academic title; at the elective offices in public authorities; at positions in other organisations if holders of such positions were dispatched in such organisations and later returned back to the prosecutor's office; military service; half of the period of education at higher law educational institutions or law faculties of higher educational institutions; partially paid maternity leave till the child attains three years of age.

Officers who have less than 20-year and more than 10-year length of service in the prosecutorial bodies, after males have reached 55 years of age with 25 years or more of total seniority, and females have reached 50 years of age with 20 years or more of total seniority shall be granted the pension benefit in the amount proportional to the number of full years of work at public prosecutor's positions on the basis of 80 percent of monthly earnings for 20 years of service. For each year of total length of service above 25 years for men and 20 years for women, the pension benefit is increased by one per cent of monthly earnings on the basis of which it is calculated.

Allowances for disabled family members and single pensioner care shall be paid in addition to the seniority pension fixed under the present Article, in the amount and on conditions specified in applicable laws.

Seniority pension shall be granted to persons who, before their application for such a pension, have worked in the prosecutorial bodies or scientific and educational institutions of the Prosecutor General's Office of Ukraine, as well as persons who have been dismissed from prosecutor and investigator positions in the prosecutorial bodies on the ground of state of health, redundancy or staff reduction, in connection with election to elective positions or appointment to other positions at the public authorities or local authorities. War veterans whose length of service allows fixing seniority pension are granted such a pension regardless their work experience in the prosecutorial bodies before application for the provision of this type of pension.

Disability pension in the amount referred to in the first paragraph of the present Article shall be granted to public prosecutors found to be disabled persons of I or II degree of disability if their length of service in the prosecutorial bodies is no less than 10 years.

If a public prosecutor who is entitled to a seniority pension or who has acquired such an entitlement during the work at an elective position, is elected people's deputy of Ukraine, he/she is entitled to the pension, which is computed based on the earnings of the people's deputy or to a pension for the length of service in the prosecutorial bodies upon his/her own choice.

Public prosecutors who are entitled to various state pensions at the same time shall be provided one pension upon their choice, including on conditions set forth in Article 37 of the Law of Ukraine «On Civil Service». On the discharge from active military service, military prosecutors are entitled to a pension under this Article or a pension established for servicemen by law.

Persons who were dismissed from the office by way of disciplinary proceedings with revocation of their class rank or whose class rank was revoked by virtue of court sentence shall lose the entitlement to a seniority pension. Persons dismissed from the office because of their conviction for an intentional crime committed with abuse of office or for having committed an act of corruption are not entitled to the pension referred to in the present Article either.

Under the present Article, seniority pensions shall be granted, recalculated, and paid by authorised public authorities.

Retired individuals and their family members shall retain privileges and social protection guarantees laid down in the present Law and other legislative acts. Pensioners and their family members residing together with them are also entitled to free medical services at health facilities to which they were referred before the retirement of the staff member of the prosecutorial bodies.

Pension benefit granted under the present Article shall be paid in the full amount regardless the amount of salary (profit) earned after the retirement. Public prosecutors receiving a seniority pension and continuing working at prosecutor positions are entitled to receive the salary in accordance with legislation.

In case of the first dismissal from the office due to the length of service or disability retirement, public prosecutors shall be paid lump sum cash benefit in the amount of the average monthly salary for the year, before the month of retirement (with adjustment of the salary during this period in connection with its increase on the day of dismissal), for each full year of work as public prosecutor, investigator of the Office of the Public Prosecutor or on positions at scientific and educational institutions of the Office of the Public Prosecutor.

In case of the next dismissal from the prosecutorial bodies, persons who have received cash benefit due to the length of service or disability retirement under laws of Ukraine shall be paid lump sum cash benefit in the amount of the average monthly salary for the year, before the month of retirement (with adjustment of the salary during this period in connection with its increase on the day of dismissal), for each full year of work as public prosecutor, investigator of the Office of the Public Prosecutor or on positions at scientific and educational institutions of the Office of the Public Prosecutor after the receipt of the benefit.

Public prosecutors who are not entitled to a pension shall be paid lump sum cash benefit in case of dismissal on the ground of liquidation, reorganisation of the prosecutorial body or institution, redundancy or staff reduction.

Family members of a public prosecutor (parents, wife, husband, children who have not reached 18 years of age or have reached this age if they acquired a disability before reaching the age of 18 years, and children who are studying, before graduating from educational institutions but no longer than the age of 23) who have been his/her dependants at the time of his/her death shall be paid survivor's pension, if the deceased had at least 10-year length of service in the prosecutorial bodies, in the amount of 60 percent of the average (current) earnings for one family member and 80 percent for two and more family members.

Pensions granted to members of the Public Prosecutor's Office shall be recalculated with the increase in salaries of relevant categories of prosecutors' staff. Recalculation is made taking into account the amount of salary members of the prosecutorial bodies and institutions receive upon entitlement to recalculation arises. Recalculation of pensions granted is made from the first day of the month following the month when circumstances leading to pension changes have occurred. If the pensioner acquired the entitlement to an increased pension, the difference in the pension amount for the last period may be paid to him or her but no more than for 12 months. Pension for working pensioners is also recalculated in connection with the appointment to a higher position, accrual of seniority, award of a higher class rank, honorary title, or a scientific degree in accordance with the procedure referred to in the second and third paragraphs of the present Article. Upon request of the officer who continues working at prosecutorial positions, the earlier pension is recalculated for every two years, irrespectively of the grounds that may arise for the recalculation of pensions referred to in the present Article.

Provisions of the present Article, except fourteenth, fifteenth, and sixteenth paragraphs, shall also apply to retired members of the prosecutor's offices who were granted a retirement pension, seniority pension, or disability pension before the present Law has become operative, irrespectively of the retirement date and on conditions that they have the length of service prescribed in the present Article.

SECTION VII SUPPORT FOR, AND OPERATION OF, THE OFFICE OF THE PUBLIC PROSECUTOR

Chapter 19 Financial and Logistic Support for Prosecutorial Bodies

Article 90. Financial and Logistic Support for the Office of the Public Prosecutor

The Public Prosecutor's Office and expenses related to the implementation of the guarantees set forth in the present Law shall be financed from the State Budget of Ukraine.

The Prosecutor General of Ukraine shall approve the cost estimates for the maintenance the Office of the Public Prosecutor and may introduce amendments to such estimates within the limits of funds allocated.

Local state administrations and local authorities shall rent required official premises to the prosecutorial bodies located in the territory under their authority.

Transportation means, logistical support, and uniform shall be provided to the prosecutorial bodies at the expenses of the State Budget Ukraine in a centralised way, which is approved by the Prosecutor General of Ukraine.

Prosecutors, officers, and other military prosecution staff shall be remunerated from funds of the State Budget of Ukraine allotted to the maintenance of the prosecutorial bodies of Ukraine. Such remuneration may not lower than the remuneration of relevant members of the territorial prosecutor's offices.

The Ministry of Defense of Ukraine and other military formations shall provide official premises, security services, transportation means, communication facilities, and other necessary equipment to military prosecutor's offices and uniform to servicemen of such prosecutor's offices.

Article 91. Official Outlets of the Office of the Public Prosecutor

The journal "Visnyk Prokuratury" shall be an official outlet of the Prosecutor General's Office of Ukraine.

Chapter 21 Other Issues related to the Organisation and Operation of the Office of the Public Prosecutor

Article 92. Legal Support for the Prosecutorial Bodies

In order to provide public prosecutors access to legal information, legal regulatory acts, research, and other specialised literature, the prosecutorial bodies shall establish libraries, systematise legislative acts, carry out consultative and reference work and take advantage of computer assisted legal programs.

The Office of the Public Prosecutor shall take part in the improvement of the legislation within its competence.

Article 93. Statistical Reporting

The Prosecutor General's Office of Ukraine together with the Ministry of the Internal Affairs of Ukraine, other ministries and departments, upon approval of the central public authority responsible for the

statistics, shall develop a system and methods of unified accounting and statistical reporting on crime, detection and investigation of crimes, prosecutorial activities, as well as establish a unified procedure for preparing and submitting reports in the prosecutorial bodies.

The Prosecutor General's Office of Ukraine, upon agreement with the State Judicial Administration, shall receive and use reports concerning court hearings of criminal, civil, economic, and administrative cases.

Article 94. Seal of Bodies, Institutions and Organisations of the Office of the Public Prosecutor

The Prosecutor General's Office of Ukraine and public prosecutor's offices subordinated thereto, as well as its institutions and organisations shall have their own seals imprinting the State's official emblem and their names.

Article 95. Use of Terms

The term "public prosecutor" shall stand for the Prosecutor General of Ukraine, his/her first deputy and deputies, public prosecutors of the Autonomous Republic of Crimea, oblasts, Cities of Kyiv and Sevastopol, prosecutors of cities, districts, and prosecutors assimilated thereto, their deputies, heads of central departments, departments, divisions, their deputies, senior prosecutors, prosecutors of central departments, departments and divisions, senior assistants and assistants to prosecutors, senior prosecutors-criminologists, prosecutor-criminologists.

SECTION VIII FINAL AND TRANSITIONAL PROVISIONS

1. The present Law shall become operative upon its promulgation.
2. Until laws are brought in line with the present Law, laws and other legal regulatory acts apply on so far as they are not contrary to the present Law.
3. The Cabinet of Ministers of Ukraine shall be required to submit proposals for bringing legislative acts of Ukraine in line with the present Law to the Verkhovna Rada of Ukraine within one month.