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DIRECTORATE GENERAL HUMAN RIGHTS AND RULE OF LAW (DGI)
OF THE COUNCIL OF EUROPE

NORTH MACEDONIA

JOINT OPINION

ON

**THE DRAFT LAWS ON THE PUBLIC PROSECUTOR'S OFFICE AND
ON THE COUNCIL OF PUBLIC PROSECUTORS**

**Adopted by the Venice Commission
at its 144th Plenary Session
(Venice, 9-10 October 2025)**

on the basis of comments by

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I. Introduction

1. By letter of 24 July 2025, the Minister of Justice of North Macedonia, Mr Igor Filkov, requested an opinion of the Venice Commission of the Council of Europe on the draft law on the Public Prosecutor's Office ([CDL-REF\(2025\)039](#)) and the draft law on the Council of Public Prosecutors ([CDL-REF\(2025\)040](#)). The Commission decided to prepare the present Opinion jointly with the Directorate General Human Rights and Rule of Law of the Council of Europe (DGI).

2. Ms Betetto, Mr Rørdam and Mr Gaspar acted as rapporteurs for this Opinion on behalf of the Venice Commission. Ms Vaik acted as a rapporteur on behalf of DGI.

3. On 1 and 2 September 2025, a delegation of the Commission composed of Ms Betetto, Mr Rørdam and Ms Vaik, accompanied by Ms Tania van Dijk from the Secretariat of the Venice Commission, travelled to Skopje and had meetings with representatives of the Ministry of Justice, the Supreme Court, the Council of Public Prosecutors, the Association of Prosecutors and the Bar Association, as well as with representatives of the EU Delegation in Skopje and several civil society organisations. The Commission is grateful to the Ministry of Justice and the Council of Europe Programme Office in Skopje for the excellent organisation of this visit.

4. This Opinion was prepared in reliance on the English translation of the draft law on the Public Prosecutor's Office and the draft law on the Council of Public Prosecutors. The translation may not accurately reflect the original version of these draft laws on all points.

5. This Opinion was drafted on the basis of comments by the rapporteurs and the results of the meetings on 1 and 2 September 2025. Following an exchange of views with Ms Aleksandra Deanoska Trendafilova, president of the working group on the two abovementioned laws, representing the Ministry of Justice of North Macedonia, it was adopted by the Venice Commission at its 144th Plenary Session (Venice, 9-10 October 2025).

II. Background and preliminary remarks

6. As outlined in the letter of the Minister of Justice by which the Venice Commission was requested for an opinion, the draft law on the Public Prosecutor's Office and the draft law on the Council of Public Prosecutors form part of the government's Reform Agenda (2024 – 2027), which sets out the intention of the government of North Macedonia to improve judicial integrity by revising the processes for the recruitment, selection, appointment, appraisal, promotion, transfer and dismissal of judges and prosecutors. To this end, in December 2023, the Justice Sector Reform Strategy (2024-2028) was adopted, which sets out various measures aiming *inter alia* to strengthen the autonomy of the Public Prosecutor's Office, enhance the role of the Council of Public Prosecutors (in particular in relation to evaluation of prosecutors), reform procedures for the election members to the Council and improve disciplinary proceedings.

7. To give effect to the measures outlined in the Strategy, over the course of six months at the end of 2024 and the beginning of 2025, a working group - composed of a variety of stakeholders (including prosecutors from outside the Council of Public Prosecutors, civil society organisations and academics) - developed the two draft laws, which were followed by an on-line consultation process. A large majority of the Venice Commission's interlocutors confirmed to have been duly informed of and consulted on the draft laws. Notwithstanding some of the criticism (on some stakeholders not having been included in the working group and on some changes to the draft laws proposed by the Ministry of Justice after the working group had concluded its work, which however appeared to be related to the on-line consultation process), the Venice Commission commends the considerable efforts of the Ministry of Justice in organising this comprehensive and inclusive consultation process.

8. The two draft laws are meant to replace the current Law on the Public Prosecutor's Office from 2020 and the Law on the Council of Public Prosecutors from 2007, as last amended in 2020, which were not assessed at that time by the Venice Commission.¹ This Opinion will therefore also analyse elements of the draft laws which have not been altered as compared to the laws currently in force. However, at the same time, given the range of issues covered by the two draft laws, it will not address all elements of both draft laws. The Venice Commission will focus on what it considers to be the most important elements. If the Opinion remains silent on other elements of the two draft laws, this is not to say that the Venice Commission agrees with them, nor that it will not comment on them at a later stage.

III. Analysis

A. The draft law on the Council of Public Prosecutors

9. Unlike the Judicial Council of North Macedonia, which relies on detailed constitutional provisions on its mandate, composition and the election of its members,² mention of the Council of Public Prosecutors in the Constitution of North Macedonia is relatively brief, providing only that "[t]he public prosecutors are elected by the Council of Public Prosecutors and their term of office shall have no restrictions", whereby "[t]he Council decides on dismissal of public prosecutors" (Article 106 of the Constitution). This Article furthermore outlines that "[t]he competences, composition and structure of the Council, the term of office of its members, as well as the basis and the procedure for termination of the mandate and for the dismissal of a member of the Council is stipulated by law".

10. As per these constitutional provisions, the main task of the Council of Public Prosecutors concerns the election (and dismissal) of public prosecutors. Unlike the Judicial Council, which has the responsibility both for disciplinary proceedings and the evaluation of judges, the Council of Public Prosecutors only decides in second instance in disciplinary proceedings and on contested performance evaluations. Its competences furthermore include but are not limited to providing an opinion to the government of North Macedonia on the appointment and dismissal of the Public Prosecutor of North Macedonia (with additionally the possibility for the Council to itself propose the dismissal of the Public Prosecutor), adopting a Code of Ethics for prosecutors and deciding on the number of prosecutorial vacancies and the required number of prosecutors per prosecutorial office.

1. Composition of the Council

11. As outlined by the Venice Commission on various previous occasions, there is no single model for prosecutorial councils in all member States of the Council of Europe, and their existence cannot be regarded as a uniform standard binding on all European States.³ The Venice Commission has previously recommended that prosecutors elected by their peers represent "a substantial element or a majority in a prosecutorial council".⁴ The Consultative Council of

¹ The last time the Venice Commission has assessed (draft) legislation of North Macedonia on the prosecution service and Council of Public Prosecutors was in 2007, when it adopted its Opinion on the draft law on the Public Prosecutor's Office and the draft law on the Council of Public Prosecutors ([CDL-AD\(2007\)011](#)).

² Articles 104 and 105 of the Constitution of the Republic of North Macedonia. As regards this Judicial Council, please see: Venice Commission, [CDL-AD\(2025\)026](#), North Macedonia – Opinion on the draft law on the Judicial Council.

³ Venice Commission, [CDL-AD\(2010\)040](#), Report on European Standards as regards the independence of the Judicial System: Part II – The Prosecution Service, - para. 68.

⁴ Venice Commission, [CDL-AD\(2022\)018](#), Republic of Moldova – Opinion on draft amendment to Law No. 3/2016 on the Public Prosecution Service, para. 11.

European Prosecutors (CCPE) has in turn outlined that “[i]n Council with mixed composition, it would be preferable that prosecutor members constitute the majority elected by their peers”.⁵

12. The composition of the Council of Public Prosecutors proposed in the draft law on the Council of Public Prosecutors (hereafter: draft LCPP) is in line with this. Identical to the Law currently in force, Article 6 of the draft LCPP provides that the Council shall be composed of 11 members: seven prosecutors (amongst which the Public Prosecutor as an *ex officio* member) of which six are elected by their peers from different territorial jurisdictions of the Higher Public Prosecutor’s Offices, including one prosecutor belonging to a community that is not in the majority in North Macedonia, and four lay members (law professors, attorneys-at-law, former judges of international courts and members of other international judicial bodies, as well as other distinguished legal professionals, two of whom shall be members of communities that are not in the majority in North Macedonia) elected by the Assembly.

13. When it comes to this proposed set-up, the Venice Commission recalls what it has said on several previous occasions already: “[t]he institutional design (...) should be such as to avoid two dangers: corporatism and politicisation”.⁶ Having lay members as a minority in the Council can easily lead to prosecutorial dominance and, ultimately, corporatism. The risk of corporatism tends to be greater when there is a culture of subordination, particularly for those Councils in which the Prosecutor General is a member of the Council (which may require some further measures to be taken, on which further below).

14. The Venice Commission welcomes the envisaged election of six of the prosecutorial members of the Council of Public Prosecutors by their peers and the diversity of the Council, in that representation of different offices and communities on the Council is ensured, as well as the fact that the draft LCPP provides for an uneven number of members of the Council, which should facilitate decision-making (given that – pursuant to Article 10, paragraph 5, draft LCPP – decisions are to be taken by majority vote, on which further below).

2. Election of lay members of the Council

a. Eligibility criteria for lay members

15. Pursuant to Article 34 LCPP, the four lay members on the Council are to be elected by the Assembly of North Macedonia (following a public call) from among university professors of law, attorneys-at-law, former judges of international courts or members of international judicial bodies, and other distinguished legal professionals (two of whom shall belong to communities which are not in the majority in North Macedonia).

16. When discussing these eligibility criteria on-site, it became clear that concerns about politicisation of the Council outweighed any concerns about corporatism. For this reason – also in light of experiences with lay members of the Judicial Council elected under the heading “distinguished legal professionals” –, further requirements were added to Article 34 of the draft LCPP for candidates to be elected by the Assembly, requiring of candidates who are university professors of law to have at least seven years’ experience as an academic, calling for all candidates to be “distinguished by their public activity in the promotion of the rule of law, judicial independence and human rights” and to enjoy “a reputation and possessing integrity to perform the function of a Council member”⁷, in addition to the requirement that already exists in the Law

⁵ CCPE, [Opinion No. 18](#) (2023) on Councils of Prosecutors as key bodies of prosecutorial self-governance, para. 46 and p. 17 (recommendation 3).

⁶ Venice Commission, [CDL-AD\(2022\)042](#), Serbia – Opinion on two draft laws implementing the constitutional amendments on the Prosecution Service, para. 41.

⁷ This is furthermore to be substantiated by “at least three recommendations from university professors of law, attorneys-at-law, former or current judges of international courts or members of international

currently in force of at least 15 years of professional legal experience following the bar exam for attorneys. The Venice Commission was told that these requirements were aligned with the requirements for lay members of the Judicial Council, while attempting to do justice to differences in the length of time it would take for university professors and legal practitioners to establish their respective careers. While it is positive that stricter eligibility criteria reduce the discretion on the side of the Assembly in the election of lay members to the Council, similar to what it has underlined in respect of the draft law on the Judicial Council, the Venice Commission finds that the difference between the required length of working experience is difficult to justify, notwithstanding differences in career paths, and considers the requirement of 15 years' experience excessive.⁸ Such strict eligibility criteria for lay members of the Council in a relatively small country results in only a very select group of persons being qualified for election as lay members to either the Judicial Council or Prosecutorial Council and the Venice Commission thus recommends reconsidering the requirements of duration of professional experience for all lay members of the Council of Public Prosecutors, with a view to uniformising them.

b. Method of election of lay members

17. The draft LCPP is silent on the method of election of the lay members. It is however understood to fall under the regular voting procedures of the Assembly, which would require a simple majority in the Assembly for their election.

18. As indicated above, the four lay members represent a minority on the Council, which makes the risk of politicisation of the Council as a whole less critical than it would have been if they had been in a majority. Nonetheless, the election of the four lay members by a simple majority in the Assembly cannot be said to be conducive to the political neutrality of this component of the Council. Previously, in a situation where following legislative changes lay members would constitute a majority in a prosecutorial council (which is not the case in North Macedonia), the Venice Commission has proposed several alternatives to the election of lay members by a simple majority in parliament, namely:

- election of the lay members by parliament by a qualified majority (with an effective anti-deadlock mechanism);
- election of the lay members by parliament on the basis of a proportional system (so that lay members represent different political forces);
- nomination or even direct appointment by external nongovernmental actors (such as universities, the Bar, the judiciary, etc.).⁹

19. The Venice Commission was however informed that pursuant to Amendment X to Article 69 of the Constitution, the Assembly can only take decisions by a special majority (e.g. a qualified majority), if the Constitution explicitly provides for this. While Article 106 of the Constitution provides that "the competences, establishment, termination, organisation and functioning of the Public Prosecutor's Office is stipulated by law adopted by a two-thirds majority of the total number of members of the Assembly", this requirement does not extend to other matters relating to the Council of Public Prosecutors (nor to the appointment and dismissal of the Public Prosecutor, on which further below). Moreover, the Venice Commission was told in respect of the latter option that it was the authorities' wish to open the election of lay members to every eligible person,

judicial bodies, or persons with at least 15 years of professional experience in law following the bar exam, two of whom must belong to the same legal profession as the candidate" (Article 34, para. 2 LCPP).

⁸ Venice Commission, [CDL-AD\(2025\)026](#), North Macedonia – Opinion on the draft law on the Judicial Council, para. 34.

⁹ Venice Commission, [CDL-AD\(2021\)012](#), Montenegro – Opinion on the draft amendments to the Law on the State Prosecution Service and the draft law on the Prosecutor's Office for organised crime and corruption, paras. 37-41; [CDL-AD\(2021\)030](#), Montenegro - Urgent opinion on the revised draft amendments to the Law on the State Prosecution Service, para. 13.

rather than only those persons within the sphere of influence of the Bar Association (for lawyers) or the Inter-University Conference (for academics). This is to be welcomed – however, there are other ways (in addition to the option(s) mentioned above requiring a constitutional amendment, i.e. election by qualified majority or on the basis of a proportional system in the Assembly) to ensure that the Assembly is not given complete freedom in its selection of lay members without restricting this to the sphere of influence of the Bar Association and the Inter-University Conference (for example, by also involving others, such as civil society organisations, the Ombudsperson of North Macedonia and/or the judiciary in proposing or even short-listing candidates). Therefore, in order to further depoliticise the selection of lay members to the Council, the Venice Commission recommends that the authorities, in the interest of increasing the independence of the Council and its individual members from the powers that be¹⁰, provide an alternative to the way the four lay members are being elected, whereby it is to be ensured that the election is based on the merits and integrity of the candidates and a diverse representation is favoured.¹¹

3. Issues related to the term of office and mandate of members of the Council

a. Term of office and cooling-off period

20. Article 7 of the draft LCPP provides for a four-year term of office for members of the Council, allowing for re-election when four years have expired since their previous term of office. This cooling-off mechanism addresses the Commission's primary concerns about entrenchment of certain Council members and strikes an appropriate balance between institutional stability and renewal.¹² As the Venice Commission has said before about similar cooling-off arrangements in other countries: "[t]his seems a reasonable provision as it would be undesirable for persons to remain for too long a period".¹³ In discussing the term of office of members of the Council on site, the Venice Commission learned that, even if not in the law, in practice due to the moment when Council members have been appointed there is a staggered term in office for Council members (see also further below on transitional measures), which is welcome.

b. Suspension of prosecutorial functions

21. Article 7 of the draft LCPP on the term of office of Council members provides for two alternatives of the same article, whereby the first alternative would include a third paragraph stipulating "[m]embers of the Council elected from the ranks of public prosecutors shall have their prosecutorial functions suspended during their term of office in the Council" (similar to what is stipulated by the Law currently in force), and the second alternative would exclude this paragraph (which would mean that prosecutorial members would continue in their prosecutorial role while being Council members). Similarly, a corresponding provision in Article 3 (which would however also be applicable to lay members of the Council) would provide for an additional paragraph stating "[t]he function of a member of the Council is incompatible with membership in a political party or with the exercise of any public office or profession", whereby the alternative does not have this additional paragraph.

¹⁰ See also further on the independence of individual Council members in the part on "Decision-making rules" below.

¹¹ See in a similar vein, Venice Commission, [CDL-AD\(2025\)026](#), North Macedonia - Opinion on the draft law on the Judicial Council, para. 37.

¹² Venice Commission, [CDL-AD\(2015\)005](#), Joint Opinion on the draft law on the Prosecution Service of the Republic of Moldova, para. 134.

¹³ Venice Commission, [CDL-AD\(2014\)042](#), Interim Opinion on the draft law on the State Prosecution Office of Montenegro, para. 40.

22. At the root of these alternatives appears to be a heated discussion on whether the membership of the Council of Public Prosecutors should be a stand-alone function or whether prosecutors can do this part-time next to their prosecutorial functions. The Venice Commission understands that given the current staff shortages in the prosecution service, the authorities would prefer not to exacerbate these shortages by “losing” six experienced prosecutors to their Council functions. It also understands that as – unlike the Judicial Council – the Council of Public Prosecutors does not conduct disciplinary proceedings or performance evaluations in first instance, the work of Council members may not always warrant full-time devotion. The workload of the Council is not something the Venice Commission is able to assess. Nevertheless, contrary to these arguments, which are perhaps more of a practical nature, the Venice Commission strongly supports having the prosecutorial functions of elected prosecutorial members of the Council suspended for the duration of their term of office. This would increase the distance between prosecutors and the decisions the Council may have to take affecting their direct colleagues or own offices. It would furthermore contribute to the professionalisation and independence of the Council.

c. Termination of the term of office of members of the Council

23. The procedure for terminating the term of office of a Council member before the end of the four-year term is outlined in Articles 39-45 of the draft LCPP. First of all, Article 39 sets out a number of grounds – such as resignation, dismissal from a prosecutorial position for prosecutorial members, permanent incapacity to perform the function¹⁴, election or appointment to another public office or profession, conviction for certain criminal offences – that lead to quasi-automatic termination of the term of office of a Council member. Secondly, Article 41 sets out several grounds which can trigger a different procedure (upon a reasoned request, supported by evidence, submitted either by at least five public prosecutors or three members of the Council) to dismiss a person from his/her position as Council member. These grounds include concrete issues as membership of a political party and refusing to submit a declaration of assets and interests but also concepts such as “impacts the autonomy of public prosecutors” or “neglects or fails to perform their function and duties in the work of the Council”.

24. The procedure for dismissal from the position as a Council member is urgent, confidential, conducted without public presence but can be public if requested by the Council member in question. The Council validates the request's admissibility within three days. If valid, a committee is formed to collect evidence. Within 30 days, the Council holds a session to consider the case where the member can respond both in writing and orally, present evidence, and have a defence counsel (Article 42, draft LCPP). The request and evidence are personally delivered to the member. If the member cannot be found, notices are left as per procedural norms (Article 43, draft LCPP). The Council decides on loss of mandate by a Council member by majority vote, generally at the first session after the process but no later than three months from receipt of the request. The dismissed member can challenge her/his dismissal as a Council member before the Administrative Court (Article 44, draft LCPP).

25. In general, in view of the Venice Commission, the safeguards provided by the draft LCPP provide for due process, confidentiality and the right to defence.¹⁵ Nevertheless, in spite of the overall positive assessment of these safeguards, a few shortcomings remain. First of all, a few of the grounds in Article 41 of the draft LCPP, in particular “impacts the autonomy of public prosecutors” or “neglects or fails to perform their function and duties in the work of the Council”, lack foreseeability and are too vague and subjective to be used as a ground for dismissal of a

¹⁴ Article 39, para. 7, draft LCPP makes clear that this is to be based on a final court decision.

¹⁵ The CCPE in its [Opinion No. 18](#) (para. 66) holds that “[r]eaffirming the importance of the security of tenure of all members of the Council as a condition for its independence, the removal from office of a member should be based on serious grounds clearly established by law, and in a procedure in which his/her rights to a fair trial are guaranteed”.

Council member.¹⁶ In similar cases previously, the Venice Commission recommended using a “mixed legislative technique” by retaining broadly worded formula but complementing these with the most common examples of the actions and inactions covered by these grounds.¹⁷ Alternatively, the grounds could be further described in more concrete terms in an explanatory memorandum in order to provide further guidance.¹⁸ The Ministry of Justice outlined in his comments that a commentary to the law would indeed be provided, but that – as it would appear from discussions in the Working Group – the abovementioned formula were already clear to the members of the Council.¹⁹ This is welcome, but given that vague grounds can leave the door open for misuse, notwithstanding their generally understood meaning, if these grounds are maintained in the draft LCPP, the Venice Commission recommends providing more details on the meaning of the concepts “impacts the autonomy of public prosecutors” or “neglects or fails to perform their function and duties in the work of the Council” in the commentaries to the Law (as appears to be planned).

26. Furthermore (as will also be further outlined below for situations other than terminating the term of office of a Council member), the simple majority for taking a decision on the pre-term loss of mandate is too low, especially as all the prosecutorial members could vote *en bloc* to end the mandate of one or more lay members. As will be outlined in the next session, the Venice Commission recommends taking additional measures to prevent critical decisions, such as loss of Council membership, decided by a prosecutorial majority.

4. Decision-making rules

27. As already indicated above, the risk of corporatism in a Council in which the majority of members are prosecutors is not illusory and is further compounded by the *ex officio* membership of the Public Prosecutor of the Republic to whom the other prosecutors have a hierarchical relationship.²⁰ The Venice Commission also notes that – other than the transparency requirement for Council members to explain their decision for or against the election of a public prosecutor at a session (Article 50, para. 3, draft LCPP) – the draft law contains no special voting procedures or safeguards to prevent decisions being inevitably determined by the prosecutorial majority in the Council: as indicated above, decisions are being taken by a simple majority vote. To counteract possible corporatist tendencies and ensure the effective inclusion of lay members in the Council’s decision-making, the Venice Commission recommends the authorities of North Macedonia to include additional safeguards in the draft law. While it would be up to the authorities to devise their own formula, possible solutions include:

- Qualified majorities for sensitive decisions – similar to what the Venice Commission said above as regard the majority needed on the pre-term loss of mandate – the draft law could require enhanced voting thresholds for critical decisions that affect prosecutorial independence and accountability, for instance, decisions on prosecutorial appointments, dismissals, and disciplinary sanctions should require a two-thirds majority rather than a simple majority. This would ensure that such decisions cannot be taken by the prosecutorial

¹⁶ Venice Commission, [CDL-AD\(2022\)042](#), Serbia – Opinion on two draft laws implementing the constitutional amendments on the Prosecution Service, para. 54.

¹⁷ Venice Commission, [CDL-AD\(2017\)018](#), Opinion on the Judicial System Act of Bulgaria, para. 108; Venice Commission, [CDL-AD\(2024\)034](#), Poland – Opinion on the draft amendments to the Law on the Public Prosecutor’s Office, para. 50.

¹⁸ Venice Commission, [CDL-AD\(2018\)028](#), Malta - Opinion on Constitutional arrangements and separation of powers and the independence of the judiciary and law enforcement, para. 49.

¹⁹ Specifically, the expression “impacts the autonomy of public prosecutors” was understood to refer to interference in a specific case, which would undermine the autonomy of a public prosecutor and the expression “neglects or fails to perform their function” was understood to refer to non-participation in sessions of the Council and failure to fulfil Council duties, which would affect the Council’s efficiency.

²⁰ In a similar vein: Venice Commission, [CDL-AD\(2022\)042](#), Serbia – Opinion on two draft laws implementing the constitutional amendments on the Prosecution Service, paras. 20 and 64.

- component alone and would necessitate support from at least some lay members, promoting genuine deliberation and consensus-building.
- Majority requirements including votes from both groups. For the most sensitive decisions – particularly those involving the dismissal of prosecutors or Council members – the law could establish a simple requirement either that votes from both components of the Council are required or that a "double majority" is required (i.e. that the decision should have the support of a majority of both the prosecutorial component and the lay component separately). This latter mechanism would prevent either component from dominating decision-making and would encourage cross-component dialogue and compromise.
- Transparency measures requiring individual vote explanations. The transparency requirement in Article 50, para. 3 LCPP could be extended to all significant Council decisions, not just prosecutorial appointments. Council members could be required to provide explanations for their votes on dismissals, disciplinary sanctions, and other matters affecting prosecutorial careers. These explanations could be recorded in the minutes and published on the Council's website, creating accountability for voting patterns and discouraging bloc voting along component lines.

28. As regards the possible predominance of the Public Prosecutor, in a similar vein as what has been proposed by the CCPE, the Venice Commission recommends that the draft LPPC explicitly states that the prosecutorial and lay members of the Council sit on this body in their individual capacity and that the prosecutorial members of the Council are not subordinated to the Public Prosecutor of the Republic in as far their work in the Council is concerned.²¹ In this respect, it may also be useful to stipulate that the Public Prosecutor has no voting rights in certain areas, such as discipline (as a complement to the ordinary conflicts of interest regulation in Article 12 of the draft LPPC, which should exclude her/him from deliberations in the Council in those disciplinary matters and decisions on evaluations in which s/he has had a direct role).²²

5. Other provisions with alternatives

a. *Presidency of the Council*

29. Article 8 of the draft LCPP contains two alternatives for the election of a President of the Council for a term of two years: one by which s/he would be elected from the ranks of elected public prosecutors and another by which s/he would be elected from the ranks of all members of the Council. Under both alternatives the Public Prosecutor of North Macedonia cannot be elected President or Vice-President of the Council (Article 8, para. 5 draft LCPP), which – given the abovementioned qualms of the Venice Commission about an overly powerful figure in the Council in a system that already contains strong hierarchical elements – is welcome, even if it may prove challenging for an elected prosecutorial member to preside the Council in the presence of his/her hierarchical superior²³ (see in this respect also the comments of the Venice Commission above on the voting rights of the Public Prosecutor). The Venice Commission however sees no reason for excluding lay members from becoming President of the Council and thus supports the second alternative of this Article.

²¹ CCPE, [Opinion No. 18](#) (2023) on Councils of Prosecutors as key bodies of prosecutorial self-governance, para. 43: "In order to ensure the neutrality of this body, the independence of such Council and its members should clearly be stipulated". See also: Venice Commission, [CDL-AD\(2022\)006](#), Kosovo - Opinion on the revised draft amendments to the Law on the Prosecutorial Council, para. 14, as well as [CDL-AD\(2015\)039](#), Joint Opinion of the Venice Commission, Consultative Council of European Prosecutors (CCPE) and OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), on the draft Amendments to the Law on the Prosecutor's Office of Georgia, para. 33.

²² Venice Commission, [CDL-AD\(2021\)051](#), Kosovo – Opinion on the draft amendments to the Law on the Prosecutorial Council, para. 38, as followed up in [CDL-AD\(2022\)006](#), Kosovo - Opinion on the revised draft amendments to the Law on the Prosecutorial Council, para. 14.

²³ [CDL-AD\(2022\)042](#), Serbia – Opinion on two draft laws implementing the constitutional amendments on the prosecution service, para. 64.

b. Conflicts of interest and recusal

30. Article 12 of the draft LCPP provides for the main conflict of interest regulation requiring Council members to *inter alia* refrain from participating in proceedings that concern themselves or one of their relatives and should otherwise notify the Council if they become aware of circumstances that may raise doubts about their impartiality (with the Council in the latter case required to take a decision on the existence of such a conflict of interests). Article 12 contains two alternatives for one of the subcategories of situations in which a Council member has to recuse him/herself, referring to either “a relationship involving a conflict of interest in accordance with the law” (which presumably includes a translation error, whereby it is not the relationship as such that involves a conflict of interest but rather gives rise to a conflict of interest or perception thereof) or situations in which “s/he has participated or is currently participating in other proceedings against that public prosecutor or candidate for public prosecutor”. In view of the Venice Commission, the second term of the alternative is overly restrictive excluding other potential conflict of interest scenarios that could undermine impartiality (or be perceived to do so) without being related to prior or ongoing proceedings.

c. Equality of members of the Council

31. Article 13 of the draft LCPP contains two alternatives specifying the equality of the rights and obligations of the Council members, with the first alternative specifying that “[t]he members of the Council, in the performance of their function as members of the Council, shall have equal rights and obligations, unless otherwise determined” and the second alternative stipulating simply that “[t]he members shall have equal rights and obligations in the work of the Council”. As the sub-sentence “unless otherwise determined” adds an unnecessary ambiguity to the provision, the Venice Commission recommends including the second alternative in the draft law or to otherwise provide a closed list of exceptions to the equal rights and obligations of Council members.²⁴

6. Transitional measures

32. The Venice Commission notes that the draft LCPP does not contain any transitional measures. When discussing this on-site, it was told that the expectation would be that the current members of the Council of Public Prosecutors would continue to serve until the completion of their existing terms and that new members would be elected in accordance with the provisions of the new Law once adopted. The Venice Commission welcomes this but would recommend making this explicit in the transitional provisions of the draft law to avoid any ambiguity in this respect.

B. Draft law on the Public Prosecutor’s Office

1. Appointment of the Public Prosecutor

a. Eligibility criteria

33. Anyone who meets the general eligibility criteria to become a prosecutor²⁵ can become a Public Prosecutor, if in addition s/he has 10 years’ continuous work experience as a prosecutor

²⁴ For example, if it were to be stipulated that the Public Prosecutor does not have voting rights in certain situations, as recommended above, this would be an exception to the equality of rights and obligations of members of the Council.

²⁵ Being a citizen of North Macedonia, having an active command of the Macedonian language, possessing legal capacity, a law degree a specified certain level in the field of legal science or a

or a judge in the field of criminal law (Article 62, draft Law on the Public Prosecutor's Office, hereafter draft LPPO). The Venice Commission welcomes that these criteria restrict the pool of candidates to relatively senior career prosecutors and judges, which is a way of reducing the risk of politicisation (either real or perceived).²⁶

34. In respect of other countries, the Venice Commission has recommended - in order to further reduce the discretion of the appointing political body and to increase the professional requirements of candidates - to specify in the eligibility criteria that candidates have "the specific competencies required for this high-level organisational role, including managerial skills".²⁷ In a similar vein, the CCPE has stated that "(...) an appropriate legal and professional background should be a primary requirement, in order to ensure the candidates' capacity to lead the prosecution service efficiently. Additionally, the merits of the candidates, including experience, proven management and other skills should also be considered as important. The combination of the aforementioned criteria is relevant to assess the capacity of a candidate to safeguard the independence and impartiality of the prosecution services (...)." Indeed, also in North Macedonia, the legal framework would benefit from explicitly incorporating managerial and organisational skills in the eligibility criteria for the position of Public Prosecutor (but also for those leading higher public prosecutor's office), as this would further enhance the professional rigor of appointments over political considerations and ensure candidates are equipped for leadership positions.

b. Selection and appointment process

35. The Constitution provides that the government proposes the Public Prosecutor (Article 91) and s/he is appointed (and dismissed, on which further below) by the Assembly for a term of six years (with the right to reappointment on which further below) (Article 106). These constitutional provisions are repeated in Article 61 of the draft LPPO, which envisages a public call for applications for the position of Public Prosecutor. To the procedure foreseen by the Constitution, Article 61 of the draft LPPO adds that the Council of Public Prosecutors provides an opinion to the government on the appointment (and dismissal), following a public session of the Council at which the applicants for the position of Public Prosecutor can present their programme. The government can only propose candidates to the Assembly in respect of whom the Council has issued a positive opinion (with the government being required to submit this opinion together with their proposal to the Assembly) (Article 64, para. 8, draft LPPO). The Venice Commission welcomes the intent to depoliticise the appointment of the Public Prosecutor as much as possible, by providing for professional input by the Council as to the assessment of the qualifications of candidates, while doing justice to the democratic legitimacy envisaged by the constitutional provisions.²⁸

36. As before in respect of the appointment of lay members by the Assembly, the draft LPPO is silent on the majority required in the Assembly, with it being understood that his/her election by the Assembly only requires a simple majority. The Venice Commission has previously stated that in countries where the Prosecutor General is elected by the Parliament, the obvious danger of a politicisation of the appointment process (which is all the more present in North Macedonia given that the candidates for the position of Public Prosecutor are proposed by the government) could be reduced by the use of a qualified majority as a mechanism to achieve consensus on such

recognised foreign law degree and having passed the bar exam in North Macedonia (Article 61, para 1 of the draft LPPO).

²⁶ CCPE, [Opinion No. 19](#) on managing prosecution services to ensure their independence and impartiality, 29 October 2024, para. 31.

²⁷ Venice Commission, [CDL-AD\(2024\)034](#), Poland – Opinion on the draft amendments to the Law on the Public Prosecutor's Office, para. 39.

²⁸ See in a similar vein, Venice Commission, [CDL-AD\(2019\)034](#), Republic of Moldova: amicus curiae brief for the Constitutional Court of the Republic of Moldova on the amendments to the Law on the Prosecutor's Office, para. 21; Venice Commission, [CDL-AD\(2024\)034](#), Poland – Opinion on the draft amendments to the Law on the Public Prosecutor's Office, paras. 28, 33-34.

appointments.²⁹ Such a requirement should improve the independence of the appointee as it reduces the likelihood of appointing a party loyalist. It is only on rare occasions that the Venice Commission accepted that the Public Prosecutor (when elected by the Parliament) could be elected by an absolute majority (but not a simple majority as it is in North Macedonia), in situations when the political environment was so polarised that ideological cleavages and/or previous political developments would make it impossible to achieve a higher majority.³⁰ In such situations, it however relied on other considerations (such as relatively narrow eligibility criteria, the involvement of another chamber of the Parliament etc.).³¹ The political context in North Macedonia does not appear to readily warrant a departure from the requirement of a higher majority in Parliament for the election of the Public Prosecutor. The Venice Commission understands, as also outlined above in respect of the election of lay members to the Council of Public Prosecutors, that election of the Public Prosecutor by a higher (qualified) majority would require a constitutional amendment and thus cannot be addressed by the draft LPPO. It however considers this issue of such importance that it recommends that, in the context of a future constitutional reform, the Constitution also be amended on this point in order to have the Public Prosecutor elected by a higher (qualified) majority in the Assembly (whereby an appropriate anti-deadlock mechanism is also to be provided for).

2. Security of tenure of the Public Prosecutor

a. Term of office

37. The Venice Commission has previously recommended that a Prosecutor General should be appointed for a relatively long period without the possibility of renewal at the end of that period, to safeguard the independence of this position.³² The period of office of the Prosecutor General should furthermore not coincide with the Parliament's term in office.³³ In North Macedonia, both the Constitution and the draft law envisage a six-year term in office with the possibility of reappointment. Even if six years can be considered as relatively short, it is positive that the mandate of the Public Prosecutor exceeds the Assembly's four-year term. Nevertheless, as indicated by the Venice Commission in respect of countries which had a non-renewable six years' term in office "[n]on-renewability is all the more important to safeguard independence".³⁴ As this is again not something that can be addressed by the draft law, the Venice Commission recommends amending the Constitution, in the context of a future constitutional reform, to exclude the possibility of re-election of the Public Prosecutor. In the meantime, given that both the Constitution and the draft law leave it open how often the Public Prosecutor can be reappointed, the Venice Commission recommends clarifying in the draft LPPO that the Public Prosecutor can only be re-appointed once, pending a change to the Constitution to rule out such a reappointment. In addition, the Venice Commission recommends introducing a cooling-off period, to preclude immediate re-election, which would also ensure symmetry with the provisions on membership of the Council of Public Prosecutors.

²⁹ Venice Commission, [CDL-AD\(2010\)040](#), Report on European Standards as regards the Independence of the Judicial System: Part II - the Prosecution Service, para. 36; [CDL-AD\(2017\)013](#), Opinion on the draft revised Constitution of Georgia, paragraph 83.

³⁰ Venice Commission, [CDL-AD\(2024\)034](#), Poland – Opinion on the draft amendments to the Law on the Public Prosecutor's Office, paras. 40-45.

³¹ *Ibid.*

³² Venice Commission, [CDL-AD\(2010\)040](#), Report on European Standards as Regards the Independence of the Judicial System: Part II – the Prosecution Service, 3 January 2011, para. 37.

³³ *Ibid.*

³⁴ Venice Commission, [CDL-AD\(2024\)034](#), Poland – Opinion on the draft amendments to the Law on the Public Prosecutor's Office, para. 48.

b. Grounds for dismissal

38. In a similar manner as outlined above for the members of the Council of Public Prosecutors, Articles 87 and 89 of the draft LPPO sets out two different procedures for the termination of the term of office of the Public Prosecutor before the end of her/his six-year tenure. Firstly, as before in respect of Council members in the draft LCPP, Article 87 of the draft LPPO sets out various objective grounds for terminating the office of the Public Prosecutor, such as loss of citizenship, election to another public office and a conviction for a crime against official duty or a conviction to six months' imprisonment. As the Venice Commission said in 2007 already "(...) there seems to be a somewhat lenient approach to prison sentences. It should be taken into account that in many states normally any kind of prison sentence means that a prosecutor is no longer qualified as a prosecutor. This is quite important to protect the reputation of the whole prosecution service".³⁵ Although anything less than six months' imprisonment would presumably "damage the reputation" of the Public Prosecutor's Office and consequently provide a ground for dismissal pursuant to Article 89 below, for reasons of clarity the Venice Commission recommends stipulating that any criminal conviction involving imprisonment should lead to termination of the term of office of the Public Prosecutor.³⁶

39. Secondly, pursuant to Article 89 of the draft LPPO the Public Prosecutor can be dismissed from office before the expiration of her/his term, if s/he becomes a member of a political party, "violates public order, behaves inappropriately, or otherwise acts in a manner that damages the reputation of the Public Prosecutor's Office" or "fails to undertake measures within their competence necessary for the effective functioning of the Public Prosecutor's Office". Whenever the dismissal of a Public Prosecutor is carried out by a political body, as is the case in North Macedonia (see further below), there is a risk of politicisation of the dismissal procedure and a Public Prosecutor may be dismissed on the basis of shifting political dynamics or partisan considerations, rather than objective legal and professional criteria.³⁷ The risk of such dynamics are not unknown in North Macedonia.³⁸ As the Venice Commission has outlined before, this makes it all the more important that the dismissal procedure is subject "to clear, narrowly defined grounds that protect the officeholder from arbitrary or politically motivated action, thereby maintaining the necessary balance between accountability and independence".³⁹

40. The Venice Commission finds that the abovementioned grounds lack foreseeability, undermining legal certainty. The use of concepts such as "inappropriately", "damages the reputation" and "effective functioning" are too subjective to serve as a basis for deciding on the dismissal of the Public Prosecutor. The Venice Commission finds that these grounds confer too much discretion to the Assembly to adopt such a far-reaching decision as the removal of the Public Prosecutor, in particular considering that this decision would require only a simple majority in the Assembly. As it is, the grounds outlined in Article 89 of the draft law leaves the security of tenure inadequately protected by law.

41. Equal to what it has recommended above on the draft LCPP in respect of the grounds of dismissal of Council members, the Venice Commission recommends using either a "mixed legislative technique" (by retaining broadly worded formula but complementing these with the

³⁵ Venice Commission, [CDL-AD\(2007\)011](#), Opinion on the draft law on the Public Prosecutors Office and the draft law on the Council of Public Prosecutors, para. 56.

³⁶ See in a similar vein in respect of the Prosecutor General (as well as members of a prosecutorial council): Venice Commission, [CDL-AD\(2022\)042](#), Serbia – Opinion on two draft laws implementing the constitutional amendments on the Prosecution Service, para. 56 and 112-113.

³⁷ Venice Commission, [CDL-AD\(2024\)034](#), Poland – Opinion on the draft amendments to the Law on the Public Prosecutor's Office, para. 50.

³⁸ See, for example, "[North Macedonia MPs Pass No-Confidence Motion on Chief Prosecutor](#)", Balkan Insight, 29 July 2025.

³⁹ Venice Commission, [CDL-AD\(2024\)034](#), Poland – Opinion on the draft amendments to the Law on the Public Prosecutor's Office, para. 50.

most common examples of the actions and inactions covered by these grounds, covering a majority of situations while at the same time serving as guidance when applying broadly worded formula) or by describing the grounds in more concrete terms in an explanatory memorandum in order to provide further guidance.⁴⁰ As indicated in a previous opinion, the provision could specify that its application is limited to situations in which the actions are intentional, involving deliberate abuse or, arguably, when repeated, serious or gross negligence.⁴¹ If the grounds for dismissal of the Public Prosecutor are maintained, the Venice Commission recommends using these techniques to provide greater clarity to the concepts of inappropriate behaviour, damaging the reputation of the Public Prosecutor's Office and/or failure to undertake the necessary measures for the effective functioning of the Public Prosecutor's Office as grounds for dismissal of the Chief Prosecutor.

c. Dismissal procedure

42. Article 106 of the Constitution provides that the Assembly dismisses the Public Prosecutor. Article 89 of draft LPPO repeats this but adds that the dismissal of the Public Prosecutor is to be done on proposal of the government, following an opinion of the Council (which the latter will adopt following a written response by the Public Prosecutor and a public session, at which the Public Prosecutor has the right to respond). The opinion of the Council is not binding. In addition, the Council can take an initiative itself for dismissal of the Public Prosecutor, following a proposal of two of its members, which - if five members (excluding the initiators) vote in favour of this - will be submitted to the Assembly.

43. As the Venice Commission has said before, it may be reasonable that the body responsible for electing the officeholder – in this case the Assembly – also retains the power to remove her/him from this position.⁴² This would however require at a minimum that a fair hearing takes place (see further below).⁴³ In addition, as outlined above in respect of the appointment of the Public Prosecutor, the Venice Commission recommends that, in the context of a future constitutional reform, the Constitution also be amended on this point to provide for the possibility that such decisions are taken by a qualified majority in the Assembly, to ensure that a decision on her/his dismissal reflects broad, cross-party agreement in the Assembly and is not dependent on considerations of the political majority of the day.

44. Furthermore, previously when a Parliament retained the power to dismiss a Prosecutor General from her/his position, the Venice Commission has outlined that it would be better that the power to initiate such a procedure is vested in the hands of a different entity, in order to safeguard the office of the Public Prosecutor from political influence.⁴⁴ It is positive that in addition to the power of the government to do so (which perhaps offers little protection against political influence), the power to initiate a dismissal procedure is now also provided to the Council itself (even if the existence of a prosecutorial majority in the Council could potentially shield the Public

⁴⁰ Venice Commission, [CDL-AD\(2017\)018](#), Opinion on the Judicial System Act of Bulgaria, para. 108; Venice Commission, [CDL-AD\(2024\)034](#), Poland – Opinion on the draft amendments to the Law on the Public Prosecutor's Office, para. 50; Venice Commission, [CDL-AD\(2018\)028](#), Malta - Opinion on Constitutional arrangements and separation of powers and the independence of the judiciary and law enforcement, para. 49.

⁴¹ Venice Commission, [CDL-AD\(2024\)034](#), Poland – Opinion on the draft amendments to the Law on the Public Prosecutor's Office, para. 55.

⁴² *Ibid.*, para. 49.

⁴³ Venice Commission, [CDL-AD\(2010\)040](#), Report on European Standards as Regards the Independence of the Judicial System: Part II – the Prosecution Service, 3 January 2011, para. 40.

⁴⁴ Venice Commission, [CDL-AD\(2024\)034](#), Poland – Opinion on the draft amendments to the Law on the Public Prosecutor's Office, para. 49.

Prosecutor from any accountability⁴⁵). In order to further improve this process, in addition to its above recommendations to clarify the grounds for dismissal of the Public Prosecutor, thereby restricting the discretion of the government and Assembly, and to require a qualified majority in the Assembly for the dismissal of the Public Prosecutor once the Constitution were to allow for this, the Venice Commission recommends to explicitly require the government to provide a clear reasoning to the Assembly when it deviates from the opinion of the Council of Public Prosecutors on the dismissal of the Public Prosecutor.⁴⁶

d. Remedies

45. As regards procedural safeguards, as indicated above and as the Venice Commission has previously stated, the Public Prosecutor “should benefit from a fair hearing in dismissal proceedings, including before the Parliament”.⁴⁷ Article 89, paragraph 14 of the draft LPPO provides that the Public Prosecutor has the right to attend the session of the Assembly and respond to the Government’s or Council’s proposal for dismissal (in addition to the hearing mentioned in the process of deciding on an opinion of the Council of Public Prosecutors, pursuant to Article 89, para. 5 of the draft LPPO). This is welcome. Furthermore, while the draft LPPO does not seem to provide for judicial review of the decision of the Assembly, the Minister of Justice has explained in his comments that the Law on Administrative Disputes (Article 3, para. 5) allows the initiation of an administrative dispute concerning the legality of final individual acts on election, appointment and dismissal of holders of public functions adopted by the Assembly. The Venice Commission welcomes this but considers that, in light of the fact that for ordinary prosecutors the right of access to a court is explicitly mentioned in the draft LPPO⁴⁸ and given that this mechanism did not seem to be well-known during the visit to Skopje, the authorities may wish to make an explicit reference in the draft LPPO to the right of access to a court in respect of a possible claim of unfair dismissal of the Public Prosecutor by the Assembly.

3. Prosecutors other than the Public Prosecutor

a. Term of office and security of tenure

46. In line with the position of the Venice Commission⁴⁹, public prosecutors other than the Public Prosecutor are elected by the Council of Public Prosecutors for an indefinite period of time. Their term of office is terminated on a number of objective grounds (similar to those described above for the Public Prosecutor), such a loss of citizenship, retirement, convictions for a criminal offence against official duty or to a prison sentence of at least six months (whereby the Venice Commission refers to its recommendation in respect of the Public Prosecutor above) or if they are dismissed from their position (Article 88, draft LPPO). As regards the latter, they can be dismissed if they become a member of a political party, commit a most severe disciplinary violation pursuant to Article 94 of the draft law, which – according to the additional information provided by the Minister of Justice on a possible translation error in Article 90 – has led to “severe consequences” (on which further under disciplinary proceedings below) or if they commit three or more major or most severe disciplinary violations over the last five years (Article 90, paras. 1

⁴⁵ See in the same vein: Venice Commission, [CDL-AD\(2019\)031](#), Bulgaria – Opinion on draft amendments to the Criminal Procedure Code and the Judicial System Act, concerning criminal investigations against top magistrates, paras. 29-33.

⁴⁶ As outlined by the Minister of Justice in his comments, Article 89, para. 7, draft LPPO requires a representative of the proponent or initiator of the dismissal procedure to present the initiative – in this case by the government – to the Council. However, this remains confined to proceedings before the Council (notwithstanding this being a public session), when the Council has not yet adopted its opinion.

⁴⁷ Venice Commission, [CDL-AD\(2010\)040](#), Report on European Standards as Regards the Independence of the Judicial System: Part II – the Prosecution Service, 3 January 2011, para. 40.

⁴⁸ For example, in respect of dismissal of prosecutors in Article 97, para. 4, draft LPPO.

⁴⁹ Venice Commission, [CDL-AD\(2010\)040](#), Report on European Standards as Regards the Independence of the Judicial System: Part II – the Prosecution Service, 3 January 2011, paras. 48-50.

and 2 of the draft LPPO). Judicial review of a decision by the Council to dismiss a prosecutor is explicitly provided for (Article 97, para. 4, on which further below), which is welcome.

b. Evaluations

47. Similar to the Law currently in force, the draft LPPO provides for a system of regular evaluations (every three years, instead of every four under the current Law) and extraordinary evaluations (for promotions and certain roles, e.g. appointment as a member of the Council of public prosecutors) (Article 36, draft LPPO). Evaluations are organised hierarchically⁵⁰ and do not foresee a role for the Council of Public Prosecutors (unlike the role that is foreseen for the Judicial Council in respect of judges), unless the prosecutor in question is dissatisfied with her/his evaluation, in which case the Council decides in second instance (Article 51).

48. Pursuant to Article 37 of the draft LPPO, the performance of public prosecutors is assessed on the basis of a closed set of criteria.⁵¹ These criteria are further elaborated in Articles 38–44 of the draft LPPO, providing more detailed descriptions of what each requirement entails. The assessment of these criteria is conducted through direct insight into the handling of cases by more senior prosecutors, monthly reports, direct interviews (etc.), making use of both quantitative (case numbers, resolution within deadlines, resolution rates etc.) and qualitative indicators (quality of decisions, adherence to legal standards, quality of reasoning etc.) following a scoring system prescribed by a rulebook adopted by the Public Prosecutor of the Republic (Articles 45–50 of the draft LPPO). Evaluation decisions are shared with the evaluated prosecutor, the Council of Public Prosecutors and the Public Prosecutor of the Republic. Prosecutors can appeal a negative evaluation to the Council within eight days, whereby the Council is to decide within 30 days potentially involving inspections or interviews. If justified, a new evaluation is issued, which cannot be less favourable than the original. The Council's decision is final.

49. In line with CCPE Opinion No. 11 (2016), the provisions establish a formal evaluation system with clear and previously published quantitative and qualitative criteria on necessary and indispensable elements of prosecutorial work, and a review process, ensuring transparency and foreseeability.⁵² The Venice Commission acknowledges that some of the evaluation criteria are relatively broad in scope.⁵³ However, given complexity of prosecutorial work, it also recognises that certain factors enhancing (or diminishing) a prosecutor's performance cannot always be reduced to more mechanical standards. Overall, the provisions appear to adequately support professional development and career progression, with a mechanism to appeal to the Council.

50. In spite of this positive assessment, the draft LCPP would benefit from a few further improvements. Currently, the provisions on the evaluation process do not contain adequate procedural safeguards for prosecutors under evaluation, such as the right of access to material forming part of the evaluation and the right to be heard. It is noted that when a prosecutor appeals

⁵⁰ The Public Prosecutor of North Macedonia evaluates prosecutors in the State Public Prosecutor's Office, Higher Public Prosecutor's Offices, the Office for the Prosecution of Organised Crime and Corruption and those seconded to international bodies. Higher public prosecutors evaluate prosecutors in their respective offices and so forth (Article 36, para. 5, draft LPPO).

⁵¹ Namely: expertise and quality in decisions, legal remedies, and other written outputs; timeliness and efficiency; impartiality and conscientiousness; reputation and ethical conduct worthy of the function; cooperation and attitude toward parties and colleagues within the prosecution office; professional development and acquisition of new knowledge; organisational abilities.

⁵² CCPE, [Opinion No. 11](#) (2016) on the quality and efficiency of the work of prosecutors, including when fighting terrorism and serious and organised crime, paras. 42–46.

⁵³ For example, a “proper approach to drafting and adopting prosecutorial decisions” (Article 38, draft LPPO); “dignity and authority within the environment in which the public prosecutor works and lives” (Article 41, draft LPPO); “supporting the professional development and advancement of colleagues” (Article 42, draft LPPO), and “participation as an educator, mentor, or lecturer, and publishing scholarly or professional articles” (Article 43, draft LPPO),

to the Council an interview “may” be conducted with her/him, pursuant to Article 53 of the draft LPPO. By providing for a simple possibility of a hearing, this provision falls short of a right to be heard. In this context, the Commission has also underlined that the more serious the consequences of an evaluation can be for a prosecutor, the more important the right to an effective independent review is.⁵⁴ It therefore recommends including further procedural safeguards in the law, by providing for the right of access to material forming part of the evaluation, the right to be heard and an appeal to a court of law (especially in light of the fact that two unsatisfactory evaluations are regarded as a “most severe disciplinary violation”, pursuant to Article 94 of the draft LLPO, which could lead to dismissal, pursuant to Article 90 of the draft LLPO, if this provision is not removed from the draft law).⁵⁵

51. As regards this latter point, the Venice Commission has previously in its Opinions already outlined that the possibility of dismissal in case of two consecutive unsatisfactory performance evaluation should be removed.⁵⁶ It is recalled that it has specifically cautioned in respect of judges (*mutatis mutandis* prosecutors) against the unsatisfactory performance forming the basis for a most severe disciplinary offence, when repeated twice in a row, stressing that “professional evaluation of a judge or prosecutor and disciplinary liability should be kept clearly distinct”.⁵⁷ More in particular in respect of judges, it has been outlined by the Consultative Council of European Judges (CCJE) that “dismissal may be the consequence if the inevitable conclusion of the evaluation process is that the judge is incapable or unwilling to perform his/her judicial duties to a minimum acceptable standard, objectively judged”.⁵⁸ Therefore, if the authorities retain the possibility of a dismissal in case of two consecutive negative performance evaluations, it is recommended that the draft law specify that as a result of these two consecutive evaluations, there must be a decision that sets out that it has been verified that the assessed judge or prosecutor is incapable or unwilling to perform their functions to an objectively assessed minimum acceptable standard, rather than this being phrased as a “most severe disciplinary violation”.⁵⁹

c. Disciplinary violations

52. As outlined in the letter of the Minister of Justice, one of the main aims of the draft law is to provide a new framework for disciplinary proceedings. In the view of the Venice Commission, with the categorisation of disciplinary violations in three types of violations: minor, major and most

⁵⁴ Venice Commission, [CDL-AD\(2025\)010](#), Kosovo – Opinion on the draft law on recruitment, performance evaluation, integrity control, and status of judges and prosecutors and on the draft law amending the law on the disciplinary liability of judges and prosecutors, para. 39; [CDL-AD\(2024\)031](#), Joint Opinion on the draft amendments to the Judicial Code of Armenia (regarding evaluation of judges), paras. 47-50;

⁵⁵ While a judicial review of a dismissal decision is provided for, given that a decision on dismissal will be based on valid evaluation reports, a judicial remedy against such a decision may not be effective. Similarly as regards the possibility of providing for a judicial remedy for the event of dispute arising from the result of a performance evaluation: Venice Commission, [CDL-AD\(2025\)010](#), Kosovo - Opinion on the draft law on recruitment, performance evaluation, integrity control, and status of judges and prosecutors and on the draft law amending the Law on the disciplinary liability of judges and prosecutors, para. 39.

⁵⁶ [CDL-AD\(2025\)010](#), Kosovo – Opinion on the draft Law on recruitment, performance evaluation, integrity control, and status of judges and prosecutors and on the draft law amending the law on the disciplinary liability of judges and prosecutors, para. 36.

⁵⁷ Venice Commission, [CDL-AD\(2022\)050](#), Montenegro - Opinion on the draft amendments to the Law on the Judicial Council and Judges, para. 63; [CDL-AD\(2025\)010](#), Kosovo – Opinion on the draft Law on recruitment, performance evaluation, integrity control, and status of judges and prosecutors and on the draft law amending the law on the disciplinary liability of judges and prosecutors, para. 36.

⁵⁸ CCJE, [Opinion No. 17](#) (2014) on the evaluation of judges' work, the quality of justice and respect for judicial independence, para. 44.

⁵⁹ [CDL-AD\(2025\)010](#), Kosovo – Opinion on the draft Law on recruitment, performance evaluation, integrity control, and status of judges and prosecutors and on the draft law amending the law on the disciplinary liability of judges and prosecutors, para. 76, recommendation 3.

severe (Article 91, draft LPPO), addressing a range of (mis)conduct in each of these categories (Articles 92-94, draft LPPO), the draft law meets its objective in providing for a more proportional disciplinary system.

53. In addition, the draft law establishes clear procedural rules setting out who can initiate a disciplinary procedure, how this is to be done and the time frame within which this is to be done (Article 95, draft LPPO). For the purpose of conducting disciplinary proceedings a five-member Disciplinary Commission is to be elected (by the collegiums of the State Public Prosecutor's Office and the Higher Public Prosecutor's Offices) from each of the Higher Prosecutor's Offices or their territorial jurisdiction and one of the State Public Prosecutor's Offices (Article 95, paras. 5-10, draft LPPO). Upon receipt of the case, the Disciplinary Commission will ask the accused prosecutor for written explanations, after which – if it finds the proposal for the initiation of disciplinary proceedings well-founded (if not, an appeal can be launched to the Council by the prosecutor who proposed to initiate disciplinary proceedings) – it will start the disciplinary proceedings, whereby the provisions outlines various procedural safeguards (right to present evidence, to be heard, to defence by counsel and to appeal to the Council of Public Prosecutors) and clear time-lines. For the most severe violations with “harmful consequences” (see above as regards “severe consequences”), the Disciplinary Commission may propose dismissal to the Council, which may confirm or impose an alternative measure, with the prosecutor subject to this decision being able to appeal to an administrative court. Article 98 draft LPPO provides for graduated disciplinary measures based on the severity of the violation, with the possibility of an appeal to the Council within eight days and the Council deciding within three months.

54. The Venice Commission considers that the disciplinary material and the procedural provisions are predominantly positive, offering a well-structured framework that balances accountability with prosecutorial independence. The procedural safeguards (e.g., defence rights, appeals), and graduated measures align with European standards. Some of the disciplinary grounds could however be further improved, for example:

- Article 93, indent 3, identifies as a major disciplinary violation the failure to fulfil mentoring duties in accordance with the Law on the Academy for Judges and Public Prosecutors. While it could be, as mentioned in the comments of the Ministry of Justice, that such a failure to fulfil mentoring duties is indeed further clarified in this Law, without further information, the Venice Commission can only say that, as it stands, this provision lacks sufficient precision and requires clarification as to what exactly constitutes “mentoring duties”, and which forms of non-compliance would qualify as a major disciplinary offence;
- Article 94, indent 5, identifies as a most severe disciplinary violation “obstruction of oversight of the work of a public prosecutor by a higher public prosecutor”, which is unclear as a basis for establishing a violation that may ultimately lead to dismissal;
- Article 94, indent 10 and indent 13 stipulate that respectively failure to comply with binding general instructions issued by the higher public prosecutor in accordance with this law and unauthorised access to the file of an ongoing case assigned to another prosecutor constitute a most severe disciplinary violation. However, not every minor or incidental failure to follow aforementioned instructions or every incidental or unintentional access to another case should constitute grounds for initiating disciplinary proceedings. A clearer distinction should be made between wilful act with the purpose to abuse one's official power and negligence.
- Article 94, indent 12 stipulates that failure to provide information or facts relevant to a disciplinary procedure is a most severe disciplinary offence. This requirement does not seem compatible with the privilege against self-incrimination;

55. In addition to these grounds, Article 90 provides “[a] public prosecutor shall likewise be dismissed on the grounds set out in Article 94 of this Law if the disciplinary violation has caused severe consequences”. The formulation “severe consequences” is too vague and not foreseeable enough to serve as a basis for taking significant measures in respect of the professional career of a prosecutor and would need to be amended. In addition, if the above

disciplinary grounds are maintained, the Venice Commission recommends further clarifying them (similar to what it said in respect of grounds of dismissal of the Public Prosecutor and Council members), possibly by providing examples of actions and inactions covered by these grounds or prescribing them more concretely in – for example – the rulebook to be adopted, which would provide additional clarity and foreseeability.

56. Moreover, a number of the disciplinary offences, such as “providing false information or failing to submit relevant data when a public prosecutor requests any kind of authorisation for themselves, or seeks reimbursement of expenses, salary supplements, or similar benefits” (Article 93), “abuse of the prosecutorial status in order to obtain benefits or privileges unrelated to a specific case” (Article 93), providing “substantially false information” in the declaration of assets (Article 94), may constitute criminal conduct. In discussing this on site, it was clarified that disciplinary proceedings would not pre-empt a criminal investigation into the same facts or *vice versa*, which is welcome.

57. Finally, as already commented on above, Article 94 of the draft LPPO provides that receiving two consecutive negative performance evaluations constitutes a most severe disciplinary violation (for which – pursuant to Article 90 of the draft LPPO – a prosecutor can “be dismissed from duties”, presumably if this disciplinary violation has had “severe consequences”). As indicated above under “evaluations”, disciplinary liability should be clearly separated from performance assessments, as these involve different types of omissions. While it is agreed that prosecutors who, for any reason, fail to properly fulfil their duties should not continue working in the prosecution service, disciplinary offences are primarily concerned with intentional or wilful misconduct. At the same time in cases where a prosecutor lacks the necessary professional competence, this does not amount to deliberate wrongdoing and, therefore, should not result in punitive measures as such. For this reason, and as previously noted, acts that constitute disciplinary violations should clearly be separated from the criteria for assessing prosecutors’ performance, keeping the two domains distinct so that they would serve their specific purpose.

4. Autonomy of the Public Prosecutor’s Office

a. Hierarchy and instructions

58. The draft law on the Public Prosecutor’s Office maintains a hierarchical model of the Public Prosecutor’s Service (while at the same time providing that abiding by the principles of hierarchy and subordination “must not jeopardise the independence and responsibility of each public prosecutor in the performance of their functions” (Article 3, para. 3 LPPO). As the Venice Commission has stated before “[a] hierarchical system will lead to uniformity of procedures (...) and can thus bring about legal certainty”.⁶⁰ Therefore, according to the Venice Commission’s standards, the hierarchical model is acceptable and some form of hierarchical control over the decisions and activities of prosecutors is allowed: In a system of hierarchical subordination, prosecutors are bound by the directives, guidelines and instructions issued by their superiors.⁶¹ In this context, the Venice Commission generally makes a difference between general instructions and case-by-case instructions, with the latter requiring specific safeguards.⁶²

⁶⁰ Venice Commission, [CDL-AD\(2008\)019](#), Opinion on the draft law on the Public Prosecutors’ service of Moldova, § 15.

⁶¹ Venice Commission, [CDL-AD\(2010\)040](#), Report on European Standards as regards the Independence of the Judicial System: Part II - the Prosecution Service, paras. 28, 30 and 31.

⁶² These safeguards include: i) all instructions given by a senior prosecutor in a specific case must be reasoned (see Venice Commission, [CDL-AD\(2017\)028](#), Poland - Opinion on the Act on the Public Prosecutor’s office, as amended, para. 55) and in writing; (ii) in case of doubt as to the legality of an instruction, the lower prosecutor should have the right to initiate a review by a court or an independent body such as a prosecutorial council; (iii) the law should clearly establish that the parties to the case have access to the instructions given by a superior public prosecutor (see Venice Commission, [CDL-AD\(2017\)028](#), Poland - Opinion on the Act on the Public Prosecutor’s office, as amended, para. 112).

59. Pursuant to Article 56 of the draft LPPO, the Public Prosecutor may provide “reasoned compulsory general written instructions”, with the higher public prosecutors having the right to do the same in respect of basic public prosecutors within their jurisdiction. It is furthermore explicitly provided that these instructions cannot pertain to the handling of specific cases (para. 4) but can only relate to the undertaking of measures aimed at “protecting fundamental rights and freedoms (...), safeguarding the public interest, enhancing the effectiveness of criminal investigations and prosecutions, pursuing legal remedies and applying the law” (para. 3). If higher public prosecutors issue such instructions, they are obliged to notify the Public Prosecutor of the Republic in writing (para. 5). The Venice Commission welcomes this explicit prohibition on mandatory instructions in specific cases and that any general instructions must always be reasoned and in writing, with the Public Prosecutor to be notified.

b. Accountability

60. As the Venice Commission has outlined before, the Public Prosecutor’s Office needs to be accountable to the public, like any other state authority.⁶³ Article 27 of the draft LPPO outlines the main responsibility of the Public Prosecutor for “the overall state of affairs concerning the organisation and execution of the functions of the Public Prosecutor’s Office” and his/her accountability vis-à-vis the Assembly for his/her own work and that of the Public Prosecutor’s Office. In the view of the Venice Commission, the wording used is ambiguous and could, in principle, be interpreted broadly to include all prosecutorial activities, including the investigation and prosecution of individual criminal cases handled by the Public Prosecutor’s Office, rather than the overall public expenditure and efficiency of the office.⁶⁴ This may not have been the intended meaning. To avoid any misinterpretation, the Venice Commission recommends that the provision be amended to clearly exclude the Public Prosecutor’s accountability to the Assembly for individual prosecutorial decisions and prosecutions, and to restrict this accountability to institutional, managerial, and organisational aspects of the Public Prosecutor’s Office. In the event when the oversight by the Assembly discloses issues of legal liability of the Chief Prosecutor, those matters would have to be examined separately within the other mechanisms ensuring a fair hearing.⁶⁵

c. Budgetary autonomy

61. Pursuant to Article 105 of the draft LPPO, the amount of funds for the operation of Public Prosecutor’s Office amounts to at least 0,5% of the budget of the Republic of North Macedonia in the year in question, as compared to 0,4% in the Law currently in force. A novelty is that paragraph 1 of Article 105 now envisages greater financial autonomy for the prosecution service

See also on this Venice Commission, [CDL-AD\(2016\)007rev](#), Rule of Law Checklist, para. 92; [CDL-AD\(2010\)040](#), Report on European Standards as regards the Independence of the Judicial System: Part II - the Prosecution Service, notably paras. 57-60. See also the Recommendation [CM/Rec\(2000\)19](#) of the Committee of Ministers to member states on the role of public prosecution in the criminal justice system; Report from European Conference of Prosecutors, Palermo, 5-6 May 2022, Thematic session I – prosecutorial independence, autonomy and accountability: different models, common challenges in protection of human rights, [CDL-PI\(2022\)033](#), paras. 13-14

⁶³ Venice Commission, [CDL-AD\(2010\)040](#), Report on European Standards as Regards the Independence of the Judicial System: Part II – the Prosecution Service, 3 January 2011, para. 41; See also: CCPE, [Opinion No. 13](#) (2018) on the independence, accountability and ethics of prosecutors, paras. 46-50.

⁶⁴ See also: Venice Commission, [CDL-AD\(2021\)030](#), Montenegro - Urgent Opinion on the revised draft amendments to the Law on the State Prosecution Service, para. 58; Venice Commission, [CDL-AD\(2022\)042](#), Serbia – Opinion on two draft laws implementing the constitutional amendments on the Prosecution Service, para. 91.

⁶⁵ See Venice Commission, Bulgaria – Opinion on the draft amendments to the Criminal Procedure Code and the Judicial System Act, [CDL-AD\(2022\)032](#), para. 23

by providing that the Public Prosecutor's Office "independently determines and manages the budget and decides on the use, allocation, purpose and reallocation of the funds". The Venice Commission welcomes that the Public Prosecutor's Office is now exclusively in charge of its own budget, as well as the fixed minimum of the budget allocated to the Public Prosecutor's Office and the proposed increase (even if almost all interlocutors doubted whether the amount of 0,4% was ever reached).

IV. Conclusion

62. By letter of 24 July 2025, the Minister of Justice of North Macedonia, Mr Igor Filkov, requested an opinion of the Venice Commission of the Council of Europe on the draft law on the Public Prosecutor's Office and the draft law on the Council of Public Prosecutors. The two laws contain many positive features, either new or taken over from the Laws currently in force. Nevertheless, a few shortcomings remain. A number of these shortcomings, such as the possibility of renewal of the appointment of the Public Prosecutor and the simple majority needed in the Assembly for both the appointment and dismissal of the Public Prosecutor, can however not be addressed by these laws. This would necessitate constitutional amendments. Given the importance of these issues for the autonomy and relative independence of the Public Prosecutor's Office, the Venice Commission recommends first and foremost that, in the context of a future constitutional reform, the Constitution also be amended on these points, to no longer provide for the possibility for the Public Prosecutor to be reappointed and to provide for a qualified majority in the Assembly for her/his appointment and dismissal.

63. In respect of the draft law on the Council of Public Prosecutors, the Venice Commission makes the following key recommendations:

- (1) to reconsider the duration of professional experience for all lay members of the Council of Public Prosecutors, with a view to uniformising them;
- (2) to provide an alternative to the way the four lay members are to be elected pursuant to the draft law, whereby it is to be ensured that the election is based on the merits and integrity of the candidates and favours a diverse representation;
- (3) to provide that the prosecutorial functions of prosecutors elected to the Council of Public Prosecutors by their peers are suspended for the duration of their term on the Council;
- (4) to clarify in the commentaries to the draft law (if not the law itself) the concepts "impacts the autonomy of public prosecutors" or "neglects or fails to perform their function and duties in the work of the Council" as grounds for dismissal of members of the Council of Public Prosecutors;
- (5) to include additional safeguards to prevent that critical decisions, including decisions on the pre-term loss of mandate of Council members, are inevitably determined by the prosecutorial majority in the Council;
- (6) to explicitly provide in the draft law that both the prosecutorial and lay members of the Council sit on this body in their individual capacity and that the prosecutorial members of the Council are not subordinated to the Public Prosecutor of the Republic in as far their work in the Council is concerned, and to stipulate that the Public Prosecutor has no voting rights on the Council in certain areas, such as discipline;
- (7) to provide as a transitional measure that current Council members continue to serve until completion of their existing terms.

64. In turn, in respect of the draft law on the Public Prosecutor's Office, the Venice Commission makes the following key recommendations:

- (1) to incorporate managerial and organisational skills in the eligibility criteria for the position of Public Prosecutor;
- (2) to clarify in the law that the mandate of the Public Prosecutor can only be renewed once, pending a necessary amendment to the Constitution to prevent reappointment

- of the Public Prosecutor, and to introduce a cooling-off period precluding immediate re-election;
- (3) to stipulate that any criminal conviction entailing imprisonment terminates the term of office of the Public Prosecutor and prosecutors;
 - (4) to amend the grounds for dismissal of the Public Prosecutor to provide for greater clarity and foreseeability;
 - (5) to require the government to provide a clear reasoning to the Assembly when it deviates from the opinion of the Council of Public Prosecutors on the dismissal of the Public Prosecutor;
 - (6) to provide adequate procedural safeguards for prosecutors under evaluation;
 - (7) to remove two consecutive negative performance evaluations from the list of “most severe disciplinary violations” which could lead to dismissal;
 - (8) to clarify that the accountability of the Public Prosecutor to the Assembly does not extend to individual prosecutorial decisions and prosecutions of the Public Prosecutor’s Office.

65. In addition, the Venice Commission recommends:

- (1) to allow for lay members of the Council of Public Prosecutor to become President of the Council of Public Prosecutors;
- (2) to broaden one of the conflict-of-interest categories (requiring the recusal of members of the Council of Public Prosecutors) beyond situations in which the prosecutor has participated or is participating in other proceedings against that public prosecutor or candidate for public prosecutor;
- (3) to delete the phrase “unless otherwise determined” from the provision on the equality of rights and obligations of members of the Council of Public Prosecutors in the draft law on the Council of Public Prosecutors or to provide a closed list of exceptions to the equality of rights and obligations of members of the Council;
- (4) to clarify some of the disciplinary grounds in Articles 93 and 94 of the draft law on the Public Prosecutor’s Office as well as the concept of “severe consequences” used in Article 90 of that same draft law.

66. The Venice Commission remains at the disposal of the authorities of North Macedonia for further assistance in this matter.