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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

REVISED DRAFT LAW

ON

THE STATE PROSECUTION OFFICE

OF MONTENEGRO

4 December 2014

CDL-REF(2015)002

Montenegro

GOVERNMENT OF MONTENEGRO

Number: 08-2850/4

Podgorica, 4 December 2014

**Attn. PRESIDENT OF THE PARLIAMENT OF MONTENEGRO
PODGORICA**

The Government of Montenegro, at the meeting of 4 December 2014, adopted the PROPOSAL FOR THE LAW ON PUBLIC PROSECUTION OFFICE which is enclosed below to be included on the Agenda of the Parliament.

The Government proposes to the Parliament, pursuant to Article 151 of the Rules of Procedure of the Parliament of Montenegro ("Official Gazette of RM", 51/06 and 66/06 and "Official Gazette of Montenegro", 88/09, 39/11 and 25 / 12), to pass this Law under the simplified procedure for the reasons contained in the Proposal for the Law.

The appointed representatives of the Government who will participate in the work of the Parliament and its working bodies, when considering the Proposal for this Law, are DUSKO

*MARKOVIC, Deputy Prime Minister and Minister of Justice
BRANKA LAKOCEVIC, Assistant Minister of Justice.
President Milo Djukanovic: m.p.*

LAW ON PUBLIC PROSECUTION OFFICE**I. GENERAL PROVISIONS****Subject Matter of the Law****Article 1**

The present Law shall regulate establishment, organisation and jurisdiction of the Public Prosecution Office, organization of the work of the Public Prosecutor's Offices, composition, election, mandate, organization and operation of the Prosecutorial Council, in addition to other issues of significance for the work of the Public Prosecution Office and Prosecutorial Council.

Constitutionality and Legality**Article 2**

The Public Prosecution Office shall prosecute criminal offenses that are prosecuted ex officio and misdemeanor criminal offenses and execute other duties prescribed by law.

The Public Prosecution Office shall perform its function based on the Constitution, laws and ratified international treaties.

Autonomy**Article 3**

The Public Prosecutor shall not exercise his or her office under anybody's influence and nobody shall influence the Public Prosecutor in the exercise of his/her office.

Impartiality**Article 4**

The Public Prosecutor shall exercise his or her office impartially and objectively, pursuant to the principles of legality and equality before the law.

Publicity**Article 5**

Operation of the Public Prosecution Office shall be provided in the manner prescribed by law.

Professional Skills Development**Article 6**

Public Prosecutors shall have the right and duty to develop their professional skills in order to exercise their office more successfully.

Funding**Article 7**

Funds for the work of the Public Prosecution Office shall be provided in the budget of Montenegro.

Wages**Article 8**

The Supreme Public Prosecutor and Public Prosecutor shall have the right to wages and other entitlements, in accordance with the law.

Right to Association**Article 9**

Heads of the Public Prosecutor's Offices and Public Prosecutors shall have the right to professional association.

Use of Gender-Sensitive Language
Article 10

Terms used in this law for natural persons in the masculine gender shall include the same terms in feminine gender.

II. ESTABLISHMENT, ORGANIZATION AND JURISDICTION OF THE PUBLIC PROSECUTION OFFICE

Structure of the Public Prosecution Office
Article 11

The Public Prosecution Office shall include establishing the Supreme Public Prosecutor's Office, Special Public Prosecutor's Office, High Public Prosecutor's Offices and Basic Public Prosecutor's Offices.

The Supreme Public Prosecutor's Office shall be established for the territory of Montenegro, with the seat in Podgorica.

The Special Public Prosecutor's Office shall be established for the territory of Montenegro, with the seat in Podgorica.

The High Public Prosecutor's Office shall be established for the territory of the High Court.

The Basic Public Prosecutor's Office shall be established for the territory of one or more Basic Courts.

Supreme Public Prosecutor's Office
Article 12

The Supreme Public Prosecutor's Office shall act before the Supreme Court of Montenegro, Court of Appeal of Montenegro, Administrative Court of Montenegro, other courts and other state authorities, in accordance with the law.

The Supreme Public Prosecutor's Office shall, in accordance with the law, file a petition for protection of legality.

The Supreme Public Prosecutor's Office shall also exercise other duties, which are not defined as falling within the competence other Public Prosecutor's Offices.

Special Public Prosecutor's Office
Article 13

The Special Public Prosecutor's Office shall operate in accordance with a special law regulating the conditions for the selection of high officials and Public Prosecutors at the Special Public Prosecutor's Office, the jurisdiction and organization of the Special Public Prosecutor's Office and other issues of significance for the exercise of office.

High Public Prosecutor's Office
Article 14

The High Public Prosecutor's Offices shall include:

- 1) The High Public Prosecutor's Office in Bijelo Polje, to proceed before the High Court of Bijelo Polje; and
- 2) The High Public Prosecutor's Office in Podgorica, to proceed before the High Court in Podgorica.

The High Public Prosecutor's Office shall proceed in all actions falling under their competence before the courts and other authorities which have the subject matter and territorial jurisdiction.

**Basic Public Prosecutor's Office
Article 15**

Basic Public Prosecutor's Offices shall include

:

- 1) The Basic Public Prosecutor's Office in Bar, for the territory of the Basic Court of Bar;
- 2) The Basic Public Prosecutor's Office in Berane, for the territory of the Basic Court of Berane;
- 3) The Basic Public Prosecutor's Office in Bijelo Polje, for the territory of the Basic Court of Bijelo Polje;
- 4) The Basic Public Prosecutor's Office in Kolasin, for the territory of the Basic Court of Kolasin;
- 5) The Basic Public Prosecutor's Office in Kotor, for the territory of the Basic Court of Kotor;
- 6) The Basic Public Prosecutor's Office in Niksic, for the territory of the Basic Court of Niksic;
- 7) The Basic Public Prosecutor's Office in Plav, for the territory of the Basic Court of Plav;
- 8) The Basic Public Prosecutor's Office in Pljevlja, for the territory of the Basic Court of Pljevlja and the Basic Court of Zabljak;
- 9) The Basic Public Prosecutor's Office in Podgorica, for the territory of the Basic Court of Podgorica and the Basic Court of Danilovgrad;
- 10) The Basic Public Prosecutor's Office in Rozaje, for the territory of the Basic Court of Rozaje;
- 11) The Basic Public Prosecutor's Office in Ulcinj, for the territory of the Basic Court of Ulcinj;
- 12) The Basic Public Prosecutor's Office in Herceg Novi, for the territory of the Basic Court of Herceg Novi; and
- 13) The Basic Public Prosecutor's Office in Cetinje for the territory of the Basic Court of Cetinje.

The Basic Public Prosecutor's Office shall take all actions falling under their competence before the court which has subject matter and territorial jurisdiction.

Actual and Local Jurisdiction

Article 16

The Public Prosecution Office shall proceed in accordance with their actual and local jurisdiction, unless otherwise provided by the law.

In order to perform the function of prosecution of perpetrators of criminal offences and misdemeanors, the Public Prosecution Office shall have the authority to determine and undertake measures requisite for detection of criminal and other offences punishable by law and their perpetrators, in cooperation with competent authorities.

Administration

Article 17

The Public Prosecution Office shall be headed by the Supreme Public Prosecutor. Each Basic and High Public Prosecutor's Office shall be headed by the Head of the Public Prosecutor's Office, the Special Public Prosecutor's Office shall be headed by the Head of the Special Public Prosecutor's Office, and the Supreme Public Prosecutor's Office shall be headed by the Supreme Public Prosecutor.

The Head of the Public Prosecutor's Office and the Public Prosecutor shall exercise the prosecutorial office at the Public Prosecutor's Office to which they were appointed, seconded or transferred in accordance with this Law.

III. PROSECUTORIAL COUNCIL

1. *The composition and mandate of the Prosecutorial Council*

Composition of the Prosecutorial Council Article 18

The Prosecutorial Council shall have a President and ten members.

President of the Prosecutorial Council shall be the Supreme Public Prosecutor.

Members of the Prosecutorial Council shall include:

- 1) five Public Prosecutors who hold a permanent office and have at least five years of experience in the exercise of prosecutorial office, of which four working at the Supreme Public Prosecutor's Office, Special Public Prosecutor's Office and High Public Prosecutor's Offices, and one working at the Basic Public Prosecutor's Offices, who shall be appointed and relieved from office by the Conference of Public Prosecutors;
- 2) four prominent jurists appointed and relieved from office by the Parliament of Montenegro (hereinafter: the Parliament) at the proposal of the competent working body;
- 3) one representative of the state administration body in charge of justice (hereinafter: the Ministry of Justice), appointed by the Minister of Justice from among the employees of the Ministry of Justice.

No member of the Prosecutorial Council shall be elected from among the Public Prosecutors whose performance was rated as not satisfactory or who were subject to a disciplinary sanction.

The composition of the Prosecutorial Council shall be promulgated by the President of Montenegro.

Administrative assistance to the Prosecutorial Council shall be provided by the Secretariat of the Prosecutorial Council.

Mandate of the Prosecutorial Council Article 19

The mandate of the Prosecutorial Council shall last for four years.

The mandate of the member of the Prosecutorial Council who was subsequently elected to the vacancy in the Prosecutorial Council shall expire at the end of the mandate of the Prosecutorial Council.

Upon termination of the mandate of any member of the Prosecutorial Council, the body that elected him/her shall elect a new member immediately.

2. *The method of election and termination of office of the Prosecutorial Council members*

Conference of Public Prosecutors

Article 20

The members of the Prosecutorial Council shall be elected from among the Public Prosecutors and removed from office by the Conference of Public Prosecutors, by secret ballot.

The Conference of Public Prosecutors shall include all Heads of Public Prosecutor's Offices and Public Prosecutors.

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The Conference of Public Prosecutors shall adopt the Code of Ethics for Public Prosecutors.

The Conference of Public Prosecutors shall elect President of the Committee to monitor the application of the Code of Ethics for Public Prosecutors (hereinafter: the Committee for the Code of Ethics for Public Prosecutors).

Administrative and technical assistance to the Conference of Public Prosecutors and the Committee for the Code of Ethics for Public Prosecutors shall be provided by the Secretariat of the Prosecutorial Council.

Committee for the Code of Ethics for Public Prosecutors

Article 21

The Committee for the Code of Ethics for Public Prosecutors shall have a President and two members. The President shall be elected from among the members of the Prosecutorial Council who are not the Public Prosecutors, one member shall be elected by the enlarged meeting of the Supreme Public Prosecutor's Office from among the Public Prosecutors, and the other member shall be the President of the Association of Public Prosecutors of Montenegro.

The Committee for the Code of Ethics for Public Prosecutors shall be elected for a term of four years.

Any person may contact the Committee for Code of Ethics of Public Prosecutors to comment on whether or not the behavior of the Public prosecutor is in accordance with the Code of Ethics for Public Prosecutors.

The Committee for the Code of Ethics for Public Prosecutors shall report to the Prosecutorial Council annually, by 31 March of the current year for the previous year.

The Committee for the Code of Ethics for Public Prosecutors shall adopt the Rules of Procedure regulating in details their operation and decision making.

Deciding by the Conference of Public Prosecutors

Article 22

The Conference of Public Prosecutors shall work and make decisions at meetings.

Meetings of the Conference of Public Prosecutors shall be convened and chaired by the Supreme Public Prosecutor.

Meetings of the Conference of Public Prosecutors shall be held in the presence of no less than two-thirds of the members, and decisions shall be taken by majority vote of the Conference of Public Prosecutors present.

The Conference of Public Prosecutors shall adopted the Rules of Procedure regulating in detail their work and decision making.

Election Committee

Article 23

The process of preparing the list of candidates for the election of members of the Prosecutorial Council from among the Public Prosecutors and procedure for the election of members of the Prosecutorial Council shall be administered by the Election Committee.

The Election Committee shall consist of a president and two members elected among the Heads of the Public Prosecutor's Offices and Public Prosecutors by the enlarged meeting of the Supreme Public Prosecutor's Office, on a proposal from meetings of Public Prosecutors of all Public Prosecutor's Offices.

The Election Committee shall be elected no later than three months before the expiry of the mandate of the Prosecutorial Council, for a term of four years.

**Proposal for Appointment of members of the Prosecutorial Council
from among the Public Prosecutors**

Article 24

Nomination of candidates for the appointment of members of the Prosecutorial Council from among the Public Prosecutors in the Supreme Public Prosecutor's Office, the Special Public Prosecutor's Office and High Public Prosecutor's Offices shall be determined:

- 1) at the meeting of the Supreme Public Prosecutor's Office which shall propose three candidates from that Prosecutor's Office;
- 2) at the meeting of the Special Public Prosecutor's Office which shall propose two candidates from that Prosecutor's Office;
- 3) at the joint meeting of High Public Prosecutor's Offices which shall propose three candidates from these Prosecutor's Offices.

A list of eight candidates referred to in paragraph 1 of this Article, in alphabetical order, shall be compiled by the Election Committee, based on the notification of the proposed candidates.

In order to nominate the candidates for the appointment of members of the Prosecutorial Council from among the Public Prosecutors from the Basic Public Prosecutor's Offices, the Election Committee shall request the head and Public Prosecutors from each Basic Public Prosecutor's Office to submit an initial proposal nominating two candidates.

The initial proposal referred to in paragraph 3 of this Article shall be submitted on the prescribed form in a manner that ensures the confidentiality of the initial proposal.

The list of four candidates supported by the highest number of initial proposals referred to in paragraph 3 of this Article shall be compiled by the Election Committee, in alphabetical order.

After collecting the initial proposals referred to in paragraph 3 of this Article, if more than four candidates are supported by the same number of initial proposals, the Election Committee shall draw up a list including all the candidates supported by the highest or the same number of initial proposals.

The form of the initial proposal referred to in paragraph 3 of this Article shall be determined by the Rules of Procedure of the Prosecutorial Council.

**Appointment of Members of the Prosecutorial Council
from among the Public Prosecutors**

Article 25

Lists of candidates for members of the Prosecutorial Council, drawn up pursuant to Article 24 paragraphs 2 and 5, or paragraph 6 of this Law, shall be submitted to all Public Prosecutor's Offices to be put on the notice board no later than two months before the expiry of the mandate of members of the Prosecutorial Council.

The Conference of Public Prosecutors shall be convened by the Supreme Public Prosecutor, no later than 30 days before the expiry of the mandate of members of the Prosecutorial Council.

Four candidates from the list referred to in Article 24, paragraph 2 above shall be elected as members of the Prosecutorial Council, where only one candidate shall be elected from a Public Prosecutor's Office and one candidate from the list referred to in Article 24, paragraph 5, or paragraph 6 of this Law, with the maximum number of votes.

If none of the candidates from the list are supported by the required majority, casting of votes shall be repeated among the five candidates on the list referred to in Article 24, paragraph 2 above, that is between two candidates from the list referred to in Article 24, paragraph 5, or paragraph 6 of this Law, with the maximum number of votes.

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In case of more candidates with the same number of votes, based on which they can go for the second round of voting, a list of those candidates shall be drawn up and the voting shall be repeated, and only one candidate shall be elected from one Public Prosecutor's Office.

Election of Eminent Jurists as Members of the Prosecutorial Council

Article 26

From among eminent jurists, a person who has no less than ten years of legal experience and enjoys a good personal and professional reputation may be an elected member of the Prosecutorial Council.

The competent working body of the Parliament shall issue a public call for the election of members of the Prosecutorial Council from among eminent jurists in the "Official Gazette of Montenegro" and in at least one of the print media based in Montenegro.

Public call for the election of members of the Prosecutorial Council from among eminent jurists shall be published by the competent working body of the Parliament on the website of the Parliament.

The deadline for applications shall be 15 days from the announcement of the public invitation.

List of candidates shall be published by the competent working body of the Parliament on the website of the Parliament, and it shall be available to the public at least ten days from the date of publication.

Proposal for the election of members of the Prosecutorial Council from among eminent jurists shall be submitted by the competent working body of the Parliament.

Proposal for the election referred to in paragraph 6 of this Article shall include as many candidates as there shall be elected members of the Prosecutorial Council.

Ban on the Appointment to the Prosecutorial Office

Article 27

During his or her mandate at the Prosecutorial Council, the member of the Prosecutorial Council from among the Public Prosecutors shall not be appointed to the Public Prosecutor's Office of a higher level or as the Head of Public Prosecutor's Office, and the member of the Prosecutorial Council from among eminent jurists shall not be appointed as the Public Prosecutor or head of the Public Prosecutor's Office.

Re-Election

Article 28

Members of the Prosecutor's Council from among the Public Prosecutors and eminent jurists may be re-elected to the Prosecutorial Council after the expiry of four years from the termination of the previous mandate in the Prosecutorial Council.

Termination

Article 29

Mandate of the Prosecutorial Council's member shall end before the expiry of his term of office, if:

- 1) the office on the basis of which he/she was elected to the Prosecutorial Council is terminated;
- 2) he or she resigns;
- 3) he/she is sentenced to an unconditional prison sentence.

In the case referred to in paragraph 1, item 1 of this Article, mandate of the Prosecutorial Council's member shall be terminated on the date of termination of office on the basis of which he or she was elected to the Prosecutorial Council.

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In the case referred to in paragraph 1, item 2 of this Article, mandate of the Prosecutorial Council's member shall end when his/her written resignation is noted by the Prosecutorial Council.

In the case referred to in paragraph 1, item 3 of this Article, mandate of the Prosecutorial Council's member shall end on the date of finality of conviction.

The Prosecutorial Council shall acknowledge the termination of the mandate of the Prosecutorial Council's member and inform the authority that elected him/her accordingly.

Removal from Office

Article 30

Member of the Prosecutorial Council shall be removed from office, if:

- 1) performing his/her duties in a negligent and unprofessional manner;
- 2) convicted of an offense that makes him/her unworthy of the membership in the Prosecutorial Council.

Any action by the member of the Prosecutorial Council which is contrary to the statutory powers, and non-fulfillment of statutory obligations shall be regarded as careless and unprofessional performance of the duties referred to in paragraph 1, item 1 of this Article.

The action referred to in paragraph 1, item 2 of this Article shall be a criminal offense that is prosecuted ex officio, which carries a prison sentence of at least six months.

Member of the Prosecutorial Council from among Public Prosecutors shall be removed from office if he or she is subject to a disciplinary sanction.

In the cases referred to in paragraph 1 of this Article, the proposal for the removal from office of the Prosecutorial Council's member shall be submitted by the Prosecutorial Council to the authority that elected him/her.

The office of the Prosecutorial Council's member shall cease on the date when he/she is removed from office by the authority that elected him/her.

The procedure for removing a member of the Prosecutorial Council from office shall be governed by the provisions regulating the procedure for determining disciplinary responsibility of Public Prosecutors.

Term of Office in the Event of Cessation of Office and Removal

Article 31

In the event of termination of office of the Prosecutorial Council's member from among Public Prosecutors before the expiry of the period for which he/she was elected, the procedure to nominate candidates to the vacant position shall be conducted in accordance with Article 24 and Article 25 of this Law.

In the event of termination of office of the Prosecutorial Council's member elected by the Parliament, before the expiry of his term of office, the Parliament shall elect a new member in accordance with Article 26 of this Law.

In the event of termination of office of the Prosecutorial Council's member from the Ministry of Justice, the Minister of Justice shall appoint a new member within 15 days of the termination of office.

The term of office of the Prosecutorial Council's member elected in accordance with paragraphs 1, 2 and 3 of this Article shall end on the date of termination of the mandate of the Prosecutorial Council.

**Suspension
Article 32**

Member of the Prosecutorial Council shall be suspended from office when:

- 1) he or she has been remanded to detention, during the detention;
- 2) suspended from office or position based on which he or she was elected to the ;
- 3) the indictment is confirmed against him or her for a criminal offense which renders him or her unfit for the exercise of the office at the Prosecutorial Council, until the final conclusion of criminal proceedings.
- 4) a proposal for his dismissal is submitted, pending a decision for dismissal.

The Public Prosecutor or Deputy may be suspended from office after the Prosecutorial

Council has passed the decision to initiate the procedure for removal.

The Prosecutorial Council shall decide on suspension from the office of the Public Prosecutor or Deputy.

Member of the Prosecutorial Council from among the Public Prosecutors may be suspended from office if the procedure for determining disciplinary liability has been initiated against him or her, up to the final conclusion of the disciplinary proceedings.

Decision on suspension from office shall be adopted by the Prosecutorial Council and submitted to the member of the Prosecutorial Council who has been suspended from office and the authority that elected him or her.

**Absence from Work and Remuneration
Article 33**

Members of the Prosecutorial Council who are employed shall be entitled to absence from work for the performance of office in the Prosecutorial Council.

Members of the Prosecutorial Council, whose earnings is provided from the budget, during the absence from paragraph 1 of this Article, shall generate earnings and other remuneration from employment with the authority in which they are employed.

Members of the Prosecutorial Council from among the Public Prosecutors, in order to exercise the office in the Prosecutorial Council, based on a decision of the Prosecutorial Council, may work up to 70% of their working time during the year in the Prosecutorial Council. The decision of the Prosecutorial Council shall define jobs that are performed by members of the Prosecutorial Council.

In the event referred to in paragraph 3 above, the scope of work of the Public Prosecutor in the Public Prosecutor's Office where he or she works may be reduced to an appropriate extent.

Members of the Prosecutorial Council shall be entitled to compensation for work in the Prosecutorial Council in the amount of 80% of the average gross salary in Montenegro in the previous year.

3. *Organization and method of operation*

**Meeting of the Prosecutorial Council
Article 34**

The Prosecutorial Council shall work and make decisions at meetings.

Meetings of the Prosecutorial Council may be held if attended by a majority of the total number of members of the Prosecutorial Council.

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Meetings of the Prosecutorial Council shall be convened and chaired by the President of the Prosecutorial Council.

President of the Prosecutorial Council

Article 35

President of the Prosecutorial Council shall be responsible for the efficient and timely work of the Prosecutorial Council.

The Prosecutorial Council, on a proposal from the President of the Prosecutorial Council, shall designate a member of the Prosecutorial Council from among the Public Prosecutors who shall replace the President in case of his or her absence or inability to work and perform other duties as set under the Rules of Procedure of the Prosecutorial Council.

Committees

Article 36

In order to improve the efficiency of performance falling under their competence, the Prosecutorial Council may establish Committees.

The President of the Prosecutorial Council shall not be the President or member of the Committees referred to in paragraph 1 of this Article.

Members of the Committees referred to in paragraph 1 of this Article and the Committee for the Code of Ethics for Public Prosecutors shall be entitled to remuneration in the amount determined by the Prosecutorial Council to 40% of the average gross salary in Montenegro in the previous year.

Operation of the Committees referred to in paragraph 1 of this Article shall be governed by the Rules of Procedure of the Prosecutorial Council.

Responsibilities of the Prosecutorial Council

Article 37

The Prosecutorial Council, in addition to the responsibilities established by the Constitution, shall:

- 1) determine the number of Public Prosecutors;
- 2) define the proposal for the removal from office of the Supreme Public Prosecutor;
- 3) decide on disciplinary responsibility of the Public Prosecutors and heads of the Public Prosecutor's Offices;
- 4) provide for the training of Public Prosecutors and heads of the Public Prosecutor's Offices;
- 5) provide for the use, functionality and uniformity of the Judicial Information System in the part related to the Public Prosecutor's Office;
- 6) keep records on the Public Prosecutors and heads of the Public Prosecutors' Offices;
- 7) adopt the Rules of Procedure of the Prosecutorial Council;
- 8) comment on the incompatibility of performing certain activities with the exercise of Prosecutor's Office;
- 9) investigate complaints of Public Prosecutors and heads of the Public Prosecutor's Office and take positions regarding threats to their independence;
- 10) investigate complaints about the work of Public Prosecutors and heads of the Public Prosecutor's Offices concerning their legality;
- 11) form the Committee for the evaluation of performance of the Public Prosecutors;
- 12) elect the Disciplinary Prosecutor;
- 13) establishes the methodology for preparing reports on the work of the Public Office and the annual work schedule;
- 14) issue official identity cards to the Public Prosecutors and heads of the Public Prosecutor's Offices and keep records of official identity cards;
- 15) perform other tasks stipulated by law.

Decision on the Number of Public Prosecutors

Article 38

The number of Public Prosecutors shall be determined on the basis of the indicative benchmarks for performance in accordance with Article 151 of this Law.

Number of Public Prosecutors for each Public Prosecutor's Office shall be determined by the Prosecutorial Council.

The initiative for establishing the number of prosecutors in paragraph 2 of this Article shall be instituted by the Supreme Public Prosecutor.

The decision on the number of Public Prosecutors shall be published in the "Official Gazette of Montenegro".

Rules of Procedure of the Prosecutorial Council

Article 39

The Prosecutorial Council shall adopt Rules of Procedure governing the matters prescribed by this Law and other issues of importance for the organization of work of the Prosecutorial Council.

Rules of Procedure of the Prosecutorial Council shall be published in the "Official Gazette of Montenegro".

Decision

Article 40

Decisions of the Prosecutorial Council shall be final and may not be subject to administrative proceedings, unless otherwise provided by this Law.

When making a decision on the election of heads of the Public Prosecutor's Offices and Public Prosecutors, the Prosecutorial Council shall take into account the proportional representation of minorities and other minority ethnic groups and of gender balanced representation.

Annual Report

Article 41

The Prosecutorial Council shall draw up annual reports that contain information on the work of the Prosecutorial Council, description and analysis of the situation in the Public Prosecutor's Office, detailed information for each Public Prosecutor's Office relating to the number of cases received and finalized during the year for which the report is made, problems and shortcomings in their work, and measures to be taken to remedy identified deficiencies.

In addition, annual reports shall contain information about the crime situation and trends in the previous year.

The draft annual report of the Prosecutorial Council shall be delivered to all Public Prosecutor's Offices for comments.

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Annual reports shall be submitted to the Parliament no later than on March 31 of the current year for the previous year, for consideration.

Annual reports shall be explained in the Parliament by the President of the Prosecutorial Council.

Annual reports shall be published on the website of the Supreme Public Prosecutor's Office and Prosecutorial Council.

**Relations between the Prosecutorial Council
and the Public Prosecution Office**

Article 42

The Public Prosecution Office shall provide to the Prosecutorial Council, at their request, all data and information within their competence, within the deadline set by the Prosecutorial Council.

Failing to meet the request of the Prosecutorial Council referred to in paragraph 1 of this Article, the Public Prosecution Office shall immediately give the reasons for not having acted on the request.

The Public Prosecution Office shall allow the Prosecutorial Council, at their request, direct access to official files, documents and data, and provide them with copies of requested files and documents.

The heads of the Public Prosecutor's Offices, Public Prosecutors and employees of the Public Prosecutor's Offices shall, in accordance with the requirements of the Prosecutorial Council, attend meetings of the Prosecutorial Council.

IV. ELECTION OF HEADS OF THE PUBLIC PROSECUTOR'S OFFICES AND PUBLIC PROSECUTORS

1. Election of the Supreme Public Prosecutor

Conditions for the election of the Supreme Public Prosecutor

Article 43

The Supreme Public Prosecutor shall be elected among persons who:

- 1) meet the general conditions for the Public Prosecutor;
- 2) have working experience of at least 15 years as a Public Prosecutor or judge, or at least 20 years on other legal matters;
- 3) is characterized by professional impartiality, high professional and moral qualities.

Public Announcement

Article 44

Two months before the expiry of office of the Supreme Public Prosecutor, or immediately after the termination of office or removal from office of the Supreme Public Prosecutor, the Prosecutorial Council shall advertise vacancy for the Supreme Public Prosecutor in the "Official Gazette of Montenegro" and one of the print media based in Montenegro.

The deadline for applications is 15 days from the date of announcement referred to in paragraph 1 of this Article.

Application Procedure

Article 45

Applications to the public invitation shall be submitted with proof of satisfying the requirements for the selection of the Supreme Public Prosecutor to the Prosecutorial Council, within 15 days of the date of announcement.

The Prosecutorial Council shall reject applications that are belated or incomplete.

The applicant may file an administrative dispute against a decision to reject applications that are belated or incomplete.

List of Candidates

Article 46

The Prosecutorial Council shall make a list of candidates who meet the statutory requirements for the selection of the Supreme Public Prosecutor.

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The list of candidates referred to in paragraph 1 of this Article shall be submitted for comments to the enlarged session of the Supreme Public Prosecutor's Office.

Comments referred to in paragraph 2 of this Article, which must be explained, shall be provided by the enlarged session of the Supreme Public Prosecutor's Office for each registered candidate, within eight days from delivery of the list of candidates.

**Proposal for the Appointment of the Supreme Public Prosecutor
Article 47**

Based on the list of candidates referred to in Article 46, paragraph 1 above, comments of the enlarged session of the Supreme Public Prosecutor's Office on the registered candidates and the interview with the candidates, the Prosecutorial Council shall determine the candidates for the Supreme Public Prosecutor, in a closed session.

Proposal for the appointment of the Supreme Public Prosecutor shall include one candidate and shall be reasoned.

Reasoned proposal for the appointment of the Supreme Public Prosecutor with a list of candidates referred to in Article 46, paragraph 1 above shall be submitted to the Parliament by the Prosecutorial Council.

**Termination of Office
Article 48**

The same person may be appointed the Supreme Public Prosecutor at most twice.

At the conclusion of his or her term of office and termination of office of the Supreme Public Prosecutor at his or her own request, the Supreme Public Prosecutor shall remain as Public Prosecutor at the Supreme Public Prosecutor's Office.

2. *Conditions for the appointment of Public Prosecutors and heads of the Public Prosecutor's Offices*

**General Conditions
Article 49**

The Public Prosecutor and the Head of the Public Prosecutor's Office may be elected among persons who meet the general requirements for work in the state authority, and who:

- 1) completed law school, high professional qualifications level VIII;
- 2) passed the Bar exam.

**Special Conditions for Public Prosecutors
Article 50**

A person may be appointed as the Public Prosecutor in the Basic Public Prosecutor's Office if, after passing the Bar exam, he or she worked at least two years as an advisor in the Public Prosecutor's Office or the court, as an attorney, notary, deputy notary or Professor of Law, or at least four years in other legal matters.

A person may be appointed as the Public Prosecutor in the High Public Prosecutor's Office if he or she has worked as a Public Prosecutor or judge for at least eight years.

A person may be appointed as the Public Prosecutor in the Supreme Public Prosecutor's Office if he or she has worked as a Public Prosecutor or a judge for at least 15 years.

Notwithstanding the paragraphs 2 and 3 above, a person may be appointed a Public Prosecutor in High Public Prosecutor's Office and the Supreme Public Prosecutor's Office if he or she has worked for at least 20 years as a judge, Public Prosecutor, lawyer, notary, Professor of Law or in other legal matters.

**Special Conditions for the Head of the Basic
and High Public Prosecutor's Office**

Article 51

A person may be appointed the Head of the Public Prosecutor's Office if he or she, in addition to the general conditions referred to in Article 49 of this Law, has the following work experience, including:

- 1) Ten years on legal matters of which at least five years working as a prosecutor or judge - the Head of the Basic Public Prosecutor's Office;
- 2) Twelve years on legal matters of which at least eight years working as a prosecutor or judge - the Head of the High Public Prosecutor's Office.

A prosecutor or judge whose performance was rated as good or excellent in the process of performance appraisal in accordance with the law may be appointed the Head of Public Prosecutor's Office.

3. *Appointment of the Head of the Public Prosecutor's Office*

Work Plan

Article 52

The candidates for the Head of the Public Prosecutor's Office, in addition to the application to a public notice, shall be required to submit a work plan which includes a vision of the organization of work in the Public Prosecutor's Office for a term of office of five years.

The content of the work plan referred to in paragraph 1 of this Article shall be determined by the Prosecutorial Council,

Selection Criteria for the Head of the Public Prosecutor's Office

Article 53

The selection criteria for the Head of the Public Prosecutor's Office shall include:

- 1) work plan evaluation;
- 2) evaluation of performance as a Public Prosecutor or judge, or the Head of the Public Prosecutor's Office, or the President of the Court;
- 3) evaluation of the interview with the candidate.

On the basis of the work plan, a candidate for the Head of the Public Prosecutor's Office may be awarded up to 40 points, based on the assessment of the proposed vision of the organization of work in the Public Prosecutor's Office.

If the performance of the candidate for the Head of the Public Prosecutor's Office is evaluated as good or excellent, he or she may be awarded 30 points or 40 points, respectively.

On the basis of an interview, a candidate for the Head of the Public Prosecutor's Office may be awarded achieve up to 20 points in accordance with Article 61 of this Law.

If two candidates are awarded the same number of points, priority shall be given to the candidate who was awarded more points based on performance evaluation.

Appointment of the Head of the Public Prosecutor's Office

Article 54

The same person may be appointed as the Head of the same Public Prosecutor's Office no more than twice.

Upon expiration of the term of office for which he or she was appointed, upon cessation of office of the Head of the Public Prosecutor's Office at his or her own request or due to the

termination or merger of the Public Prosecutor's Offices, as in the case of removal from office of the Head of the Public Prosecutor's Office, the Head of the Public Prosecutor's Office shall remain in the Public Prosecutor's Office as a Public Prosecutor.

Governing Provisions

Article 55

The procedure of public advertising, registration of candidates, conducting interviews, determining the list of candidates and the decision about appointing the Head of the Public Prosecutor's Office shall be governed by this Law regulating the procedure for the appointment of Public Prosecutors who are appointed to the Basic Public Prosecutor's Office.

4. *Vacancies for Positions of the Public Prosecutor*

Content and Method of Filling

Article 56

Vacancies for positions of the Public Prosecutor in the Public Prosecutor's Offices shall be filled in accordance with the Vacancy Plan for the positions of the Public Prosecutor at the level of the State of Montenegro (hereinafter: Vacancy Plan).

The Vacancy Plan shall include vacancies for positions of the Public Prosecutor in all Public Prosecutor's Offices in the next two years.

The Vacancy Plan shall be drawn up on the basis of estimates for filling the positions of the Public Prosecutor by voluntary relocation, promotion and public announcement for the first appointment of Public Prosecutors in the Basic Public Prosecutor's Offices.

The Vacancy Plan shall be adopted by the Prosecutorial Council no later than at the end of the calendar year for the next two years.

The Vacancy Plan may be amended if during the year there is a change in the circumstances on the basis of which the need for filling the vacancies for the positions of Public Prosecutor referred to in paragraph 2 of this Article was assessed.

5. *Appointment of Public Prosecutors in the Basic Public Prosecutor's Offices who are appointed for the first time*

Advertising Vacancies

Article 57

Vacancies for the positions of Public Prosecutors in the Basic Public Prosecutor's Offices shall be filled through internal advertising of vacancies for voluntary relocation of Public Prosecutors from one Public Prosecutor's Office to another Basic Public Prosecutor's Office. If the vacancy for the position of Public Prosecutors is not filled in accordance with paragraph 1 of this Article, Public Prosecutors in the Basic Public Prosecutor's Office shall be appointed on the basis of a public announcement.

The public announcement for filling vacancies for Public Prosecutors in the Basic Public Prosecutor's Offices at the national level in Montenegro shall be published by the Prosecutorial Council in the "Official Gazette of Montenegro" and one of the print media based in Montenegro.

Application Procedure

Article 58

Applications based on the public announcement, including evidence of fulfillment of conditions for the selection of Public Prosecutors in the Basic Public Prosecutor's Offices, shall be submitted to the Prosecutorial Council, within 15 days of the vacancy announcement to fill the vacancies for Public Prosecutors in the Basic Public Prosecutor's Offices, on a form prescribed by the Prosecutorial Council.

The Prosecutorial Council shall reject applications that are belated or incomplete.

An administrative dispute may be filed against a decision to reject an application that is belated or incomplete by the applicant.

The Criteria for the First Appointment of Public Prosecutor
Article 59

The criteria for the first appointment of a Public Prosecutor shall include:

- 1) score on the written test referred to in Article 60 of this Law, or the score at the Bar exam in accordance with the law governing the Bar exam;
- 2) evaluation of the interview with the candidate.

Written Testing
Article 60

The Prosecutorial Council conducts a written test for persons who are first appointed as Public Prosecutors, who meet the statutory requirements, whose applications have been timely and complete, through a Committee consisting of three members of the Prosecutorial Council, two of which are from among the Public Prosecutors and one from among the distinguished lawyers.

Written testing shall not apply to persons referred to in paragraph 1 of this Article, who have been evaluated at the Bar exam.

Written test shall be prepared by the Committee under paragraph 1 of this Article, and shall include drafting of an investigation act and an indictment or other document within the jurisdiction of the Public Prosecutor's Office.

The written test shall be taken under a code.

Scoring of the written test shall carry a number of points to score the form of the act, application of law and explanation of the reasons for the adoption of the act, so that a maximum of 80 points may be awarded, as follows:

- 1) for drafting an acts of investigation to 40 points;
- 2) for drafting an indictment or other document within the jurisdiction of the Public Prosecutor's Office to 40 points.

Written test shall be reviewed by the Committee referred to in paragraph 1 of this Article and submitted with a proposal for scoring to all members of the Prosecutorial Council.

The written test shall be scored by the Prosecutorial Council.

Written testing shall be determined by the Rules of Procedure of the Prosecutorial Council.

Interview
Article 61

The Prosecutorial Council shall interview the persons who were awarded more than 60 points on the written test, and the Bar exam.

The interview shall assess:

- 1) motivation to work in the Public Prosecutor's Office;
- 2) communication skills;
- 3) the ability to make decisions and resolve conflicts; .
- 4) understanding of the role of the Public Prosecutor in society.

Scoring based on criteria referred to in paragraph 2 of this Article shall be made by each member of the Prosecutorial Council who shall determine the number of points for each person, and each person may be awarded a maximum of 20 points at the interview.

A final score of the interview shall be the average number of points, which shall be determined based on the number of points of each member of the Prosecutorial Council. The person who based on the interview scoring, scores less than 15 points shall not be on the ranking list of candidates for the Public Prosecutor.

Ranking List of Candidates for the Public Prosecutor

Article 62

On the basis of the written test scores, or the Bar exam and interview evaluation, a ranking list of the candidates for the Public Prosecutor shall be drawn up (hereinafter: the ranking list) according to the number of points.

If two candidates on the ranking list have the same number of points, priority shall be given to the candidate who scored more points in the written test, or the Bar exam, and if the candidates have the same number of points in the written test, or the Bar exam, priority shall be given to the candidate who is a member of the minority population and other minority ethnic communities.

If it is not possible to establish the priority order of candidates in the manner referred to in paragraph 2 of this Article, the Prosecutorial Council shall decide by lot.

Selection and Placement of Candidates for the Public Prosecutor

Article 63

The Prosecutorial Council shall decide on the selection of as many candidates for the Public Prosecutors as there are advertised vacancies for the position of Public Prosecutor, following the order of the ranking list, and on the deployment of candidates for Public Prosecutor after the applicant chooses the Public Prosecutor's Office in which he or she shall be placed.

The right to choose the Basic Public Prosecutor's Office in which he or she will be placed shall be exercised by each candidate for the Public Prosecutor in the order of the ranking list.

A candidate for the Public Prosecutor, who refuses reassignment referred to in paragraph 1 of this Article, shall lose the status of a candidate for the Public Prosecutor in the public announcement to which he or she applied.

In the case referred to in paragraph 3 of this Article, a new candidate for the Public Prosecutor shall be selected, in accordance with paragraph 1 of this Article.

Applicants' Rights

Article 64

A person who submitted an application following the public announcement for the selection of the Public Prosecutor in the Basic Public Prosecutor's Offices shall have the right to inspect the documents, written test and evaluation of persons who applied to the public announcement, within 15 days from the date of the decision on the deployment of candidates for the Public Prosecutor.

The persons referred to in paragraph 1 of this Article may initiate administrative proceedings against the decision of the Prosecutorial Council under Article 63, paragraph 1 above.

Rights and Responsibilities of Candidates for Public Prosecutor

Article 65

A candidate for Public Prosecutor shall be employed in the Basic Public Prosecutor's Office to which he or she was assigned for a fixed period of time until the decision on the appointment.

A candidate for the Public Prosecutor shall be entitled to remuneration in the amount of 70% of the salary of the Public Prosecutor in the Basic Public Prosecutor's Office.

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Regarding the rights and responsibilities arising from employment that are not regulated by this Law, regulations governing the rights and responsibilities of civil servants shall apply to candidates for the Public Prosecutor.

Initial Training
Article 66

Candidates for Public Prosecutor shall complete the initial training consisting of theoretical and practical parts lasting for at least a year.

The theoretical part of the initial training shall be conducted by the legal person authorized for the training of Public Prosecutors, and the practical part of the initial training shall be conducted by the Public Prosecutor's Office that has at least eight Public Prosecutors and in the Public Prosecutor's Office to which the candidate for the Public prosecutor is assigned. Initial training shall be carried out according to the program of initial training.

The practical part of the initial training shall be conducted under the supervision of a mentor designated by the Prosecutorial Council.

Candidates for the Public Prosecutor during initial training shall be evaluated by the Prosecutorial Council on the basis of the report of the legal person authorized for the training of Public Prosecutors and mentor on conducted training.

The rating may read either satisfactory or not satisfactory, and shall be explained.

The program of initial training and method for evaluation of candidates for the Public Prosecutor shall be conducted, and the conditions for the selection of mentors shall be prescribed in accordance with the law governing the training of Public Prosecutors.

Decision on the Appointment
Article 67

A candidate for Public Prosecutor who is evaluated as satisfactory at the initial training shall be appointed as the Public Prosecutor in the Basic Public Prosecutor's Office to which he or she was assigned by the Prosecutorial Council.

Employment of a candidate for the Public Prosecutor who is evaluated as not satisfactory at the initial training shall be terminated, by force of law, on the day when the decision on the evaluation is final.

6. *The method of appointment of the Public Prosecutor in the Basic Public Prosecutors' Office to be appointed to a permanent position*

Public Announcement
Article 68

Upon expiry of the term of office of the Public Prosecutor, who was elected for a four-year term of office, public announcement shall be published by the Prosecutorial Council in accordance with the Vacancy Plan.

Public Prosecutor who was elected for a term of four years and whose performance is evaluated as satisfactory, good or excellent, after the expiry of office, shall have the right to apply to the public announcement.

The procedure of public announcement, application and acting upon applications, and the applicants' rights shall be governed by Articles 57, 58 and 64 of this Law.

Criteria for Selecting the Public Prosecutor to be appointed to Permanent Position
Article 69

The criteria for selecting the Public Prosecutor to be appointed to a permanent position shall include:

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- 1) evaluation of the Public Prosecutor's performance during the term of four years in which he or she was first appointed;
- 2) evaluation of the interview with the candidate.

On the basis of the criteria referred to in paragraph 1, item 1 of this Article, a candidate shall be awarded 60, 70 and 80 points if his or her performance is evaluated as satisfactory, good and excellent, respectively.

Deciding on the Selection of Public Prosecutor Article 70

The applicants shall be interviewed by the Prosecutorial Council.

The procedure of conducting interviews and evaluation of candidates for the Public Prosecutor shall be subject to Article 61 of this Law.

On the basis of performance evaluation and interview rating from Article 69 of this Law, a ranking list shall be drawn up.

If two candidates on the ranking list have the same number of points, the priority shall be given to the candidate who has more points based on performance evaluation, and if candidates have the same number of points on this basis, the priority shall be given to the candidate who is a member of the minority population and other minority communities.

If it is not possible to determine the priority order of candidates in the manner described in paragraph 4 of this Article, the Prosecutorial Council shall decide by lot.

The Prosecutorial Council shall decide on the appointment of the Public Prosecutor in the Basic Public Prosecutor's Office to a permanent position according to the order in the ranking list drawn up in accordance with paragraphs 3, 4 and 5 of this Article.

7. Election of Public Prosecutor in the High Public Prosecutor's Office and the Supreme Public Prosecutor's Office

Public Announcement Article 71

The Prosecutorial Council, in accordance with the Vacancy Plan, shall issue a public announcement for vacancy filling in the High Public Prosecutor's Office or the Supreme Public Prosecutor's Office referred to in Article 50, paragraph 4 of this Law.

The procedure of public announcement, application and acting upon applications, and the applicants' rights shall be governed by Articles 57, 58 and 64 of this Law.

Selection Criteria for the Public Prosecutor Article 72

Criteria for the selection of Public Prosecutors in the High Public Prosecutor's Office and the Supreme Public Prosecutor's Office shall include:

- 1) score on a written test;
- 2) evaluation of the interview with the candidate.

Conducting and evaluation of written test and interview referred to in paragraph 1 of this Article, and determining the ranking list, shall be governed by Articles 60, 61, and 62 of this Law.

Selection Decision Article 73

Prosecutorial Council shall decide on the selection of the Public Prosecutor in the High Public Prosecutor's Office and the Supreme Public Prosecutor's Office according to the order in the ranking list, as determined pursuant to Article 72 of this Law.

The Public Prosecutor referred to in paragraph 1 of this Article, if appointed for the first time as the Public Prosecutor, shall be appointed for a term of four years.

Governing Provisions

Article 74

The procedure for the appointment of the Public Prosecutor referred to in Article 73 of this law to a permanent position shall be governed by Articles 68, 69 and 70 of this Law.

8. Promotion of Public Prosecutors

Conditions for Promotion

Article 75

The Public Prosecutor or a judge shall have the right to be promoted to the Public Prosecutor's Office of a higher level if his or her performance is rated as excellent or good in accordance with the law and if he or she meets the special requirements set for the appointment to the Public Prosecutor's Office concerned.

The Public Prosecutor or a judge may be promoted to a position in the Supreme Public Prosecutor's Office if his or her performance is rated as excellent and if he or she meets the special requirements for appointment to the Supreme Public Prosecutor's Office referred to in Article 50, paragraph 3 of this Law.

Public Announcement

Article 76

In the promotion procedure, vacancies for the position of Public Prosecutor in the High Public Prosecutor's Office and the Supreme Public Prosecutor's Office shall be advertised in accordance with the Vacancy Plan for Public Prosecutors.

The procedure of public announcement, application and acting upon applications, and the applicants' rights shall be governed by Articles 57, 58 and 64 of this Law.

Public Prosecutor Promotion Criteria

Article 77

Public Prosecutors in the Public Prosecutor's Office shall be appointed on the basis of performance evaluation of the Public Prosecutor or the judge who applied following the public announcement and interview rating.

The Public Prosecutor or a judge may be awarded 60, 80 and 20 points for good performance, excellent performance and interview ranking, respectively.

The procedure of conducting interviews, determining the ranking list and making a selection decision for the purpose of promotion shall be subject to Article 70 of this Law.

9. Oath and taking Office

Oath and Taking Office

Article 78

The Public Prosecutor shall assume office on the day of taking the oath.

Public Prosecutors shall take an oath before the Prosecutorial Council, not later than 15 days after the appointment.

Oath

Article 79

The oath reads: "I swear that I shall exercise the prosecutorial office honorably, independently, impartially and responsibly according to the Constitution and the law".

The oath shall be taken by stating and signing the text of the oath.

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Should the Public Prosecutor fail to take an oath, or refuse to take an oath, he or she shall be considered as not appointed.

The Public Prosecutor who was appointed in the process of promotion to the Public Prosecutor's Office of a higher level shall not read out the oath referred to in paragraph 1 of this Article, but shall symbolically sign the text of the oath.

Official Identification Card

Article 80

The Public Prosecutor and the Head of the Public Prosecutor's Office shall have official identification card.

The official ID card shall be issued on the prescribed form by the Prosecutorial Council who shall keep records of issued official identification cards.

The form and method of issuing ID cards for Public Prosecutors and Heads of the Public Prosecutor's Offices and the method of keeping records of issued official identification cards shall be prescribed by the Ministry of Justice.

V. SECONDING AND ASSIGNING THE PUBLIC PROSECUTOR

Seconding to another Public Prosecutor's Office with the Consent of the Public Prosecutor

Article 81

Public Prosecutor shall perform prosecutorial office in the Public Prosecutor's Office to which he or she was appointed.

The Prosecutorial Council may second the Public Prosecutor, with his or her consent, for a period of up to one year to another Public Prosecutor's Office of the same or lower level, if due to exemption or inability of the Public Prosecutor of that Public Prosecutor's Office to perform prosecutorial office, or due to a large number of pending cases that cannot be resolved with the existing number of Public Prosecutors, or for other legitimate reasons, the conduct of regular activities at the Public Prosecutor's Office to which the Public prosecutor is seconded is jeopardized.

In the cases referred to in paragraph 2 of this Article, the Public Prosecutor shall receive salary from the Public Prosecutor's Office to which he or she is seconded. Reimbursement of expenses incurred as a result of seconding the Public Prosecutor to another Public Prosecutor's Office shall be borne by the Public Prosecutor's Office to which the Public prosecutors seconded, in accordance with the regulations governing the reimbursement of costs of civil servants and state employees.

The Procedure for Temporary Assignment to another Public Prosecutor's Office

Article 82

The Prosecutorial Council shall decide on the temporary transfer of the Public Prosecutor referred to in Article 81 of this Law, at the request of the Head of the Public Prosecutor's Office to which the Public prosecutor is seconded.

Before making a decision on the temporary transfer of the Public Prosecutor referred to in Article 81 of this Law, the Prosecutorial Council shall consult with the Head of the Public Prosecutor's Council who submitted the request, the Public Prosecutor who is temporarily assigned and the Head of the Public Prosecutor's Office in which the Public Prosecutor exercises the prosecutorial office.

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Costs incurred due to seconding a Public Prosecutor in accordance with paragraph 1 of this Article, shall be borne by the Public Prosecutor's Office to which the Public prosecutor is temporarily assigned.

Seconding to another Authority

Article 83

The Prosecutorial Council may second the Public Prosecutor, with his or her consent, for a period of up to three years, to the Ministry of Justice, legal person authorized for the training of Public Prosecutors or the Secretariat of the Prosecutorial Council, in order to participate in the activities of those authorities relating to the improvement of operations of the Public Prosecutor's Office, and in particular the introduction of international standards in the operations of the Public Prosecutor's Office.

Seconding referred to in paragraph 1 of this Article shall be made on the proposal of the authority to which the Public prosecutor is seconded, upon prior opinion of the Head of the Public Prosecutor's Office in which the Public Prosecutor exercises the prosecutorial office and approval of the Public Prosecutor.

While working for the authority to which he or she is seconded, the Public Prosecutor shall not perform the prosecutorial office.

The Public Prosecutor, in the case referred to in paragraph 1 of this Article, shall retain earnings of the Public Prosecutor and any costs incurred due to seconding the Public Prosecutor shall be borne by the authority to which the Public prosecutor is seconded.

Seconding to another Public Prosecutor's Office without the Consent of the Public Prosecutor

Article 84

In the case of reorganization of the Public Prosecutor's Office that reduces or terminates a number of positions of Public Prosecutors, the Public Prosecutor may be transferred without his or her consent to work in another Public Prosecutor's Office by the Prosecutorial Council.

Permanent Voluntary Assignment of Public Prosecutors

Article 85

Internal advertisement for filling vacancies of Public Prosecutors shall be published on the website by the Prosecutorial Council.

Public Prosecutors who want to be permanently reassigned to another Public Prosecutor's Office of the same or lower level shall have the right to apply for an internal vacancy.

Prosecutorial Council shall make a list of candidates for the reassignment referred to in paragraph 2 of this Article, according to the performance results in the previous three years, or according to the Public Prosecutor's performance evaluation in accordance with this Law.

Prosecutorial Council on the basis of a list of candidates referred to in paragraph 3 of this Article, shall decide on reassigning the Public Prosecutor to another Public Prosecutor's Office of the same level taking into account the needs of the Public Prosecutor's Office in which the Public Prosecutor exercises the prosecutorial office and the Public Prosecutor's Office to which he or she is reassigned.

VI. EVALUATION OF PUBLIC PROSECUTORS

Objective of Performance Evaluation

Article 36

The performance of Public Prosecutors exercising a permanent office, other than the Supreme Public Prosecutor and Public Prosecutors at the Supreme Public Prosecutor's Office, shall be evaluated every three years, to assess their expertise, quality and quantity of

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work, ethics and training needs, and for the purpose of promotion to the Public Prosecutor's Office of a higher level.

The performance of Public Prosecutors who are elected for a term of four years shall be evaluated after two years of office, and at the end of the term of office.

The performance of Public Prosecutors shall be rated as excellent, good, satisfactory and not satisfactory.

The performance of Public Prosecutors shall be evaluated before the expiry of the period referred to in paragraphs 1 and 2 above, in the following cases:

- 1) performance of the Public Prosecutor that is rated as not satisfactory shall be reevaluated after the expiration of one year from the date of the final decision establishing that evaluation;
- 2) evaluation of performance of the Public Prosecutor who applied to an announcement for promotion to the Public Prosecutor's Office of a higher level, if there is no evaluation or if the previous evaluation was conducted more than two years before.

No evaluation of the Public Prosecutor's performance shall be conducted if the Public Prosecutor, in the period that is subject to evaluation in accordance with paragraphs 1 and 2 above, was absent from work for at least one year.

Evaluation Committee

Article 87

Public Prosecutors shall be evaluated by the Evaluation Committee that evaluates the performance of Public Prosecutors and is appointed by the Prosecutorial Council (hereinafter: the Evaluation Committee).

The Evaluation Committee shall comprise the Supreme Public Prosecutor and five members of the Prosecutorial Council, three of which from among the Public Prosecutors and two eminent jurists.

The decision evaluating the performance of the Public Prosecutor shall be made by the Evaluation Committee on the proposal of the Council of Public Prosecutors for evaluating the performance of Public Prosecutors that consists of the Head of the Public Prosecutor's Office in which the Public prosecutor is evaluated and four Public Prosecutors from the Public Prosecutor's Offices of a higher level (hereinafter: the Council on Evaluation of Performance of Public Prosecutors).

The Council on Evaluation of Performance of Public Prosecutors shall be appointed by the Prosecutorial Council.

The Prosecutorial Council may make a decision on exemption of members of the Evaluation Committee and Council on Evaluation of Performance of Public Prosecutors.

The operation of the Evaluation Committee and Council on Evaluation of Performance of Public Prosecutors shall be regulated by the Rules of Procedure of the Prosecutorial Council, in addition to cases and the method for exemption of the members of the Evaluation Committee and Council on Evaluation of Performance of Public Prosecutors.

Evaluation Criteria

Article 88

The criteria for evaluating the performance of Public Prosecutors shall include:

- 1) expert knowledge;
- 2) general ability to exercise the prosecutorial office.

Expert Knowledge of the Public Prosecutor

Article 89

Expert knowledge of the Public Prosecutor shall be evaluated based on the following sub-criteria:

- 1) workload and the quality of work;
- 2) the ability of planning and effective implementation of procedural actions;
- 3) case file preparation and management skills;
- 4) prosecutorial knowledge application skills;
- 5) procedural skills; and
- 6) professional development.

The workload and quality of work shall be evaluated based on the number of ongoing cases, the number of completed cases, confirmed indictments, issued convictions and accepted complaints.

Based on the workload, the Public Prosecutor's performance shall be evaluated as not satisfactory if his or her performance results are more than 20% below the average performance standard for workload in certain types of cases as determined by the Prosecutorial Council by the size of the Prosecutor's Office, and if the Public Prosecutor fails to provide a reasonable explanation.

The ability to plan and effective implementation of procedural actions shall be evaluated based on the ability of the Public Prosecutor to organize and effectively implement procedural and administrative actions, in accordance with the principle of efficiency and judicial economy.

The case file preparation and management skills shall be evaluated based on the ability of the Public Prosecutor to prepare a prosecution file and define all acts that it consists of, which should be easy to use by all interested persons.

The prosecutorial knowledge application skills shall be evaluated on the basis of assessment of the Public Prosecutor to accurately define the case and properly gather evidence in order to make the prosecutorial decision or make a fair verdict.

The procedural skills shall be evaluated based on the ability of the Public Prosecutor to lead the preliminary investigation or investigation and to represent the indictment before the court. Professional training shall be evaluated on the basis of all activities undertaken by the Public Prosecutor to improve and apply knowledge and methods in work.

General Ability

Article 90

General ability to perform prosecutorial office shall be evaluated based on the following sub-criteria:

- 1) communication skills;
- 2) the ability to adapt to changing circumstances;
- 3) the ability of the organization and coordination of employees in the Public Prosecutor's Office;
- 4) Participation in various professional activities.

Communication skills shall be evaluated on the basis of showing respect for the clients, colleagues and employees in the Public Prosecutor's Office in the performance of prosecutorial office.

The ability to adapt to changing circumstances shall be evaluated on the basis of ability to adapt to structural and organizational changes in the Public Prosecutor's Office in which the

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prosecutorial office is exercised, changes in laws and procedural rules, and new technologies and work rules.

The ability of the organization and coordination of employees in the Public Prosecutor's Office shall be evaluated on the basis of capacity of the Public Prosecutor to collaborate, organize and control the work of advisors, interns and other employees who work with him or her.

Participation in various professional activities shall be evaluated on the basis of participation of the Public Prosecutor in training and other professional activities.

Evaluation Sources

Article 91

The Public Prosecutor's performance shall be evaluated according to the criteria of Article 88 of this Law by examining the:

- 1) five final completed cases randomly selected;
- 2) five final completed cases selected by the Public Prosecutor;
three accusatory acts for which the final decision of acquittal was adopted, selected randomly;
- 3) three cases pending in the crime register for various cases, which are selected randomly;
- 4) three cases in which criminal charges were dropped, randomly selected;
statistical report on the work of the Public Prosecutor, which includes information on the Public Prosecutor's work, information from the records on Public Prosecutors, data on the number of complaints and decisions on complaints on the work of the Public Prosecutor;
- 5) records obtained by inspection of the Public Prosecutor's Office; and
- 6) Report of the legal person authorized for the training of Public Prosecutors.

If due to specialization in the work the Public Prosecutor has no cases referred to in paragraph 1 of this Article, in order to evaluate his or her performance, the Prosecutorial Council shall specify the type of cases to be reviewed.

Rules on the Selection of Cases

Article 92

When selecting the cases referred to in Article 91 paragraph 1 items 1 to 5 of this Law, in addition to cases in which the Public Prosecutor has acted at the Public Prosecutor's Office in which he or she exercises the prosecutorial office, the cases in which the Public Prosecutor has acted in the Public Prosecutor's Offices to which he or she was seconded in accordance with the law shall be taken into account.

Case selection shall be made after the start of the evaluation of the Public Prosecutor, where the presence of the Public Prosecutor shall be mandatory.

The method for random selection of cases shall be regulated in detail by the Rules of Procedure of the Prosecutorial Council.

Report of the Public Prosecutor

Article 93

The Public Prosecutor whose performance is evaluated shall prepare a report on the prescribed form containing a description of his or her prosecutorial activities according to the criteria and sub-criteria prescribed by this Law and evaluate own performance, stating the self-selected cases for evaluation.

The report referred to in paragraph 1 of this Article shall be submitted by the Public Prosecutor to the Head of the Public Prosecutor's Office in which he or she exercises the prosecutorial office, within eight days from the day when the evaluation is initiated.

Head of the Public Prosecutor's Office in which the prosecutorial office is exercised shall submit the report referred to in paragraph 1 of this Article and the documentation necessary for the evaluation of the Public Prosecutor referred to in Article 91 of this Law to the Council on Evaluation of Performance of Public Prosecutors, within five days of receipt of the report of the Public Prosecutor.

**Report and the Proposal of the Council on Evaluation
of Performance of Public Prosecutors**

Article 94

The Council on Evaluation of Performance of Public Prosecutors shall prepare a report on the evaluation of the Public Prosecutor based on the criteria and sub-criteria prescribed by this Law, within 30 days of the submission of documents referred to in Article 91 of this Law.

On the basis of the report referred to in paragraph 1 of this Article and the report of the Public Prosecutor referred to in Article 93 of this Law, the Council on Evaluation of Performance of Public Prosecutors shall prepare a proposal to evaluate the performance of the Public Prosecutor to be evaluated and submit it to the Evaluation Committee.

Comments on the Proposal for Evaluation Results

Article 95

Evaluation Committee shall submit the proposal for evaluation results referred to in Article 94 of this Law to the Public Prosecutor subject to performance evaluation who shall have the right to comment on the proposal, within five days from the submission of the proposal for evaluation.

Evaluation Committee may request additional information and clarification from the Council on Evaluation of Performance of Public Prosecutors.

Evaluation Committee may invite the Public Prosecutor for an interview before the final evaluation for clarification of certain issues.

Evaluation Results

Article 96

If his or her performance for all sub-criteria is rated as excellent, or good for two sub-criteria, and excellent for other sub-criteria.

The Public Prosecutor shall be rated as good if his or her performance for at least five sub-criteria is rated as good.

The Public Prosecutor shall be rated as satisfactory if his or her performance for at least four sub-criteria is rated as satisfactory.

The Public Prosecutor shall be rated as not satisfactory if his or her performance for at least two criteria is rated as not satisfactory.

Performance Evaluation

Article 97

The decision of the Evaluation Committee shall be final and an administrative dispute may be filed against it.

A final decision on the Public Prosecutor's performance evaluation shall be entered in the records of Public Prosecutors.

Consequences of Evaluation

Article 98

The Public Prosecutor whose performance is evaluated as satisfactory and not satisfactory shall be referred to the mandatory program of continuous training, in accordance with the law governing the training of Public Prosecutors.

The Public Prosecutor who is rated as excellent or good may be promoted to the Public Prosecutor's Office of a higher level.

If the Public Prosecutor who is rated as excellent is not promoted to a higher level Public Prosecutor's Office within one year from the date when rated as excellent, he or she shall be entitled to a salary equal to that of the Head of Public Prosecutor's Office in which he or she exercises the prosecutorial office.

Performance Evaluation of the Head of the Public Prosecutor's Office

Article 99

Performance of the Head of the Public Prosecutor's Office shall be evaluated by the Evaluation Committee.

The performance of Heads of the Public Prosecutor's Offices shall be evaluated on the basis of the proposal for evaluation of the Council on Evaluation of Performance of Public Prosecutors, including in addition to the Public Prosecutors under Article 87, paragraph 3 of this Law the Head of the immediately senior Public Prosecutor's Office from the territory of the Public Prosecutor's Office.

The proposal for evaluation referred to in paragraph 2 of this Article shall include evaluation of performance of the Head of the Public Prosecutor's Office as a manager and as a Public Prosecutor.

As a manager, the Head of the Public Prosecutor's Office shall be rated as good and not satisfactory.

If the Head of Public Prosecutor's Office is rated as not satisfactory, he or she shall be removed from office as the Head of the Public Prosecutor's Office.

The procedure to evaluate the Head of the Public Prosecutor's Office as a Public Prosecutor shall be carried out according to the procedure and in the manner prescribed by this Law.

Special Rules

Article 100

The evaluation procedure and indicators for the development of reports and proposal for evaluation on the basis of the criteria laid down for Public Prosecutors, in addition to the criteria and indicators for the development of reports and proposals for evaluation of the Public Prosecutors, shall be specified in detail by the Prosecutorial Council under special rules.

VII. INCOMPATIBILITY AND TERMINATION OF PROSECUTORIAL OFFICE

Giving Opinion on Other Activities

Article 101

At the request of the Head of the Public Prosecutor's Office or the Public Prosecutor, the Prosecutorial Council shall give an opinion on whether certain activities are considered professional performance of other activities that are incompatible with the exercise of prosecutorial office.

Liability for Damage**Article 102**

The State shall be liable for any damage inflicted to the party in the proceedings by the Public Prosecutor due to illegal, unprofessional or careless work in the exercise of prosecutorial office.

The State shall have the right to request the Public Prosecutor to refund the amount paid to the party in the proceedings due to damage caused as referred to in paragraph 1 of this Article, if the damaged was deliberately caused by the Public Prosecutor.

If the Public Prosecutor caused the damage referred to in paragraph 1 of this Article, due to gross negligence, the State shall have the right to claim compensation for the amount paid to the party in the proceedings up to 1/3 of annual net earnings of the Public Prosecutor.

Reasons for Termination of Office of the Public Prosecutor**Article 103**

The Public Prosecutor's Office shall be terminated by:

- 1) expiration of term of office;
- 2) resignation;
- 3) fulfillment of conditions for retirement;
- 4) loss of citizenship.

Reasons for Termination of Office of the Head of the Public Prosecutor's Office**Article 104**

Office of the Head of the Public Prosecutor's Office shall be terminated upon:

- 1) expiration of term of office;
- 2) termination of prosecutorial office;
- 3) personal request or in the event of termination or merger of the Public Prosecutor's Offices.

Termination of Prosecutorial Office**Article 105**

When there is a reason for termination of prosecutorial office, the Prosecutorial Council shall be immediately notified accordingly by the Head of the Public Prosecutor's Office, Head of the Public Prosecutor's Office which is immediately superior for the Head of the Public Prosecutor's Office, and meeting of the Supreme Public Prosecutor's Office for the Supreme Public Prosecutor.

Decision on termination of office of the Head of Public Prosecutor's Office or the Public Prosecutor shall be made by the Prosecutorial Council not later than 30 days from the date of receipt of the notification.

The office of the person referred to in paragraph 2 of this Article shall cease on the day of the decision of the Prosecutorial Council, except in the case of termination of office by expiration of office when the office terminates upon the expiry of the term of office.

Decision on termination of office shall be submitted by the Prosecutorial Council to the Head of the Public Prosecutor's Office or the Public Prosecutor whose office is terminated and the Public Prosecutor's Office in which he or she was exercising his or her office and shall be published in the "Official Gazette of Montenegro".

Termination of Office of the Supreme Public Prosecutor**Article 106**

The fulfillment of the requirements for termination of the Supreme Public Prosecutor's Office shall be notified by the Prosecutorial Council, without delay, to the Parliament.

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If the Parliament, within 30 days of receipt of the notification, fails to make a decision on termination of office of the Supreme Public Prosecutor, upon the expiration of that period his or her office shall cease.

Office of the Supreme Public Prosecutor shall be terminated on the day of the decision on the termination of office or expiry of the period referred to in paragraph 2 of this Article, except in the case of termination of office by expiration of office, when the office shall be terminated on the day of expiry of the office.

Annulment of the Decision on Appointment

Article 107

The Prosecutorial Council shall annul the decision on the appointment of the Public Prosecutor if it is proven that the Public Prosecutor did not meet the conditions for appointment at the time of the appointment, or if it receives information that would have represented the reason for the Prosecutorial Council not to take the decision on the appointment, had they been known at the time of appointment by the Prosecutorial Council.

The Prosecutorial Council may postpone the date for the start of the prosecutorial office for checking the data referred to in paragraph 1 of this Article.

If the decision on appointment is annulled by the Prosecutorial Council, the first next candidate in the ranking list shall be appointed to office, or the selection procedure shall be repeated if there are no more candidates.

VIII. DISCIPLINARY RESPONSIBILITY AND REMOVAL

1. Disciplinary Proceedings

Disciplinary Offences

Article 108

The Public Prosecutor and the Head of the Public Prosecutor's Office as a Public Prosecutor shall be subject to disciplinary proceedings for minor, more serious and the most serious disciplinary offenses.

A minor disciplinary offense by the Public Prosecutor shall be committed if he or she:

- 1) fails to take cases in the order they are prepared in accordance with the Rules of Procedure of the Public Prosecutor's Office without any reasonable excuse;
- 2) fails to attend or is late for scheduled hearings with no justification;
- 3) fails to attend compulsory training programs without justification;
- 4) fails to meet his or her responsibilities as a mentor of the initial training and training of trainees.

A serious disciplinary offense by the Public Prosecutor shall be committed if he or she:

- 1) fails to act in cases in legal deadlines, which results in a statute of limitations, the inoperability of the proceedings and other consequences prescribed by law, without any reasonable excuse;
- 2) fails to seek an exemption in cases where there is reason for his or her exemption;
- 3) prevents supervision in accordance with the law;
- 4) in the exercise of prosecutorial office, or in a public place brings himself or herself into a state or behaves in a manner that is not appropriate to the exercise of prosecutorial office;
- 5) treats the parties to the proceedings and employees in the Public Prosecutor's Office inappropriately;
- 6) discloses information given to him acting in cases or exercising prosecutorial office;

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- 7) uses the prosecutorial office to achieve his or her private interests and those of their family or people that are close to him or her;
- 8) accepts gifts or does not submit data on property and income in accordance with the regulations governing the prevention of conflicts of interest;
- 9) unexcused absence from work for five consecutive days;
- 10) publicly states his or her opinion on the case that has not come in effect;
- 11) repeats minor disciplinary offences.

The most severe disciplinary offense of the Public Prosecutor shall be committed if he or she:

- 1) is convicted of an offense that makes him unworthy of the prosecutorial office;
- 2) improperly or carelessly performs his or her prosecutorial office.
The offense referred to in paragraph 4, item 1 of this Article is a criminal offense that shall be prosecuted ex officio, which carries a prison sentence of at least six months. The performance of prosecutorial office shall be unprofessional and negligent if the Public Prosecutor:
 - 3) without any justifiable reason, fails to achieve at least 50% of the results in terms of workload compared to the average standards for workload in certain types of cases as determined by the Prosecutorial Council, unless some valid reasons for not having achieved the results in terms of workload are provided by the Public Prosecutor;
 - 4) assumes the position of Member of Parliament or other public office or professional performance of other activities;
 - 5) was evaluated as not satisfactory twice in a row;
 - 6) was twice imposed a disciplinary sanction for a serious disciplinary offense.

Disciplinary Sanctions

Article 109

Disciplinary sanctions shall include a warning, fine, ban on promotion and removal from office.

Warning and a fine in the amount of 20% of the earnings of the Public Prosecutor for up to three months shall be imposed for minor disciplinary offenses.

Fine in the amount of 20% to 40% of the earnings of the Public Prosecutor in the period of three to six months and prohibition of promotion shall be imposed for serious disciplinary offenses.

Removal from office shall be imposed for the most serious disciplinary offenses.

Prohibition of promotion shall imply that the Public Prosecutor shall not be appointed to a senior Public Prosecutor's Office before the expiry of two years from the date of the final decision on imposing the disciplinary sanctions.

Proposal for the Establishment of Disciplinary Responsibility

Article 110

If there is reasonable suspicion that the Public Prosecutor committed a disciplinary offense, the proposal for the establishment of disciplinary responsibility of the Public Prosecutor may be submitted by the Head of the Public Prosecutor's Office, Head of the Public Prosecutor's Office which is immediately superior, the Supreme Public Prosecutor, Minister of Justice and the Committee to monitor the application of the Code of Ethics for Public Prosecutors.

Proposal for the establishment of disciplinary responsibility of the Supreme Public Prosecutor may be submitted by the meeting of the Supreme Public Prosecutor's Office and the Minister of Justice.

In the cases referred to in paragraphs 1 and 2 above, the Head of the Public Prosecutor's Office, Head of the Public Prosecutor's Office which is immediately superior, the Supreme

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Public Prosecutor and Minister of Justice may contact the Committee to monitor the application of the Code of Ethics for Public Prosecutors to give an opinion on whether some behavior of the Public prosecutor is in accordance with the Code of Ethics for Public Prosecutors.

Proposal for the establishment of disciplinary responsibility of Public Prosecutors shall be submitted, without delay, immediately upon learning of committed misconduct.

Content of the Proposal

Article 111

Proposal for the establishment of disciplinary responsibility shall be submitted to the Prosecutorial Council in writing and shall contain personal data of the Public Prosecutor, the factual and legal description of the disciplinary offense, the proposal for the imposition of particular disciplinary sanctions and the grounds for suspicion that the Public Prosecutor committed a disciplinary offense.

Prosecutorial Council shall submit a proposal for the establishment of disciplinary responsibility to the disciplinary prosecutor, not later than five days from the date of receipt of the proposal.

Disciplinary Prosecutor

Article 112

The investigation on the submitted proposal for the establishment of disciplinary responsibility shall be conducted by the disciplinary prosecutor who shall represent the indictment in the proceedings for determining disciplinary responsibility of the Public Prosecutor.

Disciplinary Prosecutor shall be appointed by the Prosecutorial Council on a proposal of the President of the Supreme Court of Montenegro, from among the judges for a period of two years.

Completion of Investigation by the Disciplinary Prosecutor

Article 113

Investigation under Article 112, paragraph 1 of this Law shall be completed by the disciplinary prosecutor within three months from the date of submission of the proposal for the establishment of disciplinary responsibility.

Disciplinary Prosecutor shall be bound by the factual description of disciplinary offense in the proposal for the establishment of disciplinary responsibility.

Disciplinary Prosecutor, after completing the investigation on the submitted proposal, may propose to the Disciplinary Committee, or the Prosecutorial Council to:

- 1) reject the proposal for the establishment of disciplinary responsibility because:
 - a) it was submitted for an action that was not prescribed as a disciplinary offense,
 - b) of the statute of limitation, or
 - c) it was submitted by an unauthorized person;
- 2) reject the proposal for the establishment of disciplinary responsibility as unfounded for lack of evidence that the Public Prosecutor has committed a disciplinary offense;
- 3) submit the indictment to determine the disciplinary responsibility of the Public Prosecutor.

If they do not agree with the proposal of the Disciplinary Prosecutor referred to in paragraph 3 items 1 and 2 of this Article, the Disciplinary Committee or the Prosecutorial Council may oblige the Disciplinary Prosecutor to investigate and submit the indictment.

Competent Authorities for the Establishment of Disciplinary Responsibility

Article 114

The procedure for the establishment of disciplinary responsibility for minor and serious disciplinary offenses shall be conducted by the Disciplinary Committee based on the summary indictment of the Disciplinary Prosecutor.

Disciplinary Committee shall consist of three members of the Prosecutorial Council, two members from among the Public Prosecutors and one member from among the eminent jurists who is the Chairman of the Disciplinary Committee.

The Supreme Public Prosecutor shall not be a member of the Disciplinary Committee. The members of the Disciplinary Committee and their deputies are appointed by the Prosecutorial Council on the proposal of the President of the Prosecutorial Council.

The procedure for the establishment of disciplinary responsibility for the most serious disciplinary offenses shall be conducted by the Prosecutorial Council on summary indictment of Disciplinary Prosecutor.

Defense

Article 115

The Public Prosecutor whose responsibility is being examined shall have the right to defense attorney.

At the hearing, the Public Prosecutor shall be allowed to present his defense in person, in writing or through his self-chosen defense attorney.

Hearing

Article 116

In the procedure for determining disciplinary responsibility, a hearing shall be held by the Disciplinary Committee or the Prosecutorial Council.

Disciplinary Prosecutor, the Public Prosecutor and the defense attorney shall be invited to the hearing.

Disciplinary Committee or the Prosecutorial Council shall consider evidence that is deemed necessary for the proper and full determination of the facts.

If the Public Prosecutor whose disciplinary responsibility is being examined fails to respond to the invitation of the Disciplinary Committee or the Prosecutorial Council, the procedure shall be conducted in his or her absence.

Decision

Article 117

In the procedure for determining disciplinary responsibility of Public Prosecutors, Disciplinary Committee or the Prosecutorial Council may decide to:

- 1) reject the indictment as unfounded;
- 2) adopt a bill of indictment and impose a disciplinary sanction.

When making a decision on disciplinary responsibility and imposing disciplinary sanctions, Disciplinary Committee or the Prosecutorial Council shall not be bound by the proposal of the Disciplinary Prosecutor.

Deadline for Making Decisions

Article 118

Decision establishing disciplinary responsibility of the Public Prosecutor and imposing disciplinary sanctions shall be prepared and submitted to the Public Prosecutor whose responsibility is established and Disciplinary Prosecutor, not later than 15 days from the date of the decision.

The decision referred to in paragraph 1 above, the Disciplinary Prosecutor and the Public Prosecutor whose responsibility is established shall have the right to appeal to a panel of three judges of the Supreme Court of Montenegro.

Statute of Limitations

Article 119

Conduct of the procedure for determining disciplinary responsibility of Public Prosecutors shall be subject to the statute of limitations after the lapse of two years from the date of such minor disciplinary offense, or four years from the date of such serious disciplinary offense and six years from the day of the most serious disciplinary offense.

Notwithstanding paragraph 1 of this Article, the period of statute of limitations for the proceedings to establish disciplinary responsibility in case of conviction for a crime which renders the Public Prosecutor unworthy for the prosecutorial function shall begin to run from the date of the final judgment by which the Public Prosecutor is sentenced.

The execution of disciplinary sanctions shall be subject to the statute of limitations within one year from the date of the final disciplinary sanctions.

Disciplinary sanctions shall be deleted from the records of data on the Public Prosecutor after the expiry of four years from the date the disciplinary sanctions.

The Prosecutorial Council shall ex officio delete data on disciplinary sanctions after the deadline referred to in paragraph 4 of this Article.

Exemption

Article 120

When deciding on the responsibility of the Public Prosecutor, activities of the Disciplinary Committee or the Prosecutorial Council shall not be participated by members in respect of who there are circumstances that raise doubts as to their impartiality.

The exemption referred to in paragraph 1 of this Article shall be decided by the Prosecutorial Council, and exemption of the President of the Prosecutorial Council shall be decided by the Prosecutorial Council.

Suspension

Article 121

The Public Prosecutor shall be suspended from office if:

- 1) held in custody, for the duration of pretrial custody; or
- 2) criminal proceedings have been initiated against him or her for an offense that made him or her unworthy of the prosecutorial function.

The Public Prosecutor may be suspended from office after submitting the proposal for initiation of disciplinary proceedings for the most serious disciplinary offense.

The decision on suspension from the office shall be issued by the Prosecutorial Council. The request for suspension referred to in paragraph 1 and 2 of this Article shall be submitted by the Disciplinary Prosecutor.

Effect of Decision

Article 122

Any action taken by the Public Prosecutor in cases after the day of his or her suspension, removal from office or termination of prosecutorial function shall have no legal effect.

Costs of Proceedings

Article 123

If the proposal for establishing disciplinary responsibility is rejected, costs of disciplinary proceedings shall be borne by the Prosecutorial Council.

Governing Law

Article 124

Disciplinary proceedings shall be governed by the Criminal Procedure Code, unless otherwise provided by this law.

2. Removal from Office of the Head of the Public Prosecutor's Office

Reasons for Removal from Office

Article 125

Head of the Public Prosecutor's Office shall be removed from office if:

- 1) contrary to the law he or she changes the annual work schedule in the Public Prosecutor's Office;
- 2) preventing supervision in the Public Prosecutor's Office in accordance with the law;
- 3) treating the parties and to employees in the Public Prosecutor's Office inappropriately;
- 4) failing to submit or submits incomplete or inaccurate reports and other information in accordance with the law;
- 5) failing to act upon complaints on the work of Public Prosecutors, in accordance with the regulations;
- 6) taking away assigned cases contrary to the law;
- 7) in the process of supervision over the conduct of prosecutorial administration, illegalities and irregularities are established in the performance of prosecutorial administration that damage orderly and timely performance of activities and office of the Public Prosecutor's Office.
- 8) failing to submit a proposal for establishing disciplinary responsibility of Public Prosecutors in cases prescribed by law, and knows or should have known that there were grounds for disciplinary responsibility;
- 9) he or she is suspended from office of the Public Prosecutor;
- 10) his or her performance is evaluated as not satisfactory.

Proposal for Removal from Office

Article 126

Proposal for removal from office of the Head of Public Prosecutor's Office may be filed by the Head of the Public Prosecutor's Office which is immediately superior, the Supreme Public Prosecutor or the Minister of Justice.

Proposal for dismissal referred to in paragraph 1 of this Article shall be filed without delay, immediately upon learning of committed disciplinary offense.

Governing Provisions

Article 127

The procedure for removal from office of the Head of the Public Prosecutor's Office shall be governed by the provisions of this Law governing the procedure for determining disciplinary responsibility of the Public Prosecutor.

3. Removal from Office due to Permanent Incapacity to Exercise Prosecutorial Office

Procedure and Decision-Making

Article 128

The Public Prosecutor shall be removed from office if permanently incapacitated for performing the prosecutorial office.

Proposal for dismissal in the event of permanent incapacity for the prosecutorial office shall be made on the basis of a final court decision on the withdrawal of legal capacity or a court decision establishing that the physical and psychological characteristics of the Public Prosecutor are such that exercise of the prosecutorial office is disabled.

If the behavior of the Public Prosecutor or his attitude towards work arises suspicion that she has permanently lost the ability to exercise prosecutorial functions, the Prosecutorial Council may independently or at the request of Head Public Prosecutor's Office determined that the Public Prosecutor undergo medical examination.

Proposal for removal from office of the Public Prosecutor due to permanent incapacity for acting as the Public Prosecutor shall be submitted by the Head of the Public Prosecutor's Office, and for the Head of the Public Prosecutor's Office by the Head of the Public Prosecutor's Office which is immediately superior and the Supreme Public Prosecutor, and for the Supreme Public Prosecutor meeting of the Supreme Public Prosecutor's Office.

In the process of removal from office due to permanent loss of capacity for the prosecutorial office, the Public Prosecutor shall have the right to declare his or her opinion on the proposal for removal from office.

The decision on removal from office due to permanent incapacity for the prosecutorial office shall be made by the Prosecutorial Council and the decision may be subject to administrative proceedings.

IX. INTERNAL ORGANIZATION OF WORK OF THE PUBLIC PROSECUTION OFFICE

1. Relations within the Public Prosecution Office

Duty of the Supreme Public Prosecutor Article 129

The Supreme Public Prosecutor shall be responsible for performing the duties of the Public Prosecution Office and shall take measures and actions for the effective and lawful operation of the Public Prosecution Office.

Independence of Public Prosecutors Article 130

The Public Prosecutor shall be responsible for working on the case that is assigned to him or her and shall be independent in his or her work and decision making, except in cases provided for in Article 131 of this Law.

The Public Prosecutor shall inform the Head of the Public Prosecutor's Office's at his or her request about the work in a particular case and the decision that he or she intends to make, and the work on a particular case which includes complex factual and legal issues.

Mandatory Operating Instructions Article 131

At the Public Prosecution Office, to ensure uniform application of the law, mandatory operating instructions may be issued.

The mandatory operating instructions, according to this Law, shall include general instructions and instructions to be followed in individual cases.

General instructions shall be issued by the Supreme Public Prosecutor and their adoption may be initiated by the Head of the Public Prosecutor's Office, when it is considered necessary. General instructions shall be issued in writing.

Instructions to be followed in an individual case shall be issued by the:

- 1) Supreme Public Prosecutor for Public Prosecutors at the Supreme Public Prosecutor's Office and the Supreme Special Prosecutor, Heads of High and Basic Public Prosecutor's Offices;
- 2) Special Prosecutor for Special Prosecutors from that Prosecutor's Office;

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- 3) Head of the High Public Prosecutor's Office for Public Prosecutors from that Prosecutor's Office and Heads of the Basic Public Prosecutors' Offices in their areas of work;
- 4) Heads of the Basic Public Prosecutor's Offices for the Public Prosecutors of those Prosecutor's Offices.

Public Prosecutors or Heads of the Public Prosecutor's Offices may initiate giving the instructions referred to in paragraph 4 of this Article, if they determine that it is necessary for their work.

The Procedure for Issuing Instructions to be followed in Individual Case

Article 132

Instructions to be followed in an individual case shall be made in writing and with an explanation. Exceptionally, when circumstances do not permit it, instructions may be verbal, and yet, within a reasonable time, shall be given in writing.

Head of the Public Prosecutor's Office and the Public Prosecutor who was given instructions to be followed in an individual case shall have the right to point out the illegality or groundlessness of instruction and request the instructions to be issued in writing if given orally, and if given in writing to be repeated in the same form again.

If instructions to be followed in an individual case are repeated in terms of paragraph 2 of this Article, and the Head of the Public Prosecutor's Office or the Public Prosecutor still believes that the instructions are unlawful or groundless, Head of the Public Prosecutor's Office may, at his written and reasoned request, release him from further working on that case, if there is no risk of delay, and give the case to be addressed by another Head of the Public Prosecutor's Office or the Public Prosecutor.

The Public Prosecutor shall not be held accountable for an opinion expressed in paragraph 2 of this Article and the request made in accordance with paragraph 3 of this Article.

Relations at the Public Prosecution Office

Article 133

Supreme Public Prosecutor may directly exercise all powers and take any actions that the Head of the Special Public Prosecutor's Office, Head of the High Public Prosecutor's Office, or Head of the Basic Public Prosecutor's Office is authorized to exercise by law.

Supreme Public Prosecutor may, due to exemption or other legitimate reasons that may affect the further conduct of the proceedings, entrust individual cases or certain actions in those cases within the jurisdiction of the High Public Prosecutor's Office or the Basic Public Prosecutor's Office to another competent Public Prosecutor's Office.

Supreme Public Prosecutor may, due to exemption or other legitimate reasons that may affect the further proceedings, entrust individual cases or certain actions in those cases within the jurisdiction of the Special Public Prosecutor's Office, to the Supreme Public Prosecutor's Office.

Head of the High Public Prosecutor' Office may directly exercise all powers and take any actions that the Head of the Basic Public Prosecutor's Office is authorized to exercise within their jurisdiction.

Head of the High Public Prosecutor's Office may, for justified reasons, entrust individual cases or certain actions in these cases within the jurisdiction of the Basic Public Prosecutor's Office that falls under the jurisdiction of his or her Office to another Basic Public Prosecutor's Office that falls under the jurisdiction of his or her Office.

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The decision on taking over the powers and actions or entrusting them to another Public Prosecutor in terms of paragraphs 1 to 5 of this Article shall be made in writing.

Supervision

Article 134

The Supreme Public Prosecutor's Office shall supervise the work of the Special Public Prosecutor's Office, High Public Prosecutor's Office and Basic Public Prosecutor's Office. The High Public Prosecutor's Office shall supervise the work of the Basic Public Prosecutor's Office within their jurisdiction.

The Supreme Public Prosecutor's Office shall supervise the work of the Public Prosecutors' Offices by direct review of the work of each Public Prosecutor's Office and taking other appropriate measures for efficient and legal operation of the Public Prosecutor's Office. The supervision referred to in paragraph 3 of this Article shall be performed in accordance with the Supervision Plan that is issued by the Supreme Public Prosecutor.

High Public Prosecutor's Offices shall perform full supervision of all operations of the Public Prosecutors' Offices within their jurisdiction in accordance with the special Supervision Plan, which shall be issued by the Head of the High Public Prosecutor's Office.

Relations with the Public

Article 135

Information on the work of the Public Prosecution Office shall be provided by the Supreme Public Prosecutor or a person authorized by him or her, and on the work of the Public Prosecutor's Office by the Heads of the Public Prosecutor's Offices and persons authorized by them.

In the case of informing the public about the work in a particular case, only information about the action taken or being taken may be given, without specifying the names of the participants in the proceedings and content of the actions taken.

Information that may impact on the conduct of the proceedings shall not be made public. For the purpose of informing the public, the Public Prosecution Office may establish a special service for public relations.

2. Prosecutorial Administration

Organization of Work

Article 136

The organization of work of the Public Prosecution Office shall mean the management of the Public Prosecution Office, organization of prosecution departments and the meeting of the Public Prosecution Office, and the internal operation of the Public Prosecution Office.

The organization of work of the Public Prosecution Office referred to in paragraph 1 of this Article shall be governed by the Rules of Procedure of the Public Prosecution Office issued by the Ministry of Justice with the prior opinion of the Prosecutorial Council.

Management

Article 137

The Head of the Public Prosecutor's Office shall be responsible for the performance of the Public Prosecutor's Office and for taking measures and actions for efficient and lawful performance of the Public Prosecutor's Office.

The Head of the Public Prosecutor's Office shall organize the work of the Public Prosecutor's Office, allocate tasks and take measures to facilitate regular and timely performance of tasks of the Public Prosecutor's Office.

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The Head of the Public Prosecutor's Office, in the case of absence, inability to work or the expiry of the office shall be replaced by the Public Prosecutor designated by the Public Prosecutor's Office meeting for each calendar year, on the proposal of the Head of the Public Prosecutor's Office

Internal Operations of the Public Prosecution Office

Article 138

Internal operations in the sense of this Law shall include the activities of prosecutorial administration and use of the judicial information system.

The Prosecutorial Administration shall include the activities which ensure orderly and timely work of the Public Prosecutor's Office, and in particular: internal allocation of tasks; consideration of complaints and petitions; keeping proper records and reports; work of the filing office and archives; financial and material management, professional, administrative, IT, analytical and other tasks for the work of the Public Prosecutor's Office.

Judicial Information System is a unique electronic case management system in which data from the register of the Public Prosecutors' Offices shall be entered, stored and transmitted.

Allocation of Tasks

Article 139

Head of the Public Prosecutor's Office, no later than on 15 January of the current year, shall establish the yearly allocation of tasks that ensures even distribution of tasks and required specialization of Public Prosecutors.

Allocation of Cases

Article 140

Cases shall be allocated in such a way as to ensure impartiality, independence and efficiency in the work.

Withdrawal of Assigned Cases

Article 141

An assigned case shall be withdrawn from the Public Prosecutor if it is determined that he or she unjustifiably fails to act in the case, because of exemptions or, if unable to perform prosecutorial office for more than one month.

Cases whose urgent nature is prescribed by law may be taken away from the Public Prosecutor if due to absence or inability to work he or she is not able to deal with these cases promptly and within the legal deadline.

Head of Public Prosecutor's Office shall issue a decision on case withdrawal.

Decision to withdraw the case shall be submitted to the Public Prosecutor from whom the case is withdrawn.

A complaint against the decision on case withdrawal may be lodged to the Head of the Public Prosecutor's Office that is immediately senior, and against the decision of the Supreme Public Prosecutor to the meeting of the Supreme Public Prosecutor's Office, within three days of receipt of the decision.

The decision on the complaint shall be passed within two days of receipt of the complaint.

The complaint shall not stay the execution of the decision other than in detention cases.

If the complaint is approved, the case shall be assigned to the Public Prosecutor from whom it was taken away.

Duty and Standby

Article 142

Head of the Public Prosecutor's Office shall organize continuous duty hours and preparedness, for the efficient performance of tasks, especially for the execution of the preliminary investigation, investigation and other urgent tasks related to the possible commission of criminal offenses and other criminal activity.

The schedule and duration of duty hours and preparedness shall be determined by the Head of the Public Prosecutor's Office.

Meeting of the Public Prosecutor's Office

Article 143

In order to discuss certain issues of importance for the work, the Head of the Public Prosecutor's Office shall convene and chair a meeting of the Public Prosecutor's Office.

Meeting of the Public Prosecutor's Office shall consist of the Head of the Public Prosecutor's

Office and Public Prosecutors from the Public Prosecutor's Office.

Head of the Public Prosecutor's Office shall schedule a meeting at the request of at least one third of Public Prosecutors.

Meeting of the Public Prosecutor's Office shall decide if attended by at least two-thirds of Public Prosecutors, and a decision shall be made if voted for by a majority of the Public Prosecutors at the meeting, unless otherwise stipulated for some issues by this Law.

Scope of Work of the Meeting

Article 144

Meeting of the Public Prosecutor's Office shall:

- 1) examine the Work Plan and report on the work of the Public Prosecutor's Office;
- 2) take a position on the general issues from the Public Prosecutor's Office;
- 3) adopt its Rules of Procedure;
- 4) consider issues of importance for professional training, work organization and the overall work of the Public Prosecutor's Office;
- 5) consider the proposed annual work schedules;
- 6) decide on other matters of importance for the work of the Public Prosecutor's Office.

Meeting of the Supreme Public Prosecutor's Office

Article 145

Meeting of the Supreme Public Prosecutor's Office, in addition to the activities referred to in Article 144 of this Law, shall:

- 1) give opinions on draft regulations that are important for the performance of prosecutorial office;
- 2) point to problems in the application of regulations of relevance to perform prosecutorial office;
- 3) decide on the exemption of the Supreme Public Prosecutor;
- 4) consider the report on the work of the Public Prosecutor's Office.

The meeting of the Supreme Public Prosecutor's Office shall consist of the Supreme Public Prosecutor and Public Prosecutors at the Supreme Public Prosecutor's Office.

Enlarged Meeting

Article 146

Supreme Public Prosecutor, to discuss matters of particular importance for the Public Prosecution Office and in other cases prescribed by law, shall convene an enlarged meeting of the Supreme Public Prosecution Office, consisting of the Supreme Public Prosecutor,

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Public Prosecutors in the Supreme Public Prosecutor's Office, Heads of High Public Prosecutor's Offices and Head of the Special Public Prosecutor's Office

Annual Report

Article 147

Head of the Public Prosecutor's Office shall submit a report on the work of the Public Prosecutor's Office to the Prosecutorial Council and the Ministry of Justice, at the latest by 10 February of the current year for the previous year, and publish it at the same time on the website of the Public Prosecutor's Office.

At the request of the Prosecutorial Council, Head of Public Prosecutor's Office shall submit special or periodic reports within the deadline set by the Prosecutorial Council.

Public Prosecutor's Offices shall submit special reports that are required for reporting to the European Union and international organizations, and to monitor the implementation of regulations.

Head of the Public Prosecutor's Office shall be responsible for the accuracy of data in the reports.

3. Relations and Cooperation

Relationship with Courts and Other State Bodies

Article 148

Head of the Public Prosecutor's Office or the Public Prosecutor shall be authorized to request courts and other state bodies to submit files, information and notifications required for undertaking actions within his or her competence, and the courts or other state bodies shall act on his or her request.

Head of the Public Prosecutor's Office or the Public Prosecutor shall, at the request of a court or other state body, submit the documents, information and notifications required by a court or other state body in the exercise of their office.

Cooperation with the Police and Other Authorities

Article 149

Head of the Public Prosecutor's Office may organize consultation meetings to clarify contentious issues or give detailed instructions to be followed in individual cases with the police officers and officers of other authorities.

The consultation meeting shall specify the method of cooperation, exchange of data collected and direct the joint action of Public Prosecutors with police officers and other officials.

International Cooperation

Article 150

The Public Prosecutor's Office may establish direct cooperation with foreign Public Prosecutor's Offices under international agreements and other international documents.

The method and conditions of establishing the cooperation referred to in paragraph 1 of this Article shall be established by the meeting of the Supreme Public Prosecutor's Office.

4 Internal Organization and Job Systematization

General Benchmarks

Article 151

The required number of Public Prosecutors, civil servants and state employees in the Public Prosecutor's Offices shall be established in accordance with general benchmarks prescribed by the Ministry of Justice on the proposal of the Prosecutorial Council.

Regulation on Internal Organization

Article 152

The required number of advisors, other civil servants and state employees shall be established by the Regulation on Internal Organization and Job Systematization, in accordance with general benchmarks referred to in Article 151 of this Law.

The Regulation on Internal Organization and Job Systematization shall be issued by the Head of the Public Prosecutor's Office, upon approval by the Government of Montenegro, and prior opinion of the Prosecutorial Council, Ministry of Justice and competent authorities, in accordance with the law regulating the rights and responsibilities of civil servants and state employees.

Secretary

Article 153

The Supreme Public Prosecutor's Office shall have a secretary who assists the Supreme Public Prosecutor in the performance of prosecutorial administration.

The Public Prosecutor's Office with at least ten Public Prosecutors shall have a secretary of the Public Prosecutor's Office that assists the Head of the Public Prosecutor's Office in the performance of prosecutorial administration.

The Secretary shall meet the requirements established for advisors in the Public Prosecutor's Office.

Advisors

Article 154

Advisor may be a person who meets the general requirements referred to in Article 49 of this Law, in addition to specific requirements determined by the Regulation on Internal Organization and Job Systematization of the Public Prosecutor's Office.

Advisors shall assist the Public Prosecutor in the work, prepare draft legislation, maintain the record of applications, submissions and statements of citizens, carried out independently or under the guidance and supervision of the Public Prosecutor other professional tasks stipulated by law and regulations based on the law.

If authorized by the Public Prosecutor, advisors may perform certain evidentiary actions. Record of the implemented actions entrusted shall be endorsed by the Public Prosecutor, at the latest within 48 hours of time of its implementation.

Head of the Basic Public Prosecutor's Office may authorize the advisor to in the proceedings represent proposals for indictment before the court.

Civil Servants with Special Expertise

Article 155

The Public Prosecutor's Office may have special education, social, educational, economic, and accounting and finance officers, or other appropriate qualifications with relevant work experience in these areas, to assist the Head of the Public Prosecutor's Office or the Public Prosecutor in the work in matters in which the necessary expertise in these fields is required.

Trainee Prosecutor

Article 156

Trainee prosecutor may be a person who has graduated from law school, level VIII of professional qualifications, and meets the general requirements to work in state institutions. A special law shall apply to special conditions and procedure for employment, duration of internship and training during the internship.

Application of Other Laws

Article 157

Regulations governing the rights, obligations and responsibilities of civil servants and state employees shall apply to the commencement and termination of employment of advisors, other civil servants and state employees, salaries and other rights, obligations and responsibilities, conditions of employment and conditions of expert examination, unless otherwise prescribed by this Law.

5. Supervision of the Prosecutorial Administration

Supervision

Article 158

The performance of prosecutorial administration shall be supervised by the Ministry of Justice.

During supervision the Ministry of Justice shall take no actions that affect the decision of the Public Prosecutor in the case.

Inspection Control

Article 159

The Ministry of Justice, through the judicial inspectors, shall perform inspection control of the Public Prosecutor's Offices in relation to the organization of work of the Public Prosecutor's Offices in accordance with this Law and of the application of the Rulebook on Internal Operations of the Public Prosecution Office in the area of prosecutorial administration, especially in relation to:

- 1) operation of the filing office and archives;
- 2) keeping official records as prescribed;
- 3) Other tasks related to proper work and operation of prosecutorial administration.

Judicial Inspector

Article 160

Inspection control over prosecutorial administration in the Public Prosecutor's Office shall be performed by judicial inspector.

A person who meets the requirements for a judge of the administrative court may be appointed as a judicial inspector.

Execution of Inspection Supervision

Article 161

Inspection supervision shall be carried out in accordance with the annual plan of supervision, issued by the Minister of Justice by the end of the calendar year for the following year (regular inspection supervision).

Annual supervision plan shall include the Public Prosecutor's Offices in which, according to the results of the supervision conducted during a calendar year, supervision (inspection supervision) has to be repeated in the next calendar year.

Annual supervision plan shall be submitted to the Public Prosecutor's Offices in which supervision shall be conducted, no later than on 31 January of the current year.

Extraordinary inspection supervision shall be determined by the decision of the Minister of Justice on the proposal of the Supreme Public Prosecutor, Head of the Public Prosecutor's Office that is immediately senior or the President of the Prosecutorial Council.

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The decision on extraordinary inspection supervision shall be submitted to the Public Prosecutor's Office prior to the inspection, no later than the day before the start of supervision.

The Ministry of Justice shall carry out inspections on the occasion of the complaints and petitions of citizens related to the activities of prosecutorial administration.

Implementation of Supervision

Article 162

Inspection supervision shall be conducted by direct examination of documents, data and operation in the Public Prosecutor's Office, or by examining the submitted documents and data of the Public Prosecutor's Office.

Head of the Public Prosecutor's Office shall facilitate smooth implementation of inspection supervision in the Public Prosecutor's Office or to provide the required documents and information.

Minutes

Article 163

Minutes of conducted inspection supervision shall be taken containing data on established facts, irregularities and measures to be taken in order to eliminate the established irregularities and deadlines for taking these measures.

Inspection supervision minutes shall be submitted to the Head of the Public Prosecutor's Office.

If any irregularities are established by inspection supervision, Head of the Public Prosecutor's Office may provide written comments to the minutes, at the latest within eight days of receipt.

Minutes of the conducted inspection supervision and declaration of the Head of Public Prosecutor's Office in the case referred to in paragraph 3 above shall be submitted to the Head of the Public Prosecutor's Office that is immediately senior, the Supreme Public Prosecutor and the Prosecutorial Council.

Head of the Public Prosecutor's Office shall remove the irregularities found in the work of prosecutorial administration within the time limits specified in the minutes of the completed inspection supervision.

Head of the Public Prosecutor's Office shall inform in writing about the measures taken under paragraph 5 of this Article the Ministry of Justice, Head of the Public Prosecutor's Office that is immediately senior, the Supreme Public Prosecutor and Prosecutorial Council.

X. DATA PROTECTION

Obligation to Protect Classified Information

Article 164

Heads of the Public Prosecutor's Offices, Public Prosecutors, the Head of the Special Public Prosecutor's Office and special prosecutors, civil servants and state employees in the Public Prosecutor's Office shall keep secret data, regardless of the manner in which they have learned about them, in accordance with the law governing the confidentiality of data.

Data Protection

Article 165

The persons referred to in Article 164 of this Article shall not provide data on personal, family and life of natural persons or financial position of legal persons that they have learned about during the proceedings.

Obligation after the Termination of Office**Article 166**

The obligation to protect data from Article 164 and Article 165 of this Law shall extend beyond the cessation of employment in the Public Prosecutor's Office.

XI. SECRETARIAT OF THE PROSECUTORIAL COUNCIL**Secretariat****Article 167**

In order to professionally perform all financial, administrative, IT, analytical and other tasks of the Prosecutorial Council and activities of common interest to all Public Prosecutor's Offices, the Secretariat of the Prosecutorial Council (hereinafter: the Secretariat) shall be established.

Secretary of the Secretariat**Article 168**

The Secretariat shall be headed by the secretary.

Secretary of the Secretariat shall be appointed and removed from office by the Prosecutorial Council, on a proposal from the President of the Prosecutorial Council, on the basis of a public announcement.

Secretary of the Secretariat shall be appointed for a term of five years.

Proposal for appointment of the Secretary of the Secretariat shall include the name and surname of the candidate, a short biography and explanation.

A person may be appointed the Secretary of the Secretariat if in addition to the general requirements for employment in state institutions he or she fulfills the following special conditions, namely that he or she:

- 1) completed law school, level VIII of professional qualifications;
- 2) passed the Bar exam;
- 3) has at least ten years of work experience;
- 4) has the organisational skill.

Accountability**Article 169**

The Secretary of the Secretariat shall be accountable to the Prosecutorial Council.

Office of the Secretary of the Secretariat shall be terminated before the expiration of his or her appointment, by resignation or dismissal.

Secretary of the Secretariat may be removed from office upon a reasoned proposal of the President or a member of the Prosecutorial Council.

Governing Provisions**Article 170**

The commencement of employment, rights, obligations and responsibilities of the Secretariat shall be governed by the provisions of the Law on Civil Servants and State Employees pertaining to high managerial staff.

The commencement of employment, rights, obligations and responsibilities of other employees of the Secretariat shall be governed by regulations relating to civil servants and state employees.

Act on Internal Organization and Job Systematization of the Secretariat
Article 171

The internal organization of the Secretariat, the number of civil servants and state employees and their job descriptions shall be governed by the Act on Internal Organization and Job Systematization, in accordance with this Law and regulations on the state administration.

The Act referred to in paragraph 1 of this Article shall be adopted by the Prosecutorial Council, on a proposal from the Secretariat, upon prior opinion of the Ministry of Justice and the competent authorities in accordance with the law governing the rights and obligations of civil servants and state employees.

XII. RECORDS

Content of Records

Article 172

The Secretariat shall keep a record of data on the Public Prosecutors and heads of the Public Prosecutor's Offices containing, in particular, information on:

- 1) personal name, nationality if declared by the Public Prosecutor, address, date and place of birth and sex;
- 2) the date of appointment to the office;
- 3) work experience;
- 4) academic degree (MSc, MA, PhD);
- 5) professional development;
- 6) knowledge of a foreign language;
- 7) published scientific and professional papers and other activities in the field;
- 8) performance report (number of cases, volume and quality of work, exceeding the legal time limits);
- 9) performance appraisal;
- 10) promotion;
- 11) disciplinary responsibility and dismissal;
- 12) termination of office;
- 13) allowing access to classified information.

The Public Prosecutor shall have the right to propose entry of other data in the records referred to in paragraph 1 of this Article, and the right to examine the records and documents based on which records about him or her are kept.

The method of keeping records referred to in paragraph 1 of this Article shall be determined by the Rules of Procedure of the Prosecutorial Council.

XIII. PHYSICAL SECURITY

Organization of Physical Security

Article 173

Activities relating to physical security of persons, property and facilities of the Public Prosecutors' Offices shall include the prevention of illegal action directed against persons, premises and property of the Public Prosecutor's Office, maintaining order, prevention of the introduction of cold hand arms and firearms, explosives and other dangerous items or substances, and the destruction or disposal of assets.

The activities referred to in paragraph 1 of this Article shall be performed by employees in the Public Prosecutor's Office working as security guards or legal persons authorized to perform the duties of physical protection and security.

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For all Public Prosecutor's Offices, a Department for Prosecutorial Security may be established in the Supreme Public Prosecutor's Office.

Requirements for Providing Physical Security

Article 174

Physical security of Public Prosecutor's Offices may be provided by any person who, in addition to general requirements prescribed for employment in state institutions, fulfills the following conditions, namely:

- 1) has the third (III) or fourth (IV) level of professional qualifications and meets the requirements for possession and carrying of weapons in accordance with the law governing weapons;
- 2) completed a training program for providing physical security;
- 3) in the year preceding the year in which the contract of employment is concluded was not punished for violation of public order with elements of violence for which a punishment of imprisonment is prescribed, an offense under the law governing the weapons or an offense under the law governing the protection of persons and property;
- 4) there are no other circumstances that may indicate abuse or unlawful exercise of protection (frequent or excessive consumption of alcohol, psychoactive substances, conflict or incidental behavior).

Preliminary verification of fulfillment of the conditions referred to in paragraph 1 of this Article shall be conducted by the state administration body responsible for police work, and if necessary, in cooperation with the National Security Agency, with the consent of the person who is being assessed.

Execution of Physical Security and Powers

Article 175

Physical security shall be exercised by means of coercion, namely: physical strength, rods, restraining devices, chemicals and firearms (pistol), under the conditions prescribed by the law regulating the activities of protection of persons and property.

Exercising physical security, a person working as a security guard shall be authorized to:

- 1) establish the identity of persons entering and leaving the Public Prosecutor's Office;
- 2) examine the persons who enter and exit the Public Prosecutor's Office and their belongings;
- 3) give a warning or issue orders;
- 4) prohibit from entering the persons who carry cold hand arms or firearms, or who are reasonably suspected of bringing in hazardous materials, other than officials coming to the Public Prosecutor's Office in order to execute work orders, and for whom it is necessary to have a weapon or other dangerous item in order to execute their work orders;
- 5) detain a person caught in the commission of a crime until he or she is handed over to the state administration body responsible for police work;
- 6) remove from the Public Prosecutor's Office persons who obstruct the work of the Public Prosecutor's Office;
- 7) perform other tasks or execute orders of the Head of the Public Prosecutor's Office in connection with the security of persons, property and premises of the Public Prosecutor's Office.

Physical security and powers referred to in paragraphs 1 and 2 of this Article shall be exercised in accordance with the law governing the protection of persons and property.

Procurement of Weapons

Article 176

If physical security is carried out by the security officer referred to in Article 174 of this Law, the Public Prosecutor's Office shall obtain an approval for procurement of weapons in accordance with the provisions of the law governing weapons, which are related to the issue of approvals for acquiring firearms to legal persons.

The maintenance, preservation and recording of weapons that have been purchased in accordance with paragraph 1 of this Article, shall be governed by legislation regulating the maintenance, preservation and recording of weapons.

Official Identification Card and Uniform

Article 177

Security officer referred to in Article 174 of this Law shall have an official ID issued by the Public Prosecutor's Office and the official uniform.

The procedure for issuing official identification cards, the ID form specified in paragraph 1 of this Article, and the design of the uniform shall be prescribed by the Ministry of Justice.

Common Security

Article 178

The provision of physical security of persons, property and facilities referred to in Article 173, paragraph 1 above, for the Public Prosecutor's Offices which are located in the same building, and for the Public Prosecutor's Offices and courts which are located in the same building, may be organized jointly.

XIV. FUNDING

Funds for the Operations

Article 179

Funding for the Public Prosecutor's Office and Prosecutorial Council shall be provided in a separate section of the Budget of Montenegro.

Prosecutorial Council shall propose the annual budget for the work of each Public Prosecutor's Office individually and for the Prosecutorial Council.

Prosecutorial Council shall submit an annual budget proposal to the Government of Montenegro.

President of the Prosecutorial Council shall have the right to participate in the session of the Parliament discussing the budget proposal for the work of the Public Prosecutor's Office and the Prosecutorial Council.

Payment Approval

Article 180

Payments at the Supreme Public Prosecutor's Office and at the Public Prosecutor's Offices shall be approved by the Supreme Public Prosecutor and Heads of the Public Prosecutor's Offices, respectively.

Payments in the Prosecutorial Council shall be approved by the President of the Prosecutorial Council.

The authority referred to in paragraph 2 of this Article may be delegated by the President of the Prosecutorial Council to the Secretary of the Secretariat of the Prosecutorial Council.

XV. TRANSITIONAL AND FINAL PROVISIONS**Deadline for Adopting Secondary Legislation****Article 181**

Secondary legislation for the implementation of this Law shall be passed not later than six months from the date of entry into force of this Law.

Deadline for Public Announcement**Article 182**

Public announcement for the appointment of the Secretary of the Secretariat shall be published no later than 30 days from the date of entry into force of this Law.

Act on Internal Organization and Job Systematization shall be adopted within 30 days of the appointment of the Secretary of the Secretariat.

Taking Over**Article 183**

The Secretariat, within 30 days of the appointment of the Secretary, shall take over the duties of the Supreme Public Prosecutor's Office, in addition to employees, equipment, tools and official documentation.

Mandate of the Prosecutorial Council**Article 184**

Prosecutorial Council appointed in accordance with the Law on Public Prosecution Office ("Official Gazette of Montenegro", 69/03 and "Official Gazette of Montenegro", 40/08, 39/11 and 46/13), shall continue to operate until the end of the mandate.

Deadline for the Appointment of Public Prosecutors**Article 185**

Public Prosecutors, in accordance with Article 135i paragraphs 3 and 4 of the Law on Public Prosecution Office ("Official Gazette of RM", 69/03 and "Official Gazette of Montenegro", 40/08, 39/11 and 46/13), shall be appointed not later than on 1 July 2015.

Delay of Application**Article 186**

Articles 49 to 79 and Articles 86 to 100 of this Law shall apply from 1 January 2016. Until the date of application of the provisions referred to in paragraph 1 of this Article, Articles 24 to 38 of the Law on Public Prosecutor ("Official Gazette of RM", 69/03 and "Official Gazette of Montenegro", 40/08, 39/11 146/13) shall apply.

Start-up of Physical Security Services**Article 187**

The physical security services for persons, property and facilities in accordance with Articles 173 to 178 of this Law shall start to be provided on 1 July 2015.

Repealing**Article 188**

On the effective date of this Law, the Law on Public Prosecution Office ("Official Gazette of RM", 69/03 and "Official Gazette of Montenegro", 40/08, 39/11 and 46/13) shall be repealed.

Entry into Force**Article 189**

This Law shall enter into force on the eighth day of its publication in the "Official Gazette of Montenegro".

REASONING

I. CONSTITUTIONAL BASIS FOR PASSING THE LAW

The constitutional basis for the adoption of the Law on Public Prosecution Office is contained in Article 16 paragraph 1 item 3 of the Constitution of Montenegro which stipulates that in accordance with the Constitution the Law shall regulate the establishment, organization and competence of the authorities and the procedure before the authorities if this is required for their operation.

II. REASONS FOR PASSING THE LAW

The Constitution of Montenegro of 2007 strengthened the position of an independent Public Prosecution Office. The guarantee that the Public Prosecution Office is a unique and independent state body was confirmed by the Amendments I to XVI to the Constitution of Montenegro from 2013, by introducing the Prosecutorial Council into the Constitution with the task to ensure the independence of the Public Prosecution Office through the exercise of their jurisdiction.

Also, Montenegro, in line with the new approach of the European Commission, opened the accession negotiations with Chapters 23 and 24, relating to the judiciary and fundamental rights, and justice, freedom and security, and in the process of analytical screening certain needs for further improvement of the Law on Public Prosecution Office were identified.

Consequently, the need for the adoption of the new Law on Public Prosecution Office was established by the Action Plan for the Chapter 23 - Judiciary and Fundamental Rights, one of the most important strategic and reform documents in the area of justice, which contained specific objectives and measures to be implemented in the process of integration of Montenegro in the European Union. Action Plan for Chapter 23, as one of the measures to strengthen the independence of the judiciary, provides for the amendment of the Law on Public Prosecution Office in terms of establishing a uniform system of appointment for Public Prosecutors at the national level in Montenegro, based on the process that is transparent and merit-based, then establishing a system for periodic evaluation of the performance of Public Prosecutors, the introduction of the system of promotion based on performance results, regulation of the procedure for permanent transfer of Public Prosecutors from one Public Prosecutor's Office to another on a voluntary basis, and revising the procedure of disciplinary responsibility and the system of disciplinary offences of Public Prosecutors.

Also, these measures are envisaged by the Strategy for the Reform of the Judiciary for the period 2014-2018, in the framework of the strategic goal of strengthening the independence, impartiality and accountability of the judiciary.

One of the reasons for drafting the new Law on Public Prosecution Office is the European Commission's recommendation given in the Montenegro Progress Report for 2013, in terms of introducing a single system of appointment of Public Prosecutors at the national level and the introduction of an objective system of promotion based on merit and taking measures to strengthen the accountability of Public Prosecutors and guarantee the integrity of the judicial system.

On the basis of the foregoing there were several reasons why it was necessary to draft a new Law on Public Prosecution Office, and its adoption will strengthen the independence of the judiciary, as the final and most important guarantor of the democratic functioning of institutions at the national, European and international level and a guarantee of legal certainty.

III. COMPATIBILITY WITH EUROPEAN LEGISLATION AND RATIFIED INTERNATIONAL CONVENTIONS

On the basis of international standards contained in the documents of the Council of Europe, the United Nations and the European Union, a number of solutions in the Law on Public Prosecution Office were proposed.

The most significant international standards of the Council of Europe which are taken into account are:

- European Convention on Human Rights and Fundamental Freedoms;
- Recommendation R (2010) 12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities;
- Recommendation R (2000) 19 of the Council of Ministers to member states on the role of public prosecution in the criminal justice system;
- Great Charter of Judges (Magna Carta) Consultative Council of European Judges 3 (2010);
- The European Charter on the Statute for Judges;
- Opinions of the Consultative Council of European Judges, and
- Opinions of the Consultative Council of Prosecutors.

The most significant international standards of the United Nations that were taken into account:

- Universal Declaration of Human Rights;
- International Covenant on Civil and Political Rights, and
- The basic principles of judicial independence adopted by the Seventh Congress of the United Nations and accepted by the General Assembly.

The EU standards contained in the Treaties, the European Union Charter of Human Rights and Freedoms. However, it should be emphasized that there is no secondary legislation which regulates in detail the principles of organization of the national judiciary of EU member states, which is understandable when taking into account the principles on which the EU is founded and its functioning. Thus, one might say that the EU member states in terms of the independence of judicial systems are based on international standards built within the Council of Europe and the United Nations.

A number of expert missions, organized through the support of the TAIEX program, were of particular importance for the harmonization of the Law on Public Prosecution Office with international and European standards.

The Law on Public Prosecution Office was aligned with the opinion of the experts of the European Commission Luca Perilli, judges in the Republic of Italy and Masa Grgurevic Alcin, former judge of the Supreme Court of the Republic of Slovenia. Also, the Law on Public Prosecution Office complies with the comments of experts of the Venice Commission Mr. Guido Nepi Modona, (Italy), Mr. Jorgen Sorensen (Denmark) and Mr. James Hamilton (former member of the Venice Commission of Ireland).

IV. EXPLANATION OF BASIC LEGAL INSTITUTIONS

I. GENERAL PROVISIONS

General provisions of the proposed legislation stipulate, inter alia, the principles of independence and impartiality of the prosecutorial office, then the right to remuneration, professional training and professional association of Public Prosecutors and heads of the Public Prosecutor's Offices. According to Recommendation R (2000) 19 of the Council of Europe, Public Prosecutors in the performance of their duties shall exercise their office in a fair manner, independently and objectively, respect, and seek to respect human rights as

guaranteed by the Convention for the Protection of Human Rights and fundamental freedoms.

II. ESTABLISHMENT, ORGANIZATION AND JURISDICTION

Pursuant to the Constitutional definition, the Public Prosecution Office is a unique body that is established for the entire territory of Montenegro, and it is headed by the Supreme Public Prosecutor. The Public Prosecution Office is hierarchically structured body that performs its function on the basis of the Constitution, laws and ratified international treaties. The Public Prosecution Office includes the Basic Public Prosecutor's Office (total of 13), High Public Prosecutor's Office (total of 2), Special Public Prosecutor's Office and the Supreme Public Prosecutor's Office.

An important novelty is the establishment of the Special Public Prosecutor's Office, under the prosecutor's office, as a Special Public Prosecutor's Office to fight organized crime and corruption, instead of the current Department for the fight against corruption, organized crime, terrorism and war crimes at the Supreme Public Prosecutor's Office. In this way, Montenegro met the obligations under international conventions and met the needs of the rationalization of the court network, which requires a higher degree of specialization and the implementation of effective measures in the field of organized crime and corruption.

Jurisdiction and organization of the Special Public Prosecutor's Office shall be regulated by a special law.

Actual and local jurisdiction of the Public Prosecution Office is prescribed under the provisions of the law defining the jurisdiction of the courts before which they fulfill their mandate.

III. PROSECUTORIAL COUNCIL

The Law on Amendments to the Law on Public Prosecution Office from 2013 was aligned with the Amendments I to XVI to the Constitution of Montenegro, which were adopted by the Parliament on 31 July 2013, according to which the Prosecutor's Council was introduced as a constitutional category. Prosecutorial Council has a Chairman and ten members, and the President of the Prosecutorial Council is the Supreme Public Prosecutor. In addition, the procedure for the appointment of members of the Prosecutorial Council from among the Public Prosecutors and eminent jurists is elaborated in detail. Also, a significant innovation was introduced meaning that for the duration of the term of office in the Prosecutorial Council a member of the Prosecutorial Council appointed from among Public Prosecutors shall not be appointed to the Public Prosecutor's Office of a higher level or as the Head of the Public Prosecutor's Office, and a member of the Prosecutorial Council from among eminent jurists shall not be appointed as the Public Prosecutor or the Head of the Public Prosecutor's Office.

Members of the Prosecutorial Council from among the Public Prosecutors and eminent jurists may be re-elected to the Prosecutorial Council after the expiry of four years from the termination of the previous mandate in the Prosecutorial Council.

Mandate of a member of the Prosecutorial Council shall end before the expiry of his or her term of office if convicted to unconditional imprisonment, if he or she resigns or if his or her office on the basis of which he or she was appointed to the Prosecutorial Council is terminated. Member of the Prosecutorial Council shall be removed from office if performing his or her duties carelessly and unprofessionally or is convicted for an offense that makes him or her unworthy of the membership in the Prosecutorial Council. The Law further states what is considered careless and unprofessional performance of duties and action that makes a member of the Prosecutorial Council unworthy of the membership in the Prosecutorial Council.

In relation to the new responsibilities of the Prosecutorial Council, as determined by the Constitution, other responsibilities and activities relevant to the work of the Prosecutorial Council are elaborated, such as giving opinions on the incompatibility of performing certain

tasks with the exercise of prosecutorial functions, establishing the Committee for evaluation of Public Prosecutors and the issuance of official identity cards. Decision of the Prosecutorial Council shall be final and may not be subject to administrative proceedings, unless otherwise provided by this Law. When making a decision on the election of Heads of the Public Prosecutor's Offices and Public Prosecutors, the Prosecutorial Council shall pay attention to proportional representation of minorities and other minority ethnic groups and on gender-balanced representation.

Number of Public Prosecutors shall be determined on the basis of the indicative scale of work. Number of Public Prosecutors for each Public Prosecutor's Office shall be determined by the Prosecutorial Council, and the initiative for determining the number of prosecutors shall be given by the Supreme Public Prosecutor. The decision on the number of Public Prosecutors shall be published in the "Official Gazette of Montenegro".

As regards the relationship of the Prosecutorial Council and other Public Prosecutor's Offices, the Public Prosecution Office shall submit to the Prosecutorial Council, at their request, all data and information within their competence within the deadline set by the Prosecutorial Council. If failing to meet the request of the Prosecutorial Council, the Public Prosecution Office shall without delay provide the reasons for not having acted on the request. The Public Prosecution Office shall allow the Prosecutorial Council, at their request, direct access to official files, documents and data, and provide copies of requested files and documents.

IV. APPOINTMENT OF HEADS OF THE PUBLIC PROSECUTOR'S OFFICES AND PUBLIC PROSECUTORS

By amendments to the Constitution of 2013, instead of the system of appointment of Public Prosecutors, a system of appointment of Heads of the Public Prosecutor's Offices and Public Prosecutors was introduced.

The Supreme Public Prosecutor may be a person who meets the general and special conditions and has at least 15 years of experience as a Public Prosecutor or judge, or at least 20 years of experience in other legal matters and who is characterized by professional impartiality, high professional and moral qualities. Two months before the expiry of the mandate of the Supreme Public Prosecutor, or immediately after the termination of office or dismissal of the Supreme Public Prosecutor, the Prosecutorial Council shall announce the vacant post of the Supreme Public Prosecutor in the "Official Gazette of Montenegro" and one of print media based in Montenegro. The deadline for applications is 15 days from the date of announcement. Prosecutorial Council shall make a list of candidates who meet the statutory requirements for the selection of the Supreme Public Prosecutor. The list of candidates shall be submitted to the opinion of the enlarged session of the Supreme Public Prosecutor's Office.

Based on the list of candidates, opinion of the enlarged meeting of the Supreme Public Prosecutor's Office on the registered candidates and the interview with the candidates, the Prosecutorial Council shall determine a proposal for the appointment of the Supreme Public Prosecutor, in a closed meeting, which contains one candidate and must be explained. Reasoned proposal for the election of the Supreme Public Prosecutor with a list of candidates shall be submitted to the Parliament by the Prosecutorial Council.

The same person may be appointed to the Supreme Public Prosecutor's Office at most twice. At the conclusion of his or her term of office and termination of office of the Supreme Public Prosecutor at his own request, the Supreme Public Prosecutor shall remain as Public Prosecutor at the Supreme Public Prosecutor's Office.

The person who may be appointed as the Head of the Basic Public Prosecutor's Office and High Public Prosecutor's Office, in addition to the general conditions, has to have the following work experience: ten years on the legal matters of which at least five years on the prosecutorial or judicial position - the head of the Basic Public Prosecutor's Office; 12 years

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on the legal matters of which at least eight years on prosecutorial or judicial position - the Head of the High Public Prosecutor's Office. A Public Prosecutor or a judge whose performance was evaluated as good or excellent work in the process of performance appraisal in accordance with the law may be appointed the Head of the Public Prosecutor's Office.

A person who, after passing the Bar exam worked for at least two years as an advisor in the Public Prosecutor's Office or the court, as an attorney, notary, deputy notary or Professor of Law, or for at least four years in other legal matters may be appointed as the Public Prosecutor in the Basic Public Prosecutor's Office. A person who has worked as a Public Prosecutor or a judge for at least eight years may be appointed as the Public Prosecutor in the High Public Prosecutor's Office. A person who has worked as a Public Prosecutor or a judge for at least 15 years may be appointed as the Public Prosecutor at the Supreme Public Prosecutor's Office. Exceptionally, a person who has worked for at least at least 20 years as a lawyer, notary, and professor of law or in other legal matters may be appointed as a Public Prosecutor in the High Public Prosecutor's Office and the Supreme Public Prosecutor's Office.

In addition to the requirements for the selection of Heads of the Public Prosecutor's Offices, the procedure and criteria for the selection of Heads of the Public Prosecutor's Offices has been stipulated in detail. The legislator stresses the obligation of a candidate for Head of the Public Prosecutor's Office, enclosed with the application on the public announcement, to submit a work plan that includes a vision of the organization of work in the Public Prosecutor's Office for a term of five years. Criteria for selection of the Head of the Public Prosecutor's Office are: assessment of the work plan, performance appraisal as a Public Prosecutor or the judge and score in the interview. The same person may be appointed as Head of the Public Prosecutor's Office no more than twice in the same Public Prosecutor's Office.

Significant innovation is the introduction of the plan of filling vacancies, comprising of positions of Public Prosecutors in all Public Prosecutor's Offices, which will be vacant in the next two years. The Vacancy Plan shall be made on the basis of estimates of manning needs of Public Prosecutors by voluntary relocation, promotion and public notices for the first appointment of Public Prosecutors in the Basic Public Prosecutor's Offices. The Vacancy Plan shall be adopted by the Prosecutorial Council no later than the end of the calendar year for the next two years. The Vacancy Plan may be amended if during the year there are changed circumstances on the basis of which the need for filling the positions of Public Prosecutors was assessed.

The Law on Public Prosecution Office stipulates in detail the procedure for the election and Public Prosecutors who are elected for the first time, which includes advertising vacancies, acting on applications, selection criteria, written tests, interviews, the ranking list of candidates, the rights of registered persons, rights and obligations of candidates for Public Prosecutor, initial training and making decisions about selection. Also, the Law regulates in detail the procedure for the election of Public Prosecutors who are elected for permanent office, which includes public announcement, criteria and decision-making. A special procedure is prescribed for the selection of a Public Prosecutor in the High or the Supreme Public Prosecutor's Office.

The Public Prosecutor or a judge has the right to be promoted to the Public Prosecutor's Office of a higher level if his or her performance is evaluated as excellent or good, and if meeting the special conditions set for the election at the Public Prosecutor's Office. Public Prosecutor or a judge may be promoted to the Supreme Public Prosecutor's Office if he or she is rated as excellent and if meeting the special requirements for appointment to the Supreme Public Prosecutor's Office. In the process of promotion, vacancies for Public Prosecutors in the High and Supreme Public Prosecutor's Office are announced in accordance with the plan of Public Prosecutors. The selection of Public Prosecutors in the Public Prosecutor's Office is done on the basis of evaluation of the performance of the Public

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Prosecutor or the judge who applied for the position and interview evaluation. When rated good or excellent, Public Prosecutor or a judge may score 60 and 80 points, respectively, and 20 points on the basis of an interview.

The Public Prosecutor shall assume office on the day of taking the oath. Public Prosecutors take an oath before the Prosecutorial Council, not later than 15 days after the appointment.

V. SECONDING AND ASSIGNMENT OF PUBLIC PROSECUTORS

As a rule, the Public Prosecutor exercises the prosecutorial office in the Public Prosecutor's Office to which he was appointed. A Public Prosecutor, with his consent, may be seconded by the Prosecutorial Council to another Public Prosecutor's Office of the same or lower level, due to exemption or inability of a Public Prosecutor in the Public Prosecutor's Office to exercise prosecutorial office or if there is a large backlog that cannot be resolved with the existing number of Public Prosecutors or for other legitimate reasons that jeopardize the conduct of regular activities in the Public Prosecutor's Office to which the Public prosecutor is seconded.

In addition to another Public Prosecutor's Office, the Public Prosecutor may be seconded to the Ministry of Justice, Judicial Training Center and the Secretariat of the Prosecutorial Council, in order to participate in the activities of those bodies concerning the improvement of the Public Prosecutor's Office.

In the case of reorganization of the Public Prosecutor's Office that reduces or terminates a number of Public Prosecutors, Public Prosecutor may be transferred by the Prosecutorial Council to work in another Public Prosecutor's Office without his or her consent.

The novelty in the Law is the introduction of a permanent voluntary reassignment of Public Prosecutor son the basis of internal announcements, and Public Prosecutors who want to be permanently reassigned to another Public Prosecutor's Office of the same or a lower level have the right to apply based on an internal announcement. The Prosecutorial Council shall make a list of candidates for reassignment according to performance results in the previous three years or according to performance evaluation of the Public Prosecutor and shall decide on the reassignment of the Public Prosecutor to another Public Prosecutor's Office taking into account the needs of the Public Prosecutor's Office in which the Public Prosecutor exercises his or her office and of the Public Prosecutor's Office to which he or she is reassigned.

VI. EVALUATION OF PUBLIC PROSECUTORS AND HEADS OF PUBLIC PROSECUTOR'S OFFICES

The system to evaluate the performance of Public Prosecutors and Head Public Prosecutors is an important novelty that is being introduced by the proposed Law.

The introduction of a transparent procedure of periodic evaluation, participated by the Public Prosecutor concerned, based on multiple sources of evaluation, made it possible to objectively assess professionalism and ethics of Public Prosecutors or head Public Prosecutors.

The Public Prosecutors who exercise permanent office, other than the Supreme Public Prosecutor, are evaluated, in order to assess their expertise, workload and quality of work, ethics and training needs, and for the purpose of promotion to a senior Public Prosecutor's Office, every three years. The performance of Public Prosecutors who are elected for a term of four years shall be evaluated after two years of office, and at the end of the term of office. Public Prosecutor may be rated as excellent, good, satisfactory and not satisfactory.

Public Prosecutors are evaluated by the Evaluation Committee formed by the Prosecutorial Council. The Evaluation Committee comprises the Supreme Public Prosecutor and five members of the Prosecutorial Council, three of them from among Public Prosecutors and two eminent jurists. A decision evaluating the performance of the Public Prosecutor shall be

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made by the Evaluation Committee on the proposal of the Council on Evaluation of Performance of Public Prosecutors. Evaluation Councils of Public Prosecutors shall be established by the Prosecutorial Council and comprise of the Head of Public Prosecutor's Office in which the Public prosecutor is evaluated and four Public Prosecutor from senior Public Prosecutor's Offices.

The evaluation is based on criteria such as expertise and general ability. Expert knowledge of the Public prosecutor is evaluated based on: the workload and quality of work; capacity for planning procedural actions and effective implementation of the planned actions; preparation and conduct of the case file skills; prosecutorial knowledge application skills; treatment skills and professional training. Overall performance of a Public prosecutor is evaluated on the basis of: communication skills, ability to adapt to changing circumstances; ability of organization and coordination of employees in the Public Prosecutor's Office and participation in various professional activities.

The legislator emphasizes the sources of evaluation: five final completed cases that are chosen randomly; five final completed cases that are chosen by the Public Prosecutor; three randomly selected indictments with the final decision of acquittal; three cases from the criminal register under "Miscellaneous" to be selected randomly; three dismissals of criminal charges that are chosen randomly; statistical report on the work of the Public Prosecutor; records obtained after inspection of the Public Prosecutor's work and report on the training of the Judicial Training Center.

The evaluation procedure is carried out in two stages, through the report of the Public Prosecutor who is evaluated and report of the Evaluation Council. Public Prosecutor may be rated as excellent, good, satisfactory and not satisfactory. The Law prescribes in detail the procedure comprising the Public Prosecutor's comments on the proposed evaluation, determined ratings and consequences of the rating.

Furthermore, this section elaborates the provisions relating to the evaluation of Heads of the Public Prosecutor's Office. Heads of the Public Prosecutor's Office are evaluated by the Evaluation Committee. Head Public Prosecutors are evaluated on the basis of the proposal for evaluation of the Council on Evaluation of Performance of Public Prosecutors, including as a must in addition to Public Prosecutors from the Public Prosecutor's Office the Head of the Public Prosecutor's Office that is immediately senior within the jurisdiction of the Public Prosecutor's Office. Proposal for evaluation includes evaluation of the Head of the Public Prosecutor's Office as the head and as a Public Prosecutor. Head of the Public Prosecutor's Office as the head may be evaluated as good or not satisfactory. If the Head of the Public Prosecutor's Office is evaluated as not satisfactory, he or she shall be removed from office as the Head of the Public Prosecutor's Office.

VII. INCOMPATIBILITY AND TERMINATION PROSECUTORIAL OFFICE

The Law on Public Prosecution Office provides that an opinion on whether certain activities are considered as professional exercise of other activities that are incompatible with the exercise of prosecutorial office shall be given by the Prosecutorial Council at the request of the Head of the Public Prosecutor's Office or the Public Prosecutor.

The legislator in this section emphasizes in particular the responsibility of Montenegro for the damage caused to a litigant by the Public Prosecutor due to illegal or negligent or careless work in the exercise of prosecutorial office. If the Public Prosecutor has intentionally caused the damage, the State has the right to request compensation in the amount paid, and if the damage has been caused by gross negligence it shall be entitled to claim compensation in the amount up to 1/3 of annual net earnings of the Public Prosecutor.

Furthermore, the provisions added in this section relate to the termination of the prosecutorial office. Public Prosecutor's Office shall be terminated upon the expiration of the term of office; resignation; fulfillment of the requirements for retirement and loss of citizenship. Office of the Head of the Public Prosecutor's Office shall be terminated upon the expiration of the term of

office, termination of prosecutorial office, at his or her own request, or in the case of the termination or merger of the Public Prosecutor's Offices. When a reason for termination of prosecutorial office occurs, the Prosecutorial Council shall immediately inform accordingly the Head of the Public Prosecutor's Office for the Public Prosecutor, Head of the Public Prosecutor's Office that is immediately senior for the Head of the Public Prosecutor's Office, the meeting of the Supreme Public Prosecutor's Office for the Supreme Public Prosecutor. The decision on termination of office of the Head of the Public Prosecutor's Office or the Public Prosecutor shall be made by the Prosecutorial Council not later than 30 days from the date of receipt of the notification. The office shall be terminated on the day of the decision of the Prosecutorial Council, except in the case of termination of office at end of the mandate when the office shall be terminated upon the expiry of the mandate. Decision on office termination shall be submitted by the Prosecutorial Council to the Head of the Public Prosecutor's Office or the Public Prosecutor whose office is terminated and the Public Prosecutor's Office in which he or she was exercising the office, and published in the "Official Gazette of Montenegro". The Prosecutorial Council, without delay, shall notify the Parliament about fulfillment of the requirements for removal from office of the Supreme Public Prosecutor. If the Parliament, within 30 days of receipt of the notification, failed to decide on the removal from office of the Supreme Public Prosecutor, the office shall cease upon the expiration of that period. Supreme Public Prosecutor's Office shall terminate on the day of the decision on the removal from office or the expiration of the said time limit, except in the case of termination of office at end of the mandate, when the office terminates upon the expiry of the mandate.

The Prosecutorial Council shall annul the decision on the appointment of the Public Prosecutor, if proven that the Public Prosecutor at the time of the appointment did not meet the requirements for appointment, or if it receives information that, had it been known at the time when he or she was appointed by the Prosecutorial Council, would have been the reason for the Prosecutorial Council not to take the decision on the appointment. Prosecutorial Council may postpone the date for commencement of prosecutorial office to verify this information. If the appointment is annulled by the Prosecutorial Council, the first next candidate from the ranking list will be appointed to office or the appointment procedure will be repeated if there are no more candidates.

VIII DISCIPLINARY RESPONSIBILITY AND REMOVAL FROM OFFICE

The Law on Public Prosecution greatly improves the system of disciplinary responsibility of Public Prosecutors by clearly defining the reasons for disciplinary responsibility, and proportionately determining the sanctions that may be imposed for committed disciplinary offenses. Namely, disciplinary offenses are divided into minor, serious and the most serious disciplinary offenses and actions whereby those are committed are specified. The system of disciplinary sanctions is provided in a way that warnings and fines may be imposed for minor disciplinary offenses, a fine and prohibition of promotion for serious disciplinary offenses, and removal from office for the most serious disciplinary offenses.

One of the drawbacks of the present system of disciplinary responsibility is two-fold role of the Disciplinary Committee, which at the same time conducted an investigation and made decisions in disciplinary proceedings. Given the fact that the disciplinary proceedings are characterized by the principle of a fair trial, this Law introduced the institute of Disciplinary Prosecutor. Disciplinary Prosecutor has jurisdiction to conduct investigation based on submitted proposal for establishing disciplinary responsibility of the Public Prosecutor and represent indictment. Disciplinary Prosecutor shall be appointed by the Prosecutorial Council at the proposal of the President of the Supreme Court of Montenegro for a period of two years. After the investigation, the Disciplinary Prosecutor may propose rejection of the proposal for the establishment of disciplinary responsibility, rejection of the proposal for the establishment of disciplinary responsibility as ungrounded or submit the indictment proposal for establishing disciplinary responsibility of Public Prosecutors.

The procedure of determining disciplinary responsibility for minor and serious disciplinary offenses are conducted by the Disciplinary Committee based on the summary indictment of

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Disciplinary Prosecutor. The Disciplinary Committee consists of three members of the Prosecutorial Council, two from among the Public Prosecutors and one from among eminent jurists who is chairman of the Disciplinary Committee. The Supreme Public Prosecutor shall not be a member of the Disciplinary Committee. The members of the Disciplinary Committee and their deputies are appointed by the Prosecutorial Council on the proposal of the President of the Prosecutorial Council. The procedure for determining disciplinary responsibility for the most serious disciplinary offenses is conducted by the Prosecutorial Council on summary indictment of Disciplinary Prosecutor.

The Public Prosecutor whose responsibility is being examined has the right to defense counsel. At the hearing, the Public Prosecutor shall be allowed to present his defense in person, in writing or through defense counsel of his or her own choosing. The procedure for determining disciplinary responsibility includes a hearing held by the Disciplinary Committee or the Prosecutorial Council. Disciplinary Prosecutor, the Public Prosecutor and defense counsel shall be invited to the hearing. Disciplinary Committee or the Prosecutorial Council shall consider evidence deemed necessary for the proper and full determination of the facts. If the Public Prosecutor whose disciplinary responsibility is being examined fails to respond to the call of the Disciplinary Committee or the Prosecutorial Council, the procedure shall be conducted in his or her absence. During the procedure for determining disciplinary responsibility of Public Prosecutors, Disciplinary Committee or the Prosecutorial Council may decide to: reject the indictment as unfounded; adopt a bill of indictment and impose a disciplinary sanction. When making a decision on disciplinary liability and imposing disciplinary sanctions, Disciplinary Committee or the Prosecutorial Council shall not be bound by the proposal of the Disciplinary Prosecutor.

Furthermore, the law sets out in detail the provisions prescribing the deadline for making decisions, statute of limitations, and exemption, suspension of Public Prosecutor from office and dismissal procedures.

IX. INTERNAL ORGANIZATION OF WORK OF THE PUBLIC PROSECUTION OFFICE

The Supreme Public prosecutor is responsible for performing the duties of the Public Prosecution Office and shall take measures and actions for the effective and lawful exercise of the Public Prosecution Office. The Public prosecutor is responsible for working on the case he or she has been assigned and is independent in his or her work and decision-making, except in cases of mandatory instructions for work. The Public Prosecutor shall inform the Head of the Public Prosecutor's Office's at his or her request, about the activities undertaken in a particular case and the decision that is intended to be made, and work on a particular case in which there are complex factual and legal issues.

The Public Prosecutor's Office, to ensure uniform application of the law, may be given mandatory instructions for work. The mandatory instructions for work, according to this Law, include general instructions and instructions to be followed in individual cases. General instructions are issued by the Supreme Public Prosecutor and the Head of the Public Prosecutor's Office may initiate their adoption, when assessed as necessary. General instructions shall be given in writing. Instructions to be followed in an individual case shall be made in writing and with an explanation. Exceptionally, when circumstances do not permit it, instructions may be given verbally, but, within a reasonable time, must be given in writing.

In terms of relations at the Public Prosecution Office, Supreme Public Prosecutor may directly exercise all powers and take any actions for which heads of the Special Public Prosecutor's Office, High Public Prosecutor's Office, or the Basic Public Prosecutor's Office are authorized by law. Supreme Public Prosecutor may, due to exemption or other legitimate reasons that may affect the further conduct of the proceedings, delegate individual cases or certain actions in those cases within the jurisdiction of the High Public Prosecutor's Office or the Basic Public Prosecutor's Office to another actually competent Public Prosecutor's Office. Supreme Public Prosecutor may, due to exemption or other legitimate reasons that may affect the further conduct of the proceedings, delegate individual cases or certain

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actions in those cases within the jurisdiction of the Special Public Prosecutor's Office, to the Supreme Public Prosecutor's Office. Head of the High Public Prosecutor's Office may directly exercise all powers and take any actions for which the Head of the Basic Public Prosecutor's Office within the jurisdiction of that office is authorized by the law. Head of the High Public Prosecutor's Office may, for justified reasons, delegate individual cases or certain actions in these cases within the competence of the Basic Public Prosecutor's Office within the jurisdiction of that office to another Basic Public Prosecutor's Office within the jurisdiction of that office.

Supreme Public Prosecutor supervises the work of the Special Public Prosecutor's Office, High Public Prosecutor's Office and the Basic Public Prosecutor's Office. High Public Prosecutor's Office supervises the work of the Basic Public Prosecutor's Office within the jurisdiction of that office. The Supreme Public Prosecutor's Office supervised the work of Public Prosecutor's Offices by direct review of the work of each Public Prosecutor's Office and taking other appropriate measures for efficient and legal work of the Public Prosecutor's Office. Supervision is carried out in accordance with the supervision plan, which is issued by the Supreme Public Prosecutor. Once in two years, High Public Prosecutor's Offices shall inspect the whole work of Public Prosecutor's Offices within their jurisdiction in accordance with the special inspection plan issued by the Head of the High Public Prosecutor's Office.

The organization of work of the Public Prosecution Office shall mean the management of the Public Prosecution Office, organization of prosecution departments and the meeting of the Public Prosecution Office, and the internal operation of the Public Prosecution Office. The organization of work of the Public Prosecution Office shall be regulated by the Rules of Procedure of the Public Prosecution Office issued by the Ministry of Justice with the prior opinion of the Prosecutorial Council.

Head of the Public Prosecutor's Office shall be responsible for the performance of the Public Prosecutor's Office and is obliged to take measures and actions for efficient and lawful performance of the Public Prosecutor's Office. Head of the Public Prosecutor's Office organizes the work of the Public Prosecutor's Office, allocates tasks and takes measures to facilitate regular and timely performance of tasks at the Public Prosecutor's Office.

Internal operations within the meaning of this Law shall include the activities of prosecutorial administration and using judicial information system. Prosecutorial administration shall include the activities which ensure the proper and timely work of the Public Prosecution Office, and in particular: internal allocation of tasks; consideration of complaints and petitions; keeping proper records and reports; filing office and archives; financial and material management, professional, administrative, IT, analytical and other tasks for the work of the Public Prosecution Office. Head of the Public Prosecutor's Office, no later than on 15 January of the current year, shall establish the yearly allocation of tasks that ensures even distribution of tasks and the required specialization of Public Prosecutors. Cases shall be allocated in such a way as to ensure impartiality, independence and efficiency in the work.

An assigned case is taken away from the Public Prosecutor if it is determined that he or she unjustifiably fails to act in the case, because of exemptions or, if unable to perform prosecutorial office for more than one month. Cases whose urgent nature is prescribed by law may be withdrawn from the Public Prosecutor if due to absence or disability he or she is not able to act on the case promptly and within the legal deadline. The withdrawal of cases is decided by the Head of the Public Prosecutor's Office who shall issue a decision. Decision to withdraw the case is submitted to the Public Prosecutor from whom the case was withdrawn. Against the decision on case withdrawal a complaint may be lodged to the Head of the Public Prosecutor's Office that is immediately senior, and against the decision of the Supreme Public Prosecutor to the meeting of the Supreme Public Prosecutor's Office, within three days of receipt of the decision.

Further on the Law stipulates in detail the provisions on the meetings of the Public Prosecution Office, enlarged meeting, annual report, and the provisions on the relations and

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cooperation of Public Prosecutor's Offices with the courts and other state authorities, the police and other authorities, international corporation, internal organization and job systematization.

The supervision over the performance of prosecutorial administration shall be performed by the Ministry of Justice. During inspection supervision the Ministry of Justice shall take no actions that affect the decision of the Public Prosecutor in the case. Ministry of Justice, through the judicial inspectors, shall perform inspection supervision in the Public Prosecution Office in relation to the organization of work of the Public Prosecutor's Offices in accordance with this Law and the application of the Rules of Procedure of the Public Prosecution Office as regards the prosecutorial administration, especially in relation to: filing office and archives; keeping of official records and other tasks related to proper work and operation of prosecutorial administration.

Inspection supervision over prosecutorial administration in the Public Prosecutor's Offices shall be performed by judicial inspector. Judicial inspector may be a person who meets the requirements for a judge of the Administrative Court. Inspection supervision shall be carried out in accordance with the annual plan of supervision, issued by the Minister of Justice by the end of the calendar year for the following year (regular inspection). Annual supervision plan shall also include the Public Prosecutor's Offices in which, according to the results of the supervision conducted during a calendar year, it is necessary to repeat the inspection in the next calendar year (control inspection). Annual supervision plan shall be submitted to the Public Prosecutor's Offices in which the inspection will be conducted, no later than on 31 January of the current year. Extraordinary inspection shall be ordered by the Minister of Justice by issuing a decision, on the proposal of the Supreme Public Prosecutor, Head of the Public Prosecutor's Office that is immediately senior or the President of the Prosecutorial Council. Decision on extraordinary inspection supervision shall be submitted to the Public Prosecutor's Office which is supervised, no later than the day before the start of supervision. The Ministry of Justice shall carry out inspections on the occasion of civil complaints and petitions related to the activities of prosecutorial administration.

X DATA PROTECTION

This section prescribes the obligation of Heads of the Public Prosecutor's Offices, Public Prosecutors, the Head of the Special Public Prosecutor's Office and special prosecutors, civil servants and state employees in the Public Prosecutor's Office to keep secret data, regardless of the manner in which they have learned about them in accordance with the Law on Data Confidentiality. The obligation of confidentiality continues shall remain even after the termination of office at the Public Prosecutor's Office.

XI. SECRETARIAT OF THE PROSECUTORIAL COUNCIL

Another novelty of this law is the introduction of the Secretariat of the Prosecutorial Council with the aim of performing professional, administrative, financial, IT and other work necessary for the Prosecutorial Council and activities of common interest to all Public

Prosecutor's Offices. Currently, these activities are carried out by employees of the Supreme Public Prosecutor's Office. The introduction of the Secretariat of the Prosecutorial Council is of particular importance for high-quality implementation of the responsibilities of the

Prosecutorial Council and its efficient operation. The Law prescribes in detail the conditions and procedure for appointment of the Director of the Secretariat, as well as responsibility.

XII. RECORDS

Secretariat of the Prosecutorial Council keeps records on Public Prosecutors and heads of the Public Prosecutor's Offices, which contain their name, nationality and mother tongue, address, unified identification number and other personal information; date of election to the office; work experience; academic qualification (MA, MSc, PhD); information on professional development; data on foreign language skills; published scientific and professional papers and other professional activities; records of the work; performance appraisals; information on

promotion; disciplinary sanctions; information on the removal from office; permission for access to classified information and other data.

XIII. PHYSICAL SECURITY

Taking into account the amendments to the Law on the Interior in the sense that police officers will no longer provide physical security of courts and Public Prosecutor's Offices from 1 July 2015, provisions on providing physical prosecutorial security are proposed through anticipating the possibility of establishing a Department for Physical Security in the Supreme Public Prosecutor's Office, leaving the possibility of entrusting the provision of physical security services to a business enterprise that is engaged in the protection of persons and property. The proposed solutions anticipate the requirements for security officers, in addition to which security services they should provide and the authority they have.

XIV FUNDING

Funding for the operation of Public Prosecution Office and Prosecutorial Council shall be provided in a separate budget line of the Budget of Montenegro. The Prosecutorial Council shall propose the annual budget for the work of each Public Prosecutor's Office in particular and the Prosecutorial Council. The Prosecutorial Council shall submit an annual budget proposal to the Government of Montenegro. President of the Prosecutorial Council has the right to participate in the session of the Parliament that discusses the budget proposal for the work of the Public Prosecution Office and Prosecutorial Council. Payments shall be approved in the Supreme Public Prosecutor's Office and the Public Prosecutor's Offices by the Supreme Public Prosecutor and Heads of the Prosecutor's Offices, respectively. President of the Prosecutorial Council shall approve payments in the Prosecutorial Council.

XV. TRANSITIONAL ANF FINAL PROVISIONS

Transitional and final provisions of the Law on Public Prosecution Office stipulate that this Law shall enter into force on the eighth day of its publication in the "Official Gazette of Montenegro". Secondary legislation for the implementation of this Law shall be passed not later than six months from the date of entry into force of this Law. The public announcement for the appointment of the Secretary of the Secretariat shall be published no later than 30 days from the date of entry into force of this Law. Act on internal organization and systematization shall be adopted within 30 days of the appointment of the Secretary of the Secretariat.

The provisions of Articles 49 to 79 (the conditions for the appointment of Public Prosecutors and Heads of the Public Prosecutor's Offices, the procedure to appoint Heads of the Public Prosecutor's Offices, the Vacancy Plan for the position of Public Prosecutor, the selection procedure for Public Prosecutors in the Basic Public Prosecutor's Offices to be elected for the first time, the selection procedure for Public Prosecutors in the Basic Public Prosecutor's Offices to be elected for permanent office, the selection of a Public Prosecutor in the High and the Supreme Public Prosecutor's Office, promotion of Public Prosecutors, the oath and entry into office) and Articles 86-100 (evaluation of Public Prosecutors) of this Law shall apply from 1 January 2016.

Until the date of implementation of those provisions, Articles 24 to 38 of the Law on Public Prosecution Office ("Official Gazette of RM", 69/03 and "Official Gazette of Montenegro", 40/08, 39/11 and 46/13) shall apply.

The Prosecutorial Council elected in accordance with the Law on Public Prosecution Office ("Official Gazette of RM", 69/03 and "Official Gazette of Montenegro", 40/08, 39/11 and 46/13), shall continue to operate until the end of the term.

The appointment of Public Prosecutors in accordance with Article 135i, paragraphs 3 and 4 of the Law on Public Prosecution Office ("Official Gazette of RM", 69/03 and "Official Gazette of Montenegro", 40/08, 39/11 and 46/13), shall be made not later than on 1 July 2015.

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The provision of physical security services for persons, property and facilities in accordance with this Law shall begin from 1 July 2015.

On the effective date of this Law, the Law on Public Prosecution Office ("Official Gazette of RM", 69/03 and "Official Gazette of Montenegro", 40/08, 39/11 and 46/13) shall be repealed.

V. ASSESSMENT OF FINANCIAL RESOURCES FOR IMPLEMENTATION OF THE LAW

The budget of the Public Prosecutor's Office for 2015 provides for the costs required for the operation of all Public Prosecutor's Offices, and the establishment of the Secretariat of the Prosecutorial Council. Until the establishment of the Secretariat of the Prosecutorial Council those tasks were carried out by the Supreme Public Prosecutor's Office, and the Secretariat of the Supreme Public Prosecutor's Office shall take over the employees who perform these tasks, equipment, and official documentation. For implementation of this Law it is necessary to provide additional funds in the budget in the amount of € 115,306.97, for the formation of the Secretariat of the Prosecutorial Council. The proposal for the Budget Law for 2015, as regards the budget line for the Public Prosecutor's Council, committed funds for gross earnings of 13 officers in the Secretariat of the Prosecutorial Council in the amount of € 115,306.97, or net income funds in the amount of € 67,876.00.

VI. REASONS FOR ADOPTION OF THE LAW IN SUMMARY PROCEDURE

In accordance with Article 151 of the Rules of Procedure of the Parliament of Montenegro ("Official Gazette of RM", 51/06, 66/06 and Official Gazette of Montenegro ", 88/09, 80/10, 39/11, 25/12 and 49 / 13), it is believed that it is necessary to adopt the Proposal for the Law on Public Prosecution Office in a simplified procedure, i.e. at the same time as the Proposal for the Law on the Special Public Prosecutor's Office, which is also subject to a simplified procedure because it is one of five priority issues that the European Commission has found during the period after the Progress Report in the area of the fight against corruption. Accordingly, and given the fact that the Proposal for the Law on Special Public Prosecutor's Office refers on all matters which are not regulated by the Law to the Law on Public Prosecutor's Office, it is necessary to pass the law in summary procedure.

**STATEMENT OF COMPLIANCE OF THE DRAFT/PROPOSAL
FOR LEGISLATION OF MONTENEGRO WITH THE ACQUIS COMMUNAUTAIRE**

Statement identification number/ MP-IU/PZ/14/17	
1. Title of the Draft/Proposal for legislation	
- In the Montenegrin language	<i>Predlog zakona o državnom tužilaštvu</i>
- In the English language	Proposal for the Law on Public Prosecution Office
2. Information on the legislative drafter	
a) State administration body	Ministry of Justice
- Department/division	Directorate for Justice
- Responsible person (name, surname, telephone number, e-mail)	Merima Bakovic, Director of the Directorate for Criminal Law; Tel: 407 504, email: merima.bakovic@gov.me
b) Legal person with public authority for drafting and implementing legislation	
- Name of the legal person	
- Responsible person (name, surname, telephone number, e-mail)	
- Contact person (name, surname, telephone number, e-mail)	
3. State administration bodies that implement/enforce the legislative act	
- Authority	- Public Prosecution Office
4. Compliance of the draft/proposal for legislation with the Stabilization and Association Agreement between the European Union and its Member States, on the one side, and Montenegro, on the other side (SAA)	
a) Provisions of SAA that the legislation is harmonized with	Chapter VII, Justice, Freedom and Security, Article 80 Strengthening of Institutions and Rule of Law
b) Degree of compliance with obligations arising from the SAA provisions above	
YES	Full compliance
	Partial compliance
	No compliance
c) Reasons for partial compliance or failure to comply with the obligations arising from the SAA provisions above	
5. Connection between the draft/proposal for the legislative act and the <i>Montenegro's Programme of Accession</i> to the European Union (MPAEU)	
- MPAEU for the period	2014 – 2018
- Chapter, Subchapter	23: Judiciary and Fundamental Rights, 2 Plans and Needs; 2.2. Legislative Framework, A) Justice
- Deadline for passing the legislative act	III QUARTER 2014
- Note	Considering that the Proposal for the Law was submitted to the European Commission and Venetian Commission for comments, the Law was not passed within the planned deadline
6. Compliance of the draft/proposal for the legislative act with the <i>Acquis Communautaire</i>	
a) Compliance with original source of EU law	TEU, Chapter 1, General Provisions, Article 2 and Article 6/TEU, Chapter 1, General Provisions, Article 2 and Article 6 of the Charter on Fundamental Rights of the European Union, Chapter VI, Justice, Article 47, Charter of Fundamental Rights of the European Union, Title VI Justice, Article 47, Right to an effective remedy and to fair trial Fully harmonized
Date: 1 December 2014	

Annex to the Form:

1. Translation of regulations of the European Union
2. Translation of the Draft/Proposal for the legislative act into the English language (if available)

1. Identification number (IN) of the draft/proposal for the legislative act		1.1. Identification number or the compliance statement and date of adoption of the draft/proposal for the legislative act by the Government		
MP-IU/PZ/14/17		MP-IU/PZ/14/17		
2. Title of original source of EU law and CELEX number				
3. Title of the draft/proposal for the legislative act of Montenegro				
In the Montenegrin language		In the English language		
<i>Predlog zakona o državnom tužilaštvu</i>		Proposal for the Law on Public Prosecution Office		
Compliance of the draft/proposal for the legislative act with original source of the European Union law				
a)	b)	c)	d)	e)
Provision and text of the provision of original source of EU law (Article, paragraph, item)	Provision and text of the provision of the draft/proposal for the legislative act of Montenegro (Article, paragraph, item)	Compliance of the provision of the draft/proposal for the legislative act of Montenegro with the provision of original source of EU law	Reason for partial compliance or incompliance	Deadline for achieving full compliance