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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

DRAFT LAW
OF THE REPUBLIC OF UKRAINE
ON THE PUBLIC PROSECUTOR'S OFFICE

The Draft Law has been introduced by National Deputies of Ukraine
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SECTION I. GENERAL PROVISIONS

Article 1. The Prosecutor's Office of Ukraine

The Prosecutor's Office of Ukraine shall be a unified and centralized system, which, accordingly to the Constitution of Ukraine, is entrusted with the following functions:

- 1) appear for the prosecution in court;
- 2) represent interests of citizens or the State in court in the matters provided by the law;
- 3) to supervise over the observance of laws by the bodies conducting operative and investigative activities, as well as inquiry and pre-trial investigation;
- 4) to supervise over observance of laws on enforcement of judgments regarding criminal matters, as well as the application of other compulsory measures connected with restriction of individual freedoms of citizens.
- 5) to supervise over the observance of human and citizens' rights and freedoms, and the observance laws, on these matters, by bodies of state power, local self-governments, their officials and functionaries.

The Prosecutor's Office could not be entrusted with functions not provided for by the Constitution of Ukraine and the present Law.

This Law shall determine the structure and procedures for the prosecutor's offices' activity.

Article 2. Legal foundation for the structure and activity of the Prosecutor's Office

The Constitution of Ukraine, this Law, other legislative acts of Ukraine as well as the international treaties approved by the Verkhovna Rada of Ukraine and the orders of the Prosecutor-General of Ukraine shall be the legal foundation for the structure and activity of the prosecutor's offices.

Article 3. Tasks of the Prosecutor's Office

The activity of the Prosecutor's Office shall be aimed at the protection of the citizens' legitimate interests and at the sovereign, independent, democratic, social and lawful state, and is obliged to promote overall establishment of the rule of law in the state.

Article 4. Principles for organization and activities of the Prosecutor's Office

The principles for organization and activities of the Prosecutor's Office shall be the following:

- 1) unity and centralization;
- 2) independence and subordination only to the Constitution and the laws of Ukraine;
- 3) combination of the state and human interests on the bases of priority of human and citizens' rights and freedoms.

The Prosecutor's Offices shall carry out their authorities within their jurisdiction independently from the bodies of state power, public and political institutions and movements, and act openly taking into account the requirements of the law on confidential information about the life and activity of the natural and legal persons as well as state and other secrets protected by legislation. The prosecutors could not belong to any parties or movements.

Article 5. Obligatory execution of the prosecutor's requests

Legitimate orders of the prosecutor shall be obligatory for all bodies, enterprises, institutions, organizations, officials and citizens, and shall have to be fulfilled within the time limits provided for by the law. Statistical and other information upon the requests of the prosecutor shall be submitted free of charge.

The officials and citizens shall be obliged to appear on the prosecutor's summons and present their explanations regarding the circumstances being cleared up. In case of intentional evading the obligation, an officials or citizen could be brought by the militia.

The officials evading complying with the prosecutor's legitimate requests or those not appearing without essential reasons shall bear responsibilities provided for by the law.

Article 6. Guarantees and compensations paid to the citizens summoned to the Prosecutor's Office

The person summoned to the Prosecutor's Office shall be paid his or her average salary for the time spent due to the summons, and shall be compensated for the costs of tickets, hotel accommodation, per diem allowances, provided such costs were spared, at the expense of the State budget. The ground for the payment and absence from work shall be the summons with special mark of the Prosecutor's Office.

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

The Cabinet of Ministries of Ukraine shall settle the procedure and conditions for the costs' compensation related to the prosecutor's summons.

Article 7. Guarantees of the prosecutor's independence

The prosecutor within his or her jurisdiction shall take a decision independently, in accordance with the law, taking into account the parity of responsibility of everyone before the law, and shall take all necessary measures to eliminate the violation of the law caused by whoever it may be. Any interference of the public authorities and local self-governance bodies, their officials, media, social and political parties, citizens' associations with the prosecutor's activity, carrying out his or her duties shall be prohibited. Any influence on the prosecutor in order to forbid or prevent him or her from execution of his or her official duties, or to seek adoption of illegal decision shall bear responsibility provided for by law.

The prosecutor couldn't be held criminally responsible or be arrested without the consent of the Prosecutor-General of Ukraine.

The prosecutor couldn't be member of any commissions, committees and other collective bodies established by the bodies of executive power, representative bodies and local self-government bodies as well as by the President of Ukraine. In cases the Prosecutor consider it expedient, he or she shall participate in the meetings of these bodies.

The prosecutors shall be not obliged to give any explanations on the essence of the matter and present documents being in their investigation as well as to submit them to anybody, excluding cases and within the procedures provided for by law.

No one shall have the right, without the prosecutor's permission, to divulge information on prejudicial inquiry and examinations carried out by the services fighting against crime.

Article 8. Incompatibility with the prosecutor's post

The prosecutor's post shall be incompatible with a position at any body of state power, local self-government bodies, as well as with a representative's mandate, party's affiliation and at other political organizations.

The prosecutor shall have no right to hold two or more offices except for teaching, scientific or creative work during free time.

Article 9. Consideration of applications

The prosecutor's offices in accordance with their jurisdiction shall consider citizens' and legal persons' applications concerning violation of law and perpetration of crimes. The decision taken by the prosecutor on the application could be appealed to a prosecutor of higher level or to court in cases provided for by the law.

Article 10. Participation of the prosecutors in the meetings of legislative, executive and judicial bodies

The Prosecutor-General of Ukraine, his or her deputies and, upon their order, other prosecutors shall have the right to participate in the meetings of the Cabinet of Ministries and local self-government bodies, and in the sessions of the Verkhovna Rada and its committees by invitation of the Verkhovna Rada and its committees.

The prosecutors of the Autonomous Republic of Crimea, regions, cities of Kyiv- and Sevastopol, their deputies, and on their instructions, other prosecutors shall have the right to participate in the meetings of the bodies of state power of the same or lower levels.

The Prosecutor-General of Ukraine, his or her deputies shall take part in the Plenary Sessions of the Supreme Court of Ukraine and Plenary Sessions of other specialized higher courts.

The prosecutors of the Autonomous Republic of Crimea, regions, cities and districts or their deputies and assistants shall take part in the judicial sessions during hearing of civil, economic and criminal cases in accordance with law.

Article 11. Coordination of the activity on fighting against crime

The Prosecutor-General of Ukraine and the prosecutors subordinated to him or her shall coordinate the activity of the bodies of internal affairs, Security Service, Tax Militia and other state bodies fighting against crime.

Article 12. International cooperation

The Prosecutor-General Office within its jurisdiction shall realize cooperation with relevant bodies of other states and international organizations, conclude treaties with them on the issues connected with its activity, take part in drafting international treaties of Ukraine.

In cases provided by law, the Prosecutor-General Office of Ukraine shall be the central authority responsible for realization of the international treaties of Ukraine.

SECTION II
THE SYSTEM AND ORGANIZATION
OF THE PROSECUTOR'S OFFICES ACTIVITY

Article 13. The system of the prosecutor's offices

The system of the prosecutor's offices shall include: the Prosecutor-General Office of Ukraine, prosecutor's offices of the Autonomous Republic of Crimea, regions, cities of Kyiv and Sevastopol (equaled regional prosecutor's offices), cities (cities with district division), district, inter-redistrict, other equaled them prosecutor's offices, regional military prosecutor's offices, the military prosecutor's office of the Navy of Ukraine (equaled the regional ones), military prosecutor's offices of the garrisons (equaled the cities' ones) as well as educational institutions for personnel's retraining, scientific and research institutions and the press.

Article 14. The Prosecutor-General Office

The Prosecutor-General Office of Ukraine shall be the highest body of the system of prosecutor's offices.

The Prosecutor-General of Ukraine shall be at the head of the Prosecutor General Office of Ukraine and have the First Deputy and deputies. The Board shall be established under the Prosecutor-General Office of Ukraine.

The structure of the Prosecutor-General Office of Ukraine shall consist of the departments and divisions. The Prosecutor-General of Ukraine shall have the counselors and chief assistants for special tasks.

Within the departments and divisions there shall be posts of chief prosecutors and prosecutors, chief criminal prosecutors and criminal prosecutors.

The General Military Prosecutor's Office, headed by the Deputy Prosecutor-General of Ukraine – General Military Prosecutor – shall be a part of the Prosecutor-General Office of Ukraine.

The Scientific and Methodological Council for considering the matters related to organization and activity of the prosecutor's offices shall be within the structure of the Prosecutor-General Office of Ukraine.

Article 15. Prosecutor-General of Ukraine

The Prosecutor's Office of Ukraine shall be headed by the Prosecutor-General of Ukraine appointed and dismissed by the President of Ukraine with the consent of the Verkhovna Rada.

The Prosecutor-General of Ukraine and the prosecutors subordinated to him or her shall hold their offices for 5 years.

The Prosecutor-General of Ukraine shall:

- 1) direct activity of the bodies, organizations and institutions of the Prosecutor's Office and carry out control over their activity;
- 2) approve structure, staff and rules for activity of the Prosecutor-General Office as well as the regulations on its structural divisions;

- 3) establish, reorganize and liquidate bodies, institutions and organizations of the Prosecutor's Office, determine their jurisdiction; establishment of the bodies of the prosecutor's office which are not included into the unified system of the Prosecutor's Office of Ukraine shall be prohibited.
 - 4) submit proposals concerning the amount of funds for Prosecutor's Office to the Ministry of Finance of Ukraine during drafting the State budget of Ukraine for the next year, approve, within the limits of salary fund, the structure and the number of staff of subordinated bodies, institutions and organizations, allocate financial resources for their maintenance;
 - 5) appoint and dismiss the First Deputy, deputies of the Prosecutor-General of Ukraine, the heads of the structural divisions, the chief accountant, as well as the heads of the educational institutions of the Prosecutor-General Office of Ukraine;
 - 6) by consent of the Verkhovna Rada of the Autonomous Republic of Crimea, appoint the Prosecutor of the Autonomous Republic of Crimea for a period of 5 years and dismiss him or her;
 - 7) appoint and dismiss the prosecutors of regions, the cities of Kyiv and Sevastopol and other prosecutors, equaled them, for the period of 5 years;
 - 8) appoint military prosecutors of regions, garrisons, as well as city, district, inter-district prosecutors and other prosecutors, equaled them, on the proposals of higher level prosecutors for a period of 5 years and dismiss them;
- appoint deputy prosecutors of the Autonomous Republic of Crimea, regions, cities of Kyiv and Sevastopol as well as the deputy prosecutors equaled them;
- 9) appoint and dismiss officers of the Prosecutor-General Office;
 - 10) confer class ranks in accordance with the Regulation on the Class Ranks for Officers of the Prosecutor's Office. Submit to the President of Ukraine the proposals on conferring class ranks of the State Advisor of Justice of the 1-t, 2-d and 3-d classes as well as high military ranks on the officers of the military prosecutor's offices;
 - 12) apply to the Minister of Defense of Ukraine for the conferment of the military ranks on officers of the military prosecutor's offices;
 - 13) issue orders, instructions, directions, approve the regulations and rules;
 - 14) appoint the members of the Board the Prosecutor-General Office, as well as members of the Higher Certifying Commission and approve the composition of the Scientific and Methodological Council under the Prosecutor-General Office;
 - 15) appoint the members of the boards of the prosecutor's offices of the Autonomous Republic of Crimea, regions, cities of Kyiv and Sevastopol and other prosecutor's offices equaled them;
 - 16) award the officials of the prosecutor's offices with the breastplate of 'Honorary Officer of the Prosecutor's Office of Ukraine' ;
 - 17) apply to the President of Ukraine for awarding the officers of the prosecutor's offices with the State and President's awards as well as to the Verkhovna Rada of Ukraine for appropriate encouragements ;

- 18) convene the All-Ukrainian Conference of the officers of the Prosecutor's Office of Ukraine;
- 19) coordinate the activity of law enforcement bodies and the bodies of state power fighting against crime and corruption;
- 20) annually, inform the President of Ukraine and the Verkhovna Rada of Ukraine about the state of affairs in observing law and order;

Article 16. Pre-term dismissal of the Prosecutor-General of Ukraine

Pre-term dismissal of the Prosecutor-General shall be admitted only under the following grounds:

- 1) at his or her own will;
- 2) inability to carry out his or her authorities because of his or her health confirmed by medical conclusion;
- 3) entry into force of a verdict of conviction against him or her;
- 4) entry into force of a court decision on recognition him or her incapable or partially capable;
- 5) filing claims on his or her incompatibility with the post

Article 17. Resignation of the Prosecutor-General of Ukraine

Verkhovna Rada of Ukraine could express non-confidence in the Prosecutor-General of Ukraine, resulting in his or her resignation.

The reasons for non-confidence in the Prosecutor-General could be the following:

- 1) termination of his or her nationality (citizenship) or departure for permanent residence beyond the borders of Ukraine;
- 2) entry into force of a court conviction against him or closure of a criminal case on the grounds provided for in the Articles 7, 7(1) of the Criminal Procedure Code of Ukraine;
- 3) political affiliation or other infringements connected with personal interest or infringements committed in the interest of certain persons or public organizations;
- 4) non-performance of his or her duties;
- 5) violation of the Constitution and laws of Ukraine.

The Prosecutor-General shall have the right to inform the President of Ukraine about his or her retirement in case of his or her disagreement with the actions that break the principles of independence of the procurator's office or prevent to carry out its functions provided for by the Constitution of Ukraine as well as in case of his or her bad health confirmed by medical conclusion.

After Verkhovna Rada's has taken decision on this issue, before publishing the appropriate Decree of the President of Ukraine, the First Deputy shall act as the Prosecutor-General, and in his or her absence – one of his or her deputies appointed by the President of Ukraine.

Article 18. Prosecutor's Office of the Autonomous Republic of Crimea, prosecutor's offices of regions, the cities of Kyiv and Sevastopol and those equaled them

The prosecutor's offices of the Autonomous Republic of Crimea, regions, the cities of Kyiv and Sevastopol and equaled them prosecutor's offices shall be headed by respective prosecutors who have the First Deputies and the deputies appointed by the Prosecutor-General of Ukraine at their proposal. Boards shall be established at the prosecutor's offices of the Autonomous Republic of Crimea, regions, the cities of Kyiv and Sevastopol and at the equaled prosecutor's offices.

The departments and divisions shall be established in the structures of above mentioned prosecutor's offices.

In the structures of the prosecutor's offices of the Autonomous Republic of Crimea, regions, the cities of Kyiv and Sevastopol and other equal to them prosecutor's offices, the posts of the prosecutors' chief assistants, chief prosecutors and prosecutors of the departments and divisions, chief criminal prosecutors and criminal prosecutors shall be established. The prosecutors of the mentioned prosecutor's offices could have assistants for special missions.

The Prosecutor of the Autonomous Republic of Crimea, the prosecutors of regions, the cities of Kyiv and Sevastopol and other equal to them prosecutors shall:

- 1) arrange and administrate the activity of the prosecutor's offices headed by them and carry out general management over subordinated prosecutor's offices;
- 2) submit to the Prosecutor-General of Ukraine the recommendations on the appointment and dismissal of the First Deputy, deputies, city's prosecutor, prosecutors of regions and equal to them prosecutors as well as on appointment of the members of the Boards.
- 3) appoint and dismiss officers of these prosecutor's offices, excluding those appointed by the Prosecutor-General of Ukraine or a subordinated prosecutor;
- 4) submit the proposals amending the staff structure of these prosecutor's offices and subordinated offices within the salary fund;
- 5) submit application to the Prosecutor-General of Ukraine for the conferment of class ranks to subordinated prosecutors;
- 6) within their jurisdiction issue the orders, directions, instructions, approve the regulations, rules and other administrative acts;
- 7) coordinate the activity of the law enforcement bodies and other bodies of state power in the fight against crime.

Article 19. Prosecutor's offices of the cities with established district prosecutor's offices

The prosecutor's offices of the cities that have on their territory district prosecutor's offices shall be headed by appropriate prosecutors appointed by the Prosecutor-General of Ukraine on recommendation of the regional prosecutor. The regional prosecutor shall appoint the First Deputy and deputies of the city's prosecutor.

In the staff structure of the prosecutor's offices there shall be the chief assistant prosecutor and assistant prosecutor of the city, criminal prosecutor.

The general directions of the city's prosecutor's office activity shall be the following:

- 1) execution of the Constitutional functions of the prosecutor's office within the jurisdiction of the city's prosecutor;
- 2) coordination of activity of the law enforcement bodies and bodies of state power in the fight against criminal;

City's prosecutor shall:

- 1) arrange and administrate the activity of the prosecutor's office headed by him or her;

- 2) administrate the activity of the regional prosecutor's offices;
- 3) take on and dismiss officers of the prosecutor's office, to whom the provisions of the Disciplinary Statute of the Prosecutor's Office of the Ukraine are not applied;
- 4) submit proposals to the Regional Prosecutor on amendments of the staff number at his or her district prosecutor's offices ;
- 5) apply to the Regional Prosecutor for the conferment of class ranks to the city's and district prosecutor's office personnel as well as for their encouragement and imposing penalties;
- 6) handle the activity of district prosecutor's offices;
- 7) coordinate the activity of the law enforcement bodies and other bodies of state power fighting against crime.

Article 20. Prosecutor's offices of cities, districts, inter-district and equal to them prosecutor's offices

The prosecutor's offices of cities, districts, inter-district and those equal to them shall be headed by appropriate prosecutors appointed by the Prosecutor-General of Ukraine on the recommendation of the Regional prosecutor. In the staff structure of city's, district, inter-district and equal to them prosecutor's offices there shall be a deputy prosecutor (prosecutors), chief assistant prosecutor and assistant prosecutors.

The prosecutors of the mentioned prosecutor's offices within their jurisdiction shall:

- 1) arrange and administrate the activity of the prosecutor's offices headed by them;
- 2) take on and dismiss the officers of the prosecutor's office to whom the provisions of the Disciplinary Statute of the Prosecutor's Office of the Ukraine are not applied;
- 3) submit the proposals to higher level prosecutors on amendments of the staff number of their prosecutor's offices;
- 4) apply to a higher level prosecutor for the conferment of class ranks to subordinated officers of the prosecutor's office as well as for their encouragement and imposing penalties;
- 5) coordinate the activity of the law enforcement bodies and other bodies fighting against criminal.

Article 21. Military Prosecutor's Offices

Military prosecutor's offices shall carry out the Constitutional powers in the Armed Forces of Ukraine, Frontier Forces of Ukraine and other military formations established according to the law.

The structure of the regional military prosecutor's offices and the military prosecutor's offices of the Navy of Ukraine shall consist of the departments and divisions.

Regional military prosecutors and military prosecutors of the Navy of Ukraine shall:

- 1) arrange and administrate activity of the prosecutor's offices headed by them and exercise general control over military prosecutor's offices;
- 2) submit to the Prosecutor-General of Ukraine an application for designation of the First Deputy, deputies, military prosecutors of the garrisons and for approval of the membership of the boards;
- 3) designate and dismiss officers of the mentioned military prosecutor's offices as well as subordinated ones, except those being appointed by the Prosecutor-General of Ukraine;

- 4) coordinate the activity of the bodies fighting against crime in the Armed Forces of Ukraine, Frontier Forces of Ukraine and in other military formations, interact with the bodies fighting against crime on the sites of dislocation of military formations;
- 5) take part in the sittings of the Military Councils of the bodies of military administration;
- 6) ensure execution of the prosecutor's offices functions in the military units and divisions which are in the armed conflict zones in accordance with the law of Ukraine as well as in a particular period;
- 7) within their jurisdiction apply to the Prosecutor-General of Ukraine for the conferment of the military ranks by the President of Ukraine, issue the orders, instructions, directions, approve the regulations and rules as well as carry out other powers provided for by the law.

Military prosecutors of the garrisons shall:

- 1) arrange and administrate the activity of the prosecutor's offices headed by them;
- 2) take on and dismiss the officers of the prosecutor's office to whom the provisions of the Disciplinary Statute of the Prosecutor's Office of Ukraine are not applied;
- 3) coordinate the activity of the bodies fighting against crime in military formations, arrange interactions with other territorial bodies of state power fighting against crime;
- 4) apply for encouragement of the officers of military prosecutor's offices of the garrisons as well as for imposing penalties on them.

Article 22. Appointment and dismissal of the prosecutors

The Prosecutor of the Autonomous Republic of Crimea, prosecutors of regions, the cities of Kyiv and Sevastopol, prosecutors of cities, districts and those equal to them shall be appointed by the Prosecutor-General of Ukraine.

The prosecutor could be dismissed from his or her post on the grounds of:

- 1) his or her own will;
- 2) accepting his or her resignation;
- 3) transition to other post on his or her consent;
- 4) state of his or her health;
- 5) results of the attestation recognizing non-conformity to occupied post;
- 6) entering into force of a verdict of conviction for perpetration;
- 7) filing claims on his or her incompatibility with the post;
- 8) non-performance of charged duties;
- 9) violating the Constitution and law of Ukraine;
- 10) violating the oath;
- 11) termination of his or her citizenship.

Article 23. All-Ukrainian Conference of the officers of the prosecutor's office

The Prosecutor-General of Ukraine shall convene the All-Ukrainian Conference of the officers of the Prosecutor's Office of Ukraine to solve the problems determined by the Article 131 of the Constitution of Ukraine, Law of Ukraine "On the Higher Council of Justice" as well as to consider other problems put forward by the Prosecutor-General of Ukraine or by the delegates of the Conference.

All-Ukrainian Conference of the officers of the Prosecutor's Office of Ukraine shall appoint two members of the Higher Council of Justice within the procedure provided for by the Law of Ukraine "On the Higher Council of Justice".

The procedure of nomination and election of the delegates shall be determined by the order of the Prosecutor-General of Ukraine.

The procedure of the Conference work shall be determined by the agenda approved by the Conference.

Article 24. Procedure for nomination of the delegates for All-Ukrainian Conference of the Officers of the Prosecutor's Office

The delegates for All-Ukrainian Conference of the Officers of the Prosecutor's Office of Ukraine shall be elected at the conferences of the officers of the Prosecutor-General Office of Ukraine, the prosecutor's offices of the Autonomous Republic of Crimea, regions, the cities of Kyiv and Sevastopol, regional military prosecutor's offices, other equal to them prosecutor's offices on the bases of three delegates per the Prosecutor-General Office of Ukraine, the prosecutor's offices of the Autonomous Republic of Crimea, regions beyond the category and the city of Kyiv, as well as two delegates per other regions and one delegate from the city of Sevastopol.

The officers of the prosecutor's offices having the class ranks shall participate in these conferences.

Article 25. Procedure for the work of All-Ukrainian Conference of the Officers of the Prosecutor's Office

All-Ukrainian Conference of the Officers of the Prosecutor's Office shall approve the agenda; elect the Credentials Committee, Chairman and secretariat.

The decisions of All-Ukrainian Conference of the Officers of the Prosecutor's Office shall be taken by the majority votes of registered Conference participants in an opened or secret vote.

The decisions of All-Ukrainian Conference of the Officers of the Prosecutor's Office shall be signed by the Chairman and Secretary and brought to the attention of all officers of the prosecutor's offices.

Article 26. Boards of the prosecutor's offices

The Boards shall be established within the Prosecutor-General Office of Ukraine, prosecutor's offices of the Autonomous Republic of Crimea, regions, the cities of Kyiv and Sevastopol and those equal to them.

The boards within the prosecutor's offices shall be the advisory bodies. Appropriate prosecutor shall handle them. In case of need the board's decisions shall be realized by the prosecutor's orders.

The Prosecutor-General Office Board shall be established having in its structure the Prosecutor-General of Ukraine (as Chairman), his or her First Deputy, deputies, the Prosecutor of the Autonomous Republic of Crimea, other senior officers of the prosecutor's

offices. Personal staff of the Board shall be approved by the order of the Prosecutor-General of Ukraine.

Within the Prosecutor's Office of the Autonomous Republic of Crimea, prosecutor's offices of regions, the cities of Kyiv and Sevastopol and those equal to them, the boards shall be established having in its structure a respective prosecutor (Chairman), his or her First Deputy, deputies, other senior officers of the prosecutor's office. The Prosecutor-General of Ukraine on the recommendation of a relevant prosecutor shall approve personal staff of the board.

At the boards' sittings, the information and explanations of the heads of the bodies of state power, heads of the supervisory and control bodies, directors of enterprises, institutions and organizations, their associations, other officials concerning the violation of the legislation could be heard.

The board's decision shall be brought to the notice of the officers of prosecutor's office.

In cases of different opinions of the prosecutor and the board, the prosecutor shall realize his or her decision. The Prosecutor-General of Ukraine shall report to the President of Ukraine, and other prosecutors – to the Prosecutor-General of Ukraine regarding differences of opinions.

Article 27. Scientific and Methodological Council

To consider scientific recommendations and other proposals related to the improvement of the structure and activity of the prosecutor's office, as well as to the legislation, the Scientific and Methodological Council shall be established within the Prosecutor-General Office of Ukraine.

The Prosecutor-General of Ukraine shall approve the composition and the Regulation on the Scientific and Methodological Council.

Article 28. Other institutions of the prosecutor's office

The Prosecutor-General Office of Ukraine, the prosecutor's offices of the Autonomous Republic of Crimea, regions, cities of Kyiv and Sevastopol and those equal to them could have, in their operational management, printing enterprises, entities of social, medical and economic character. The Prosecutor-General Office of Ukraine could be the founder of printing editions.

SECTION III. FUNCTIONS OF THE PROSECUTOR'S OFFICE, OTHER ACTIVITY OF THE PROSECUTOR'S OFFICE

CHAPTER I. APPEARANCE FOR THE PROSECUTION IN COURT

Article 29. The procurator's missions in the judicial process

The prosecutor taking part in a trial, following the principle of independence of the judges and abidance only to the law, shall promote, in accordance with current law, carrying out the requirements of the law concerning comprehensive, complete and objective trial as well as to render court decisions based on current law.

Article 30. Concept of the appearance for the prosecution in court

The appearance for the prosecution in court shall be a procedural action of the prosecutor in asserting of the public prosecution in court with a purpose of ensuring the realization of criminal liability of a person committed a crime.

During the appearance for the prosecution, the prosecutor shall be independent, governed by the Constitution of Ukraine, the laws, valid for Ukraine international treaties, his or her professional legal conscience and his or her own convictions.

No one shall have the right to force the public prosecutor to take in a trial the stand conflicting with a law, his or her professional legal conscience and his or her own conviction.

Article 31. Prosecutor's withdrawal of a charge

The prosecutor shall be bound to withdraw a charge completely or partially or change it if he or she comes to a conclusion that the data of judicial investigation didn't confirm the laid accusation, and to present to court the grounds for his or her withdrawal.

The prosecutor participating in a trial shall have to immediately inform the prosecutor, who brought the indictment, about his or her withdrawal of a charge.

Article 32. Powers of the prosecutor in the criminal proceeding

The powers of the prosecutor participating in the criminal proceeding as well as the powers of other prosecutors in entering appeals and submitting verdicts, courts decisions and orders of the judge shall be determined by the criminal procedure legislation.

Submission of a verdict, court decisions, orders of the court can be supplemented, amended or withdrawn by the prosecutor who introduced them or by the higher prosecutor in the order provided for by the criminal procedure legislation.

The prosecutor or his or her Deputy shall have the right within their jurisdiction to become familiar with any case in a court as well as to obtain any case from court where a verdict, decision or order of the court entered into force. In the presence of the grounds for reconsideration of a case, the prosecutor shall be bound to take measures on elimination the infringements of legislation, occurred during the delivery of court verdicts.

CHAPTER 2. REPRESENTATION OF CITIZENS' OR STATE INTERESTS BY THE PROSECUTOR'S OFFICE IN COURT

Article 33. Tasks of the representation in court

The tasks of the representation shall be the following:

- a) protection of the rights and legitimate interests of the minors, incapable and partially incapable citizens and those missing, socially unprotected ones, if these interests are not protected by their parents, adoptive parents, guardians and tutors or by the authorized state bodies, of other natural persons who, for some reasons, can't protect their rights themselves, as well as persons of undefined circles in cases of simultaneous violation of their rights and legitimate interests or in other cases provided for by the law;

- b) calling to the account, provided by the law, of the persons guilty of the violation of the rights and legitimate interests of a person, citizen or the state;
- c) taking measures on renewal of violated rights and legitimate interests of a person, citizen and the state, and on elimination of those reasons and conditions that facilitated their violation.

Article 34. Causes and grounds for representation in a court

The causes for representation of the prosecutor in court shall be the appeals to the prosecutor's office by natural and legal persons, officials, mass media information as well as personal initiative of the prosecutor.

The grounds for the representation in a court shall be the following:

- a) inability of a natural person to appeal to a court for protection of his or her rights and legitimate interests because of his or her incapability or partially incapability and of other reasons beyond their control;
- b) impossibility for a legal person, because of any reason, to address the court personally or because of reluctance of the officials to use this right, if the representation is necessary for protection of the interests of a citizen or the state.

The prosecutor shall also participate in a trial if a court considers it necessary, as well as in cases determined by the law.

Article 35. Powers of the prosecutor in execution of representation

In execution of the representation, the prosecutor can enter into the case at any stage of the trial, if it is necessary for protection of the interests of a person, citizen and the state.

The prosecutor shall have the right:

- 1) to obtain from the bodies of state power, local self-government bodies, enterprises, institutions, organizations, associations and officials necessary materials, documents, decisions, orders, instructions, rules and other acts, statistics data, certificates of the audits and inspections, experts' opinions etc.;
- 2) to summon the officials and citizens, to require from them a written or oral explanation on the matters relating to the prosecutor's powers about the violations of the rights and legitimate interests of a person, citizen or the state;
- 3) to demand to stop the wrongful acts whoever caused them;
- 4) to charge corresponding bodies, institutions, organizations with carrying out inspections, departmental or off departmental expertise as well as with attracting corresponding specialists for elucidation of necessary matters;
- 5) to take measures on calling to account, in the order provided for by the law, the persons committed a crime and violation of the law;
- 6) apply to a court with the claims in the interests of the citizens or state;
- 7) apply to a court with petitions on adjudication illegal acts, actions and decisions of the officials;
- 8) to take part in trials to protect citizens' rights or state's interests;
- 9) to submit opinions at court sessions on the cases that are considered with the participation of the prosecutor;

10) to initiate reconsideration of illegal and ungrounded judgments violating citizens' rights or state's interests as well as judgments in light of new circumstances in cases provided for by the law.

The powers provided for in paragraphs 5, 6, 7 shall be granted only to the prosecutors and their deputies.

The prosecutors of all levels and their deputies shall independently determine availability of the grounds for their representation in court.

The scope and character of powers granted to the prosecutor participating in a trial shall be determined by respective procedural legislation.

CHAPTER 3. SUPERVISION OVER THE LAW COMPLIANCE BY THE BODIES CONDUCTING OPERATIONAL AND INVESTIGATIVE ACTIVITY, INQUIRY AND PRETRIAL INVESTIGATION. CONDUCTING OF PRETRIAL INVESTIGATION BY THE PROSECUTOR'S OFFICE

Article 36. Tasks of the supervision over the legality in the activity of the operational search bodies, enquiry and pretrial investigation bodies

The supervision shall have the mission to promote:

- 1) detecting and disclosing crimes, protection of a person, his or her rights, freedoms, property, the rights of enterprises, institutions, organizations from criminal offences;
- 2) compliance with a law, while bringing, terminating and closing criminal actions, investigating crimes, and compliance with proceedings' terms, inquiry and pre-trial investigation, and holding in custody;
- 3) while investigating crimes, strictly observance of the requirements of law on thorough, comprehensive and objective investigation of all circumstances of the case, clarification of circumstances exposing or justifying a defendant, as well as extenuate and aggravate his or her responsibility;
- 4) prevention of illegal infliction of criminal charge on a person, protection of the rights and legitimate interests of citizens under investigation;
- 5) coordination of activity of the bodies, fighting against a crime, on detection and investigation of crimes;
- 6) taking measures to prevent crimes, eliminate causes and conditions, encouraging their commitment.

Article 37. Powers of the prosecutor in supervision over the observance of laws by the bodies that conduct operative and search activity

Prosecutor within his or her jurisdiction shall be entitled to:

- 1) supervise over the observance of the law of Ukraine "On operative and search activity", as well as over the application of laws while taking operative and search measures on court decision or prosecutor's sanction;

- 2) enter into any premises of all bodies conducting an operative and search activity without hindrance;
- 3) request directives, instructions, orders and other acts on operative and search activity, operative and search cases, registration, accounting, report, statistical, analytical and other documents on operative and search activity for inspection;
- 4) request managers of appropriate bodies to conduct departmental inspections over execution, by the subordinated divisions and their officials, of the operative and search activity tasks, assigned by the law, as well as the observance of human and citizen's rights and freedoms, as well as those of legal persons;
- 5) summon officials and other persons, conducting operative and search activity, to present explanations concerning violations of the law requirements;
- 6) check up claims on violation of the laws by the bodies conducting operative and search activity, having familiarized, if necessary, with operative and search documents;
- 7) cancel illegal resolutions on institution or dismissal of an operative and search case, termination and renewal of an operative and search case, termination and renewal of operative and search activity, and other decisions contradicting the law;
- 8) consent to continue the term for conduction of operative and search activity, as well as destruction of operative and search cases;
- 9) sanction or consent to take appropriate measures in cases provided for by the law;
- 10) request from the manager to remove from the further operative and search activity any person violating the law, human and citizen's rights and freedoms or those of a legal person;
- 11) send to the court materials submitted by subdivisions that conduct operative and search activity to receive a permission for taking appropriate measures, as well as to appeal against the court's decision on permission or objection for taking operative and search measures, if it is not in compliance with the requirements of law. The appeal shall terminate taking operative and search measures authorized by court.
- 12) take measures to eliminate the violations of law and bring the guilty parson to the account provided for by law.

Article 38. Powers of the prosecutor in the supervision over the observance of laws by the bodies of inquiry and pre-trial investigation

Powers of the prosecutor in the supervision over the observance of the laws by the bodies of inquiry and pre-trial investigation shall be determined by the legislation on criminal procedure.

Prosecutor shall be entitled to entrust the heads of the bodies fighting against crime to conduct inspections in the subordinated subdivisions with the aim to find out and eliminate violations of law and secure absolute disclosure of acts containing features of crimes. Transmittance of criminal cases from one department to another shall be done only through the prosecutor.

Prosecutor shall be entitled to accept for his or her proceedings or entrust subordinated prosecutor with the task to carry out an inquiry of a crime while having reasonable grounds for gross violation of the legislation of Ukraine by the pre-trial investigation bodies.

Article 39. Binding force of the prosecutor's instructions

Instructions of the prosecutor, his or her Deputy, having been done in accordance with the legislation on criminal procedure, concerning proceedings in the pre-trial investigation, shall have binding force for the bodies of inquiry and pre-trial investigation

Article 40. Introduction of a civil claim on compensation of damages caused by a crime

In order to protect interests of the state, as well as its citizens, who, due to their state of health, conditions or other reasons, cannot protect their rights, the prosecutor or his or her deputy shall introduce or support of a civil claim on compensation of damages caused by a crime, which was submitted by an injured person.

CHAPTER 4. SUPERVISION OVER THE OBSERVANCE OF THE LAWS IN THE COURSE OF ENFORCEMENT OF JUDGMENTS IN CRIMINAL CASES

Article 41. Task of the supervision

The prosecutor's supervision shall be conducted with the aim of:

- 1) enforcement of judgments in criminal cases according to the requirements of law;
- 2) preliminary detention of a person in preliminary detention facilities of criminal, executive and other bodies and institutions which legally enforce the judgments in criminal cases;
- 3) implementation of the observance of the rights, provided for by law, of the arrested and sentenced persons, fulfillment of their obligations, as well as of the rights of the persons placed in mental institutions, as well as the observance of order, conditions of detention and service of a criminal sentence and health treatment;
- 4) compliance with the requirements of the legislation on release of sentenced persons from serving their sentences, termination of serving their sentences and other matters concerning serving a sentence.

Article 42. Powers of the prosecutor

Prosecutor within his or her jurisdiction shall be entitled:

- 1) in any time to visit the bodies and facilities that enforce judgments in criminal cases, as well as facilities of preliminary detention;
- 2) to put questions to arrested and sentenced person;
- 3) to check the legality and validity of persons' detention in facilities of deprivation of liberty, as well as in the mental institutions;
- 4) to authorize, in cases provided for by law, the actions of the criminal and executive and other institutions' administrations that enforce judgments in criminal cases;
- 5) to check the legality of orders, resolutions, instructions and other acts of the bodies, the administrations of criminal and executive and other institutions that enforce judgments in criminal cases;
- 6) to require from the officials of the bodies, the administrations of criminal and executive and other institutions that enforce judgments in criminal cases, to give explanations about committed violations, as well as to conduct examinations .
- 7) to release immediately, by a reasoned resolution, the persons detained illegally in the facilities of preliminary detention, in criminal and executive and other institutions, enforcing judgments in criminal cases, in penal and disciplinary isolators, punishment cells, isolation wards and other detention facilities;
- 8) to terminate immediately illegal application of special measures (restraint jacket, handcuffs, etc.) to persons detained in the facilities of deprivation of liberty;
- 9) to appeal against illegal orders, instructions, resolutions and other acts of the bodies, administrations of the criminal and executive and other institutions, enforcing judgments in criminal cases;
- 10) to take measures on bringing persons violated the law to account.

CHAPTER 5. SUPERVISION OVER THE OBSERVANCE OF THE LAWS IN THE COURSE OF THE IMPLEMENTATION OF THE COMPULSORY MEASURES CONNECTED WITH THE RESTRICTION OF PERSONAL FREEDOM OF CITIZENS

Article 43. Tasks of the supervision

Task of the supervision shall be the observance of laws in the course of implementation of the compulsory medical and educational measures, connected with restriction of the personal freedom of citizens, administrative detentions and arrests and administrative supervision during detention of citizens in facilities for detained persons, general schools and vocational schools of social rehabilitation, medical and social rehabilitation centers and asylums for minors and other facilities, as well as the use of special enforcement measures.

The supervision shall be conducted to:

- 1) exclude possibility of illegal restriction of the personal freedom of the individual granted by the Constitution of Ukraine;
- 2) renew the violated rights of a person, eliminate the illegal restrictions of his or her personal freedom;
- 3) apply the restriction of the personal freedom of individual only when other measures for immediate protection of the citizens' or state interests are considered insufficient and ineffective;
- 4) apply compulsory medical and educational measures only to the individuals socially dangerous, which have appropriate medical and psychiatric features.

Article 44. Powers of the prosecutor

Prosecutor within his or her jurisdiction shall be entitled to:

- 1) check the observance of laws in the course of taking compulsory measures connected with the restriction of personal freedom of the individual;
- 2) enter, at any time without hindrance, into the facilities where the persons, to home compulsory medical and educational measures are applied, stay, as well as into the facilities for the persons detained and arrested in an administrative order;
- 3) appeal against illegal judgments on administrative arrests, detentions, implementation of compulsory treatment measures and other compulsory measures connected with the restriction of personal freedom of the individual;
- 4) release persons detained illegally in the facilities of restriction of the personal freedom;
- 5) terminate, immediately, the illegal application of the special compulsory measures to the individual.

CHAPTER 6. SUPERVISION OVER THE OBSERVANCE OF THE HUMAN AND CITIZEN'S RIGHTS AND FREEDOMS, AS WELL AS OBSERVANCE OF THE LAWS CONNECTED WITH THESE MATTERS BY THE BODIES OF STATE, LOCAL SELF-GOVERNMENT BODIES AND THEIR OFFICIALS

Article 45. Task of supervision

Task of supervision shall be the prevention, disclosure and elimination of the violation of the law on human and citizen's rights and freedoms, as well as protection of their interests. The prosecutor shall control therefore:

1) compliance with the acts issued by all executive and local self-government bodies, their officials, with the requirements of the Constitution of Ukraine, the present law and Decrees of the President of Ukraine;

2) observance of the laws on the person's inviolability, social, economic, political, labour, personal human and citizen's rights and freedoms, protection of their honour and dignity;

Control over observance of the laws shall be exercised on applications and notifications about violation of the legitimacy requiring the prosecutor's actions and in the presence of grounds – also on the initiative of the prosecutor. The prosecutor's office shall not substitute the bodies of the departmental administration and control, as well as not intervene with economical activity if such activity does not contradict to the legislation in force.

Article 46. Powers of the prosecutor

While conducting supervision, the prosecutor shall be entitled to:

1) enter without hindrance, by identity card certifying the post occupied, to the premises of the public authorities, self-government bodies, citizen's associations, enterprises, institutions and organizations irrespective of the ownership, subordination or affiliation, as well as to the military units, institutions without special identity cards where they introduced; have access to the documents and materials necessary for the conduction of the observance including, in order provided for by law, those containing commercial and bank secrecy; require, in writing, provision for the prosecutor's office the above mentioned documents and materials for control, urgent provision of necessary information to settle the matters connected with control;

2) require decisions, regulations, instructions, orders and other acts and documents to be controlled, obtain information about the state of legality and measures taken to insure it;

3) require from the officials the conduction of checks, inspections on activity of the subordinated and controlled enterprises, institutions, organizations and other structures, irrespective of the ownership, as well as to choose specialists for conducting checks, departmental and external examinations;

4) summon the officials and citizens, and require from them oral or written explanations about violations of the law.

In case of finding out the violations of law the prosecutor or his or her deputy within their jurisdiction shall be entitled to:

1) submit necessary information to the heads of public authorities, local self-government bodies, enterprises, institutions, organizations and citizen's associations,

2) introduce an appeal against the decisions of the public authorities, local self-government bodies, the decisions and actions of their officials, as well as decisions and actions of the enterprises, institutions, organizations and citizen's associations' officials,

3) bring a criminal charge according to the law, as well as disciplinary proceedings or proceedings on administrative violation, and submit the case papers for the consideration of the citizen's organizations,

4) provide prescriptions on the elimination of the obvious law violations,

5) address a court or arbitration court in the order of representation, by the prosecutor's office, of human and citizen's interests.

CHAPTER 7. SUPERVISION ACTS OF THE PROSECUTOR

Article 47. Protest

Protest shall mean a request of the prosecutor or his or her deputy regarding the revision of the unlawful legal acts committed by bodies of state power and local self-government bodies, bodies

of enterprises, institutions, organizations and citizen's associations, as well as regarding revision of their officials' decisions and actions.

In a protest, a question shall be raised about the cancellation of an act, its separate parts or bringing it in compliance with the law, as well as the termination of the official's illegal action and restoration of the violated right.

The protest shall terminate the protested legal and shall be subject to consideration for a period of ten days after reception unless otherwise is provided for by the law. The prosecutor shall be informed immediately about the results of the protest's consideration.

Article 48. Resolution

Resolution shall mean the prosecutor's or his or her deputy's decision on bringing a criminal charge (proceedings), disciplinary or administrative proceedings, conviction approval, cancellation of the illegal resolutions made by the bodies conducting operative and search activity, inquiry, pre-trial investigation, as well as the decisions made by bodies or officials while taking enforcement measures concerning the limitation of human and citizen's personal freedom and in other cases provided for by the law.

The resolution shall be considered by the official or by an appropriate body within a period of ten days after its reception unless otherwise provided for by the law.

Article 49. Application

Application (claim) shall mean the prosecutor's or his or her deputy's appeal to a court so as to represent the interests of a citizen or the state.

The application shall be drawn up in compliance with the requirements of the legislation on procedure.

Article 50. Presentation

Presentation shall be a reaction on the found violations of law, on the reasons and conditions caused such violations.

The prosecutor and his or her deputy shall make a presentation for executive bodies of state power, local self-government bodies, bodies of enterprises, institutions and organizations, as well as officials regarding the necessity to cancel the act contradicting to the law or eliminate the violations of the law, reasons and conditions caused them. A presentation shall be considered without delay. The prosecutor shall have to be informed about the implemented measures for a period of one month after the day of its reception, and on the cancellation of the illegal act – for a period of ten days, unless otherwise is provided for by the law.

The prosecutor may also make a presentation in other cases established by the law.

A collective body for which the presentation was made shall inform the prosecutor about the date of sitting and the prosecutor shall be entitled to take part in the consideration personally.

In case of rejection of the presentation on cancellation of the act or evasion from its consideration, the prosecutor could lodge an application to a court to deem the act null and void. The application can be lodged within a period of 15 days after the reception of the notification

about the rejection of the presentation or termination of the period for its consideration provided for by the law. Such application shall terminate the act.

Article 51. Prescription

Written prescription on elimination of a violated law shall be introduced by the prosecutor, his or her deputy to a body or an official, committed the violation, or to a superior body, in the order of subordination, or to an official entitled to eliminate the violation.

A written prescription shall be introduced if violation of the law has an obvious character and could substantially affect the interests of the state, enterprise, institution and organization, as well as the citizen's interests, should it not be immediately eliminated. The prescription shall be subject to immediate execution, irrespective of the appeal about what the prosecutor shall be informed.

A body or an official could appeal against the prescription to a court or to a superior prosecutor who is obliged to consider the appeal within a period of ten days.

Article 52. Request

Request shall mean an address of the prosecutor or his or her deputy to the executive bodies of state power and local self-government bodies, bodies of enterprises, institutions, organizations, citizens' associations, military administration authorities, control authorities, their officials regarding termination of illegal actions, regarding provision of documents, materials, statistical and other information, as well as conducting of inspections, checks, departmental and external examinations, assigning specialists and giving explanations for clarification of matters arising from the execution of tasks imposed on the prosecutor's office.

The prosecutor's request shall be compulsory for execution within a period determined by the prosecutor.

SECTION IV. PERSONNEL OF THE PROSECUTOR'S OFFICE

Article 53. Requirements to a candidate for the post of the Prosecutor-General of Ukraine

The Prosecutor-General of Ukraine could be a citizen of Ukraine who is, at a moment of appointment, not younger than 40 years, has degree in law, received in a state higher institution of 3-d and 4-th levels of accreditation, has educational and qualification level of specialist or master, practical professional experience not less than 15 years including the experience not less than 10 years in the prosecutor's offices, is a permanent resident of Ukraine, knows Ukrainian language, and his or state of health and professional qualities allow him or her to perform the assigned functions.

Article 54. Requirements to person appointing to the office of the prosecutor

The prosecutors of districts and cities shall be citizens of Ukraine who are at the moment of appointment at least 25 years old, have degree in Law, received in a state higher institution of 3-d and 4-th levels of accreditation, have educational and qualification level of specialist or master and their state of health and professional qualities allow them to perform the assigned functions.

Persons, who are at least 30 years old, having a professional experience at prosecutor's offices or as a judge not less than seven years could be appointed the prosecutors of the Autonomous

Republic of Crimea, regions, cities Kyiv and Sevastopol and other equal to them prosecutor's offices. The persons, who are at least 25 years old, have professional experience at the prosecutor's offices, as a judge not less than three years, whose state of health and professional qualities allow them to perform the assigned functions shall be appointed to district, city and other equal to them prosecutor's offices.

Persons who cannot be appointed at prosecutors' offices shall be the following:

- persons recognized, under established procedures, as incapable or partially capable;
- persons called to criminal responsibility, except for exculpated persons;
- persons who do not speak Ukrainian and had no permanent residence in Ukraine.

Article 55. The oath of the prosecutor

Persons who are appointed as prosecutors' assistants, prosecutors of departments and divisions for the first time shall swear:

“Assuming office at the Prosecutor's Offices of Ukraine I dedicate my activity to serving to the Ukrainian nation and state and solemnly swear:

- to observe steadily the Constitution, the laws and international obligations of Ukraine;
- to protect human and citizen's rights and freedoms, interests of society and the state based on the Constitution and the laws of Ukraine;
- to counteract violations of law, to fight irreconcilably against crime and corruption;
- to ensure effectiveness of the prosecutor's supervision and other forms of the prosecutor's office's activity;
- to fulfill my duties in good faith;
- to regard responsibly to all matters concerning the prosecutor's office activity, to be tactful towards people, as well as objective and fair while working with them;
- strictly to keep state and other secrecy protected by law;
- to improve constantly my professional skills, to be incorruptible, principal, morally fair and proud of the honored rank of the prosecutor's office.

I am aware that violation of the oath is incompatible with further service in the prosecutor's offices”.

Prosecutor shall sign the text of the Oath attached to the personal record. Entry shall be made into the prosecutor's work record card or into personal record of the prosecutor. The Prosecutor General of Ukraine shall determine procedure for administration of the oath.

Article 56. Peculiarities of the military prosecutors' appointment and service

Citizens of Ukraine from among officers of the Armed Forces of Ukraine doing their military service or being in reserve and satisfying the requirements for the persons which could be appointed at the military prosecutors' offices.

Servicemen of military prosecutor's offices shall do the military service in accordance with the military statutes and regulations on military service as far as it does not contradict to the prosecutor's independence requirements.

The President of Ukraine on the proposal of the Prosecutor-General of Ukraine shall confer military ranks to the military prosecutors unless otherwise is provided for by the law. The law

shall determine terms and procedure for conferment of military ranks, as well as the procedure for the prosecutors' retirement from the military service.

Higher military ranks of the officers of military prosecutor's offices shall be conferred by the Minister of Defense of Ukraine and the ranks of General – by the President of Ukraine, on the proposal of the Prosecutor-General of Ukraine.

Retirement of the military officers of military prosecutor's offices shall be executed according to the Law of Ukraine "On universal military duty and military service" on the proposal of the Military Prosecutor-General.

Article 57. Staff reserve of the prosecutor's office

Within the prosecutor's offices a staff reserve shall be created for filling posts and career development.

Executive posts at the prosecutor's offices shall be filled, as a rule, by persons from the staff reserve of the prosecutor's office.

The Prosecutor-General of Ukraine shall determine a procedure for forming staff reserve and for its organizational management.

Article 58. Class ranks

The prosecutors shall be conferred the class ranks according to their post and record of service. The Prosecutor-General of Ukraine could also confer the class ranks on other officials of the prosecutor's offices and institutions.

The procedure of the conferment and deprivation of the class ranks shall be determined by the Regulation on Class Ranks of Officers of the Prosecutor's Office of Ukraine approved by the Verkhovna Rada of Ukraine.

The class ranks of the State Advisor of Justice of Ukraine, State Advisor of Justice of 1, 2 and 3 classes shall be conferred by the President of Ukraine on the proposal of the Prosecutor-General of Ukraine, other class ranks beginning from the lawyer of 3-d class shall be conferred by the Prosecutor-General of Ukraine.

Article 59. Encouragement and responsibility of the prosecutor's office officers

The prosecutor's office officers shall be encouraged for diligent and irreproachable fulfillment of their professional duties, as well as for initiative and constructive work.

The prosecutor's office officer could be awarded with the breastplate of "Honorable Officer of the Prosecutor's Office of Ukraine" for long and irreproachable service, Regulation on which shall be approved by the Prosecutor-General of Ukraine.

For the personal achievements, high professionalism and fruitful work in strengthening of legality, the Prosecutor-General could recommend that an officer of the prosecutor's office should be awarded with state decorations.

The Disciplinary Statute of the Prosecutor's Office of Ukraine approved by the Verkhovna Rada of Ukraine shall determine procedure for encouragement and bringing officers of the prosecutor's office to the disciplinary liability.

The prosecutors shall be entitled to appeal against the decisions about bringing them to the disciplinary liability to the High Council of Justice.

Article 60. Income statements of the prosecutors

Persons appointed for the prosecutor's post should hand in to the place of future service income statements and financial obligations including those kept abroad concerning themselves and their family members.

Persons appointed to the posts of the Prosecutor-General of Ukraine, First Deputy, Prosecutor-General Deputy, deputy prosecutor of the Autonomous Republic of Crimea, region, the cities Kyiv and Sevastopol, as well as the prosecutors equal to them shall present statements about personal valuable and real estate, bank deposits and securities owned by them and their family members. These statements shall be forwarded to the Prosecutor-General Office of Ukraine, and statements of the Prosecutor-General of Ukraine or person nominated for this post – to the Verkhovna Rada of Ukraine.

The prosecutors shall forward the mentioned statements annually. Procedure of keeping and using of these statements shall be determined by the Cabinet of Ministers of Ukraine.

Article 61. The prosecutor's retirement

Retirement shall mean service termination of the Prosecutor-General First Deputy and deputies, prosecutors of the Autonomous Republic of Crimea, regions, cities Kyiv and Sevastopol, as well the prosecutors equal to them on the bases of their written application.

The reasons for the prosecutor's retirement shall be the following:

- principal disagreement with the superior prosecutor's decisions, as well as ethical obstacle to his or her occupation of the office,
- compulsion of the prosecutor to execute the superior prosecutor's decision contradicting the current law, what could cause substantial financial or moral damages to the state, enterprises, institutions or citizens' associations, a citizen,
- state of health impeding the execution of the official powers (in the presence of medical certificate).

The retirement shall be accepted or rejected reasonably by the Prosecutor-General of Ukraine.

The decision on the retirement shall be made within a period of one month after receipt of application.

In case of rejection his or her retirement, the prosecutor's office's officer shall continue the execution of his or her official duties and shall be entitled to quit the job through a general procedure.

Article 62. Attestation of the prosecutors

The prosecutors shall be subject to the attestation once in five years.

The Higher Attestation Commission shall be established within the Prosecutor-General Office. The composition of this Commission shall be approved by the Order of the Prosecutor-General of Ukraine.

The attestation commissions shall also be established within the prosecutor's offices of the Autonomous Republic of Crimea, regions, the cities of Kyiv and Sevastopol and equal to them prosecutor' offices, as well as at educational and scientific and research institutions. The orders of the appropriate prosecutors and heads of the institutions shall approve the composition of these commissions.

The attestation commissions shall work according to the Regulation on the Attestation Procedure for Officers of the Prosecutor's Office approved by the Prosecutor-General of Ukraine.

Article 63. Support personnel of the prosecutor's office

The technical and economic activity of the prosecutor's office shall be performed by support personnel consisting of public servants, other officers, support workers, as well as servicemen doing military service as drivers, heads of secretariats, etc.

SECTION V. LEGAL AND SOCIAL PROTECTION OF THE PROSECUTORS, OFFICERS OF THE PROSECUTOR'S OFFICES AND THEIR FAMILIES

Article 64. Material and social maintenance of the officers of the prosecutor's offices and their families

The prosecutor's remuneration shall consist of the official salary, bonus for the class ranks, long service, bonuses and other additional payments provided for by the legislative acts, and have to provide sufficient economic incentives for appropriate fulfillment of duties as well as for keeping skilled staff.

Long service bonus shall be paid to the prosecutors monthly in the percentage to their official salary, taking into account class rank bonus and depending on the record of service, in the following amounts: over 3 years – 10%, over 5 years – 15%, over 10 years – 20%, over 15 years – 25%, over 20 years – 30%, over 25 years – 40%.

The following bonuses could be set for the prosecutors: for special kind of work and intensity of labour, for high progress in work and carrying out of extremely important work, for fulfillment of duties of absent officers and other additional payments; a welfare could be paid to solve social problems. The amount of the salaries, addition for class ranks, long service and other additional payments as well as amounts of welfares shall be set by the Cabinet of Ministers of Ukraine.

The financing of the remuneration of the prosecutor's labour shall be realized at the expense of the State budget.

Annual leave (vocation) shall be granted to the prosecutors for a period of 30 calendar days, and passage money to the place of rest and from it within Ukraine as well as money for health improvement in the amount of average monthly salary could be paid.

The prosecutors, having a labor experience at the prosecutor's offices over 10 years, shall be granted annual additional leave for a period of 5 calendar days and beginning from the 11-th

year this leave shall be increased by 2 calendar days for every following year. The duration of such additional paid leave couldn't be more than 15 calendar days.

The prosecutors shall have the right, in course of duties, to use freely, producing his or her service certificate, all kinds of city, suburban and local transport (except for taxi), and during a business trip, shall have the right to book rooms in hotels and tickets on all kinds of transport as well as to buy passage without standing in a line.

The prosecutors who have no lodging or need housing improvement shall be provided, out of turn, with lodging in the form of separate flat (apartment) or a house by appropriate local executive authorities from the state housing stock, but not later than in six months after their application concerning such lodging. Servicemen of military prosecutor's offices shall be provided with lodging within the same period at the expense of the Ministry of Defense of Ukraine. In case of non-providing of the prosecutors with lodging within mentioned period, the prosecutor's office could purchase (at the expense of the state budget) a flat (apartment) or a house at the market and hand over them for use of those officers. The Cabinet of Ministers of Ukraine shall set procedure for financing prosecutor's office with this view as well as the procedure for settlement of such issues with the State budget by executive body, that hasn't provided the prosecutors with lodging in time. In case of leaving the lodging by the prosecutors and their families, which belongs to the state housing stock, such lodging shall be given to appropriate prosecutor's office for the next occupancy. The prosecutors shall have the right to extra living space accordingly to the Article 49 of The Housing Code of Ukraine, as well as for compensation of the costs related to tenancy (sublease) until receiving lodging in established order for permanent living. Servicemen of military prosecutors' offices shall be provided with lodging at the expense of the Ministry of Defence of Ukraine. Terms, mechanisms and amounts of cash compensation for tenancy (sublease) costs shall be set by the Cabinet of Ministers.

The prosecutors shall be granted a 50% discount of the tenancy costs paid by them or their families (including for house maintenance), for public utilities (water-supply, drainage system, gas-supply, electricity and heating supply), fuel purchasing and using individual telephone communication and intruder alarm.

The local state administrations, local self-government bodies and their executive bodies could sell (on preferential terms) to the prosecutors and investigators the living spaces with up to a 50% discount of its costs, in case they have lodging.

Prosecutors needed housing improvement shall be given the land and interest-free loan for a period up to 20 years for individual or cooperative construction or for purchasing a flat or individual house. The Cabinet of Ministers shall determine loan conditions.

The prosecutors could be provided by living spaces through long-term state credits.

The prosecutors shall have the right, out of turn, to place their children into the infant schools, setting telephone communication and intruder alarm.

The prosecutors and their families shall use (in accordance with established procedure) free medical service (including medicine) in public medical institutions. The same medical institution shall serve their families' members living with them as well as officers of the prosecutor's offices. Tourist reservation in a sanatorium and spa shall be given to prosecutors with a 50% discount at the expense of the state budget and to the members of their families at their own expense.

Prosecutors of territorial and military prosecutor's offices, who are entitled, in accordance with the legislation of Ukraine, to pension for long service, in the course of service shall be extra paid in the amount of 50% of monthly salary.

Article 65. Measures for legal and social protection of the prosecutors and their families

The prosecutors shall be under protection of law.

Infliction of bodily injuries, insult, threat and other coercive actions concerning a prosecutor or his or her close relatives, as well as destruction of their property, in connection with exercise by a prosecutor of his or her professional duties, shall entail responsibility established by law. This responsibility shall ensue also in case of committal of the mentioned offences concerning a retired prosecutor or members of his or her family and close relatives in connection with exercise of his or her professional duties in the past.

Losses inflicted by destruction or damage of property to the public prosecutor or retired prosecutor or members of their families and close relatives in connection with exercise of his or her professional duties shall be reimbursed by the State in full amount at the expense of State budget.

Life and health of the prosecutors shall be subjected to obligatory state insurance at the expense of the state budget to the amount of ten annual salaries earned at the last post. The Cabinet of Ministers of Ukraine shall determine procedure and conditions of insurance.

In case of injury or disability happened while exercising professional duties the prosecutor shall receive compensation in the amount of one to five annual remuneration depending on the level of disability, and in case of his or her death because of mentioned reasons, the family or dependants shall be paid one-time pecuniary payment in the amount of ten annual money allowances earned at the last post of the deceased and shall be granted a pension because of the loss of the bread-winner in the amount of his or her monthly salary.

A funeral of a prosecutor who perished (died) in connection with exercising of his or her professional duties, as well as dismissed from the post and died because of maims or other injurious to his or her health connected with exercising of his or her duties, shall be paid at the expense of the funds allocated for the maintenance of prosecutor's office.

Family of the deceased shall retain the right to have a comfortable lodging on the conditions and grounds that existed at the time of death of the officer.

Public prosecutors shall have the right to bear and keep firearms as well as to use it on the grounds and in the order provided for by the Law of Ukraine "On the Militia".

Protection of the prosecutor's rights to appeal against court decisions, the acts or inactivity of bodies of state power, local self-government bodies and officials shall be guaranteed.

Article 66. Provisions of prosecutor's pension

The prosecutors with the length of service not less than 20 years shall have the right to get the long service pension irrespective of the age. The pension shall be determined in the amount of 80 % of their monthly (current) salary and 90% for disabled persons, including all kinds of remuneration subject to insurance premium, received by them before the month of the application for pension granting. Official salary, class rank and long service bonuses on

granting a pension shall be taken into account in the amounts set on the day of quit that shall give a right to that kind of pension. For every full year of service over ten years on these posts the pension shall be increased on 2 %, but not more than 90 % of the monthly (current) salary.

Monthly amount of the mentioned payments for 24 and 60 calendar months shall be determined by division of the amount of these payments (for 24 calendar months running before the applying for a pension or 60 calendar months running) on 24 or 60 accordingly. Correction of the mentioned payments shall be carried out by application of common step-up ratio of the official salary amount and class ranks bonuses.

Amount of the payments (except salary and bonuses for rank and long service) included into the earnings for the pension calculation, shall be determined at the choice of a person applying for the pension of the last 24 calendar months of service that gives the right to the pension in question or any 60 calendar month of such service irrespective of the breaks during these periods.

To the 20 year record of service, given the right to a long service pension, the period of service at the prosecutor's posts, listed in Article 74 of this Law, shall be added, as well as:

- at a military prosecutor's office,
- a trainee at the prosecutor's offices,
- an investigator, judge, supervisory personnel of the internal affairs authorities,
- at the tax militia, criminal executive body,
- an officer of the Security Service,
- at public servant posts that should be placed by a person with degree in Law,
- at the posts of scientific and educational institutions of the Prosecutor-General Office of Ukraine the officers on whom class ranks were conferred,
- at the elective offices at the bodies of state power,
- at the posts of other institutions if the officers with class ranks had been assigned there and then returned to the prosecutor's office,
- service for a fixed period in the Armed Forces,
- half period of an education at the higher legal educational institutions, a
- partially paid child rearing leave for women.

For officials who don't have a long service of 20 years, if their record of service at the prosecutor's offices is not less than 10 years, after a male's age reached 55 years (having the general record of service of 25 years and more) and female's age reached 55 years (having the general record of service of 20 years and more) the pension shall be granted at a rate that should be proportionate to the amount of full service years at the prosecutor's posts on the basis of 80% of monthly income for 20 years of service. For every year of general record of service over 25 years for a male and 20 years for a female the pension shall be increased by 1% of the monthly, on which such pension was calculated.

Allowance for keeping disabled members of the family and for caring about a single pensioner in the amounts and terms provided for in Article 21 of the Law of Ukraine "On Pension Provision" shall be added to long service pension granted by this article.

The right to a long service pension shall be given to the persons who before applying for granting such pension served at the prosecutor's offices or at the scientific and educational institutions of the Prosecutor-General Office of Ukraine, as well as to the persons retired from the prosecutor and investigator posts of the prosecutor's offices because of their bad health, in connection with redundancy of the staff, in connection with their election to the elective offices

of the bodies of state power or local self-government bodies. For war veterans who have record of service needed for granting the long service pension, such pension shall be granted irrespective of their service at the prosecutor's offices before their applying for granting such pension.

Disability pension shall be granted to the prosecutors, who were recognized as disabled persons (invalids) of the 1st or 2d category and have record of service at the prosecutor's offices not less than 10 years, in the amount provided for by Paragraph 1 of this Article.

One pension at their option shall be granted to the prosecutors who had at the same time the right to different state pensions including under conditions provided for by Article 37 of the Law of Ukraine "On Public Service". Military prosecutors discharged from military service shall have the right to get a pension according to this Article or to the pension set, by the legislation, for serviceman.

The persons dismissed from the service as a result of disciplinary punishment with deprivation of class ranks or deprivation of class rank by a verdict shall forfeit his or her right to long service pension. Furthermore, the persons dismissed in connection with conviction for a crime, committed as a result of abusing his or her office, or corrupt actions shall also forfeit the right to a pension provided for by this Article.

Authorized bodies of state power shall grant long service pensions in accordance with this Article.

Calculation (recalculation) of a pension shall be carried out according to the documents of the pension dossier (file) and documents added by pensioners, based on the amount a month income at an appropriate office from which the person retired as of the time of the request for recalculation.

Pensioners and their family members shall retain rights and guarantees of social protection provided for by this Law and other legislative acts. The pensioners and members of their families, living with them, shall also have the right to medical service at those medical institutions where they served before retiring.

The pension granted according to this Article shall be paid in full amount irrespective of the income received after retiring. The prosecutors to whom the long service pension was granted and who still serve at the prosecutor's posts shall have the right to get salary according to legislation.

The prosecutors in case of retiring because of disability or long service shall be paid a cash benefit without payment of taxes in the amount of a month income on which a pension was calculated, for every full year of service as a prosecutor or at the posts at scientific and educational institutions of the prosecutor's offices.

Members of a prosecutor's families (parents, wife, husband, children under 18 years or older than this age, if they became disabled before 18, as well as those being students, until their graduation but not older than 23 years) which are maintained by the prosecutor at the point of his or her death shall receive a breadwinner loss pension, if he or she had a record of service at the prosecutor's offices not less than 10 years – in amount of 60% of a month (current) income for one member of the family and 80% – for two and more members.

The pension granted to officers of the prosecutor's offices shall be recalculated at the increase of salaries for appropriate officers' categories at prosecutor's offices. Pension recalculation shall be done from the first day of the month following the month in which the circumstances requiring a change in the amount of pension arose. If the pensioner acquired the right to an increased pension, the difference in the pension amount for the last period could be paid him or her but not for longer time than 12 months. Pension recalculation shall be done taking into account the really obtained cash, by the officer, and the terms of payment that existed on the date of his or her retirement. Pension of the pensioners who still work shall be recalculated also at his or her appointment to a higher post, conferring a higher-class rank, honorary title or a scientific degree .

The provisions of this Article, except paragraph 16, shall also be applied to the pensioners of the prosecutor's offices, retired from prosecutor's and investigator's posts and posts at scientific and educational institutions, to whom (before entering into force of this Law) a retirement pension, long service pension or disability pension was granted, irrespective of retiring date and on conditions that they have the necessary length of service provided for in this article.

Article 67. Legal and social protection of scientific and pedagogical officers of the prosecutor's office and members of their families

Provisions of this Section shall be completely applied to scientific and pedagogical officers of the prosecutor's office who had class ranks.

SECTION VI. FINANCIAL AND LOGISTICAL SUPPORT OF THE PROSECUTOR'S OFFICE

Article 68. Financing and logistical support of the prosecutor's office

Financing of the prosecutor's office as well as the costs connected with the realization of the rights, provided for by this Law, shall be fulfilled at the expense of the State budget of Ukraine, and stipulated by a separate line and included into the list of protected expense items of the State budget of Ukraine.

The Prosecutor-General of Ukraine shall have the right to introduce changes within assigned funds and shall approve the calculation of the costs for functioning of the prosecutor's office.

Local state administrations and local self-government bodies shall provide the prosecutor's offices located in their territories with appropriate offices on terms of tenancy.

Transport, material and technical facilities shall be provided to the prosecutor's offices at the expense of the State budget of Ukraine in an order set by the law.

Finance allowance of the prosecutors, officers and other employees of military prosecutor's offices shall be provided at the expense of the Prosecutor-General Office of Ukraine from the funds of the State budget of Ukraine, specially intended for maintaining military prosecutor's offices. Its amount could not be less than standard logistical support of corresponding officers of territorial prosecutor's offices.

Provision of military prosecutor's offices with offices, their guarding, transport facilities, communication facilities and other necessary property, as well as with uniform for military

officers of these prosecutor's offices shall be provided by the Ministry of Defence of Ukraine and other bodies of military formations.

Article 69. Uniform for officers of the prosecutor's offices

Officers of the prosecutor's offices with class ranks shall wear uniform with corresponding decorations provided free of charge.

The Cabinet of Ministers of Ukraine shall approve the models, specifications and description of uniform.

The procedure of distribution, registration and wearing of the uniform shall be approved by the Prosecutor-General of Ukraine.

Military prosecutors shall have military uniform with decorations according to their military ranks.

Retired officers of the prosecutor's offices shall retain the right to wear uniform.

**SECTION VII.
OTHER ORGANIZATIONAL ISSUES OF THE PROSECUTOR'S
OFFICE ACTIVITY**

Article 70. STATISTICS ACCOUNT

The Prosecutor-General Office, jointly with concerned ministries and other central executive bodies of state power, shall work out a system and methodology of unified registration and statistical account regarding state of crime, clearance and investigation of crimes, prosecutor's supervision, and shall set the order of forming and submitting accounts by prosecutor's offices.

Article 71. Legal support of the prosecutor's offices

For supporting the prosecutor with legal information, normative and legal acts, scientific and other special literature, the prosecutors' offices shall establish libraries, carry on systematization of legislation, advisory and supplemental activity and introduce software legal issues.

The prosecutor's office within its jurisdiction shall participate in the activity concerning legislation improvement.

Article 72. Prosecutor's certificate

The prosecutors shall have a certificate – an official document certifying a prosecutor's identity and his or her powers. The Prosecutor-General of Ukraine shall approve the Regulation on prosecutor's certificate and its form.

Article 73. Seal of the prosecutor's offices and their institutions and agencies

The Prosecutor-General Office of Ukraine and its subordinated offices as well as institutions and agencies shall have a seal with Ukrainian National Emblem and their names.

Article 74. Meanings of the terms

Prosecutor – shall mean the Prosecutor-General of Ukraine, his or her First Deputy and deputies, the prosecutors of the Autonomous Republic of Crimea, regions, the cities of Kyiv and Sevastopol, regional military prosecutors, prosecutors of Naval Forces, prosecutors of cities, districts, garrisons and other equal to them prosecutors, their deputies, heads of general departments, departments, divisions and their deputies, chief prosecutors, prosecutors of general departments, departments and divisions, prosecutors, senior assistant and assistant prosecutors, criminal prosecutors.

SECTION VIII. FINAL PROVISIONS

1. This Law shall enter into force in January 1, 2004.
2. To resolve that, before being put in conformity with this Law, any law and legislative act shall be applied in a part not contradicting this Law.
3. The Cabinet of Ministers of Ukraine within a period of one month shall submit to the Verkhovna Rada of Ukraine the proposals concerning compliance of legislative acts of Ukraine to this Law.