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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

DRAFT LAW
ON THE COUNCIL OF PUBLIC PROSECUTORS
OF THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

LAW ON THE COUNCIL OF PUBLIC PROSECUTORS

I. BASIC PROVISIONS

Article 1

This Law regulates the competences, composition and structure of the Council of Public Prosecutors of the Republic of Macedonia (hereinafter referred to as: the Council), its members' term of office, the grounds for and procedure of a Council member's term of office termination or dismissal, the procedure of election and dismissal of public prosecutors, as well as other issues related to the operations of the Council.

Article 2

The Council is an independent body which provides and guarantees the independence of public prosecutors in performing their duties.

Article 3

- (1) Politically based organizing and activities at the Council are forbidden.
- (2) Council members may not undertake any political activities while carrying out their functions at the Council.
- (3) The Council shall, through its functioning, prevent political influence at the public prosecutor's office.
- (4) The function of the elected member of the Council shall be incompatible with the function Member of political party or with the other public function and profession.

Article 4

- (1) The Council has the status of a legal entity.
- (2) The Council's main office is in Skopje.

Article 5

- (1) The Council has a seal.
- (2) The seal contains the coat of arms and the name of the Republic of Macedonia and the name of the Council.

II. COMPOSITION AND PRESIDENT OF THE COUNCIL

Composition of the Council

Article 6

The Council shall have 11 members, out of whom:

- Council member by virtue of office are the Public Prosecutor of the Republic of Macedonia and the Minister of Justice;
- one Council member is elected from among the public prosecutors at the Public Prosecutor's Office of the Republic of Macedonia.;
- one Council member shall be elected from among the public prosecutors of each of the jurisdictions of Higher Public Prosecutor's Offices in Bitola, Gostivar, Skopje and Stip;
- one Council member who belongs to a community that is not the majority in the Republic of Macedonia, shall be elected by all public prosecutors in the Republic of Macedonia; and

- three Council members shall be elected by the Assembly of the Republic of Macedonia from the order of prominent lawyers, two of whom shall belong to the communities that are not the majority in the Republic of Macedonia.

Term of Office of Council Members

Article 7

(1) The elected Council members' term of office is six years, with a possibility of another reelection.

(2) The term of office of a member elected in extraordinary elections, due to premature termination of the term of office of a Council member whom the former is to replace, is four years.

(3) The public prosecutor's position of Council members elected from among the public prosecutors shall be in abeyance during their term of office at the Council.

(4) Council members' term of office at the Council shall terminate simultaneously with the termination of their original office.

President of the Council

Article 8

(1) The Council has a President who represents the Council.

(2) The Council members shall elect the Council President from among the Council members, coming from the order of elected public prosecutors, by majority of secret ballot votes, out of the total number of members.

(3) The Council President's term of office is two years, without a right to be reelected.

(4) The Council, on proposal of the president of the Council, on the same session at which the president was elected, shall elect deputy who shall replace him/her in his absence.

III. COMPETENCES AND METHOD OF WORK OF THE COUNCIL

Article 9

The Council shall be competent to:

- submit opinion to the Government of the Republic of Macedonia, in relation to the proposal on appointment and dismissal of the Public Prosecutor of the Republic of Macedonia;
- elect and dismiss public prosecutors;
- establish termination of a public prosecutor's position and decide at the second instance over a procedure related to determining public prosecutors' disciplinary responsibility;
- decide on determining incompetent and dishonest performance of public prosecutor's duties;
- monitor and evaluate public prosecutors' work on the basis of assessment of their performance, in compliance with the Law on Public Prosecutor's Office;
- decide on temporary suspension of the position of public prosecutor;
- act upon motions and complaints by citizens and legal entities concerning the performance of public prosecutors;
- establish the number of public prosecutors at public prosecutor's offices, by means of a decision;
- Establish, by the end of February of a current year and by means of a decision, the number of vacant public prosecutor's positions at the Basic Public Prosecutor's Offices for the ensuing two years and submit the said decision to the Judges and Public Prosecutors Training Academy.;
- review and evaluate annual reports submitted by the public prosecutor's offices;
- pass the Rules of Procedure and other general acts, whereby to regulate its scope of work;

- issue a decision on the abeyance of public prosecutor's position
- issue and withdraw official identification documents;
- keep a personal list of public prosecutors,
- submit a report on its own activities;
- perform other activities, as prescribed by the Law

Work in Sessions

Article 10

(1) Issues falling within the Council's competences shall be considered and decided upon at Council sessions.

(2) The Council President shall summon and conduct sessions.

(3) The President must also summon a session on the basis of a relevant proposal submitted by at least four Council members.

(4) The quorum required for holding Council sessions is the majority of Council members.

(5) The Council shall, as a rule, make decisions by majority votes out of the total number of Council members, except when, as stipulated in this Law, it decides by two-third majority votes of the total number of members.

Equality among Council Members

Article 11

The Council members have equal rights and obligations in performing the duties of a Council member.

Rules of Procedure of the Council

Article 12

(1) The Council shall enact the Rules of Procedure by two-third majority vote, out of the total number of members.

(2) The Rules of Procedure shall regulate the Council working procedure and method, as well as other issues belonging to the Council competences.

Report

Article 13

(1) The Council for its work shall submit annual report to the Parliament of the Republic of Macedonia.

(2) The report shall contain data regarding the number for the appointed and dismissed public prosecutors, the number of initiative and finished disciplinary procedures, staff situation in the public prosecutor office, material and finances situation in public prosecutors offices, data regarding acting upon complaints and proposals from citizens and legal entities and other data.

(3) The Council shall adopt the report on its session.

(4) After adopting the report, sample shall be submitted to the Parliament of the Republic of Macedonia, the Government of Republic of Macedonia and the Public prosecutor Office of Republic of Macedonia.

IV. COUNCIL MEMBERS ELECTION PROCEDURE

Announcement of Council Member Position Vacancy

Article 14

(1) Within 30 days prior to the Council members' term of office expiration, the Council President shall:

- issue a decision related to announcing election of a Council member among the public prosecutors;
- issue an announcement concerning election of Council members from among the public prosecutors
- notify the President of the Parliament of the Republic of Macedonia indicating that the latter should issue an announcement concerning election of one Council member to be elected by the Parliament and
- notify the President of the Government of the Republic of Macedonia indicating that the latter should issue an announcement concerning appointment of one Council member.

(2) In case of premature termination of the term of office referred to in Article 7, the Council President shall act in compliance with paragraph (1) of this Article within 15 days following the termination of the Council member's term of office.

Vacancy Announcement Duration

Article 15

(1) The vacancy referred to in Article 13 hereinabove shall be published in the "Official Gazette of the Republic of Macedonia" and in at least two daily newspapers, one of which is in a language other than Macedonian, spoken by at least 20% of the citizens of the Republic of Macedonia.

(2) The announcement shall be valid for a period of 15 days after publishing in the "Official Gazette of the Republic of Macedonia".

(3) Minimum period of 30 days must elapse between the day of publishing the announcement and the day of voting.

Requirements pertaining to a Council Member Elected from among Public Prosecutors

Article 16

Any public prosecutor can apply for the vacancy, who at the moment of its publishing is performing public prosecutor' duties and who:

- has at least 8 years of public prosecutor's work experience and
- is assessed as "exceptionally satisfactory" in the last 2 years of performing the duties of a public prosecutor.

Candidacy

Article 17

(1) The candidates shall submit their candidacy application to the Council in writing.

(2) Attached to the candidacy application shall be the following:

- certificate of public prosecutor's work experience,
- biographical data on expert and professional development,
- assessment marks related to the results at the work for the last two years;
- data on attending expert and professional training, issued by the Judges and Public Prosecutors Training Academy; and
- a declaration indicating the list in relation to which the application is submitted.

Committee for Preparation of Candidate Lists

Article 18

(1) The Council shall, from among its own membership, establish a Committee for Preparation of Candidate Lists of three members to prepare candidate lists.

(2) Out of the candidacy applications submitted in a timely fashion, by candidates who meet the requirements of Article 15 hereinabove, the Committee shall prepare candidate lists and submit them to the Council.

Candidate lists shall be prepared on the basis of election units, and one candidate shall be elected from each election unit, as defined below:

- as a general list for a candidate from the jurisdiction of the Higher Public Prosecutor's Office Bitola, with election point no. 1;
- as a general list for a candidate from the jurisdiction of the Higher Public Prosecutor's Office Gostivar, with election point no. 2;
- as a general list for a candidate from the jurisdiction of the Higher Public Prosecutor's Office Skopje, with election point no. 3;
- as a general list for a candidate from the jurisdiction of the Higher Public Prosecutor's Office Stip, with election point no. 4;
- as a general list for a candidate from the jurisdiction of the Public Prosecutor's Office of the Republic of Macedonia, with election point no. 5;
- as a single separate list for candidate public prosecutors who belong to all communities that are not the majority in the Republic of Macedonia for the entire territory of the Republic of Macedonia, with election points of a general list.

(3) The Committee referred to in paragraph (1) hereof shall, by means of a decision, reject the candidacy application of a public prosecutor for a Council member, if the applicant does not meet the requirements stipulated in Article 15 hereinabove, or submits inappropriate and incorrect data, in compliance with Article 16 hereof.

(4) The decision referred to in paragraph (3) hereof, can be appealed by the public prosecutor concerned within 24 hours of the date of receipt of the said decision, by means of a petition for initiating administrative proceedings before a competent court.

(5) The petition referred to in paragraph (4) hereof, shall be decided upon by the court within 48 hours of the date of its receipt.

(6) The Committee referred to in paragraph (1) hereof, shall publish the candidate lists in the media on the twenty-first day of the election announcement day, at the latest.

Committee for Implementation of Council Members Election from among Public Prosecutors

Article 19

(1) The Council shall establish a Committee consisting of its members to conduct the election of Council members from among the public prosecutors of the Republic of Macedonia (hereinafter referred to as: the Election Committee)

(2) The Election Committee shall consist of a president, two members and their deputies.

(3) The Election Committee shall prepare the election materials, establish election boards and conduct the elections.

Public Prosecutors' Election Directory

Article 20

(1) The Public Prosecutors' Election Directory shall be maintained by the Ministry of Justice and it shall include the following data:

- public prosecutor's given name and surname;
- unique personal identification number;
- public prosecutor's office where the position is held;
- total number of years of experience as public prosecutor;
- national background;
- official identity document number;
- remark entry; and

- signature.

(2) Five days after the announcement of elections at the latest, the Ministry of Justice shall send the Public Prosecutors' Election Directory to all the public prosecutor's offices in the Republic of Macedonia.

(3) The Public Prosecutors' Election Directory shall be made available at the public prosecutor's office to every public prosecutor for inspection, who shall be entitled to, within three days, request change of the data.

(4) The Minister of Justice shall, within three days of the date of receipt of the request referred to in paragraph (3) hereof, issue a relevant decision.

(5) The decision referred to in paragraph (4) hereof, can be appealed by the public prosecutor concerned within 24 hours of the date of receipt of the said decision, by means of a petition for initiating administrative proceedings before a competent court.

(6) The petition referred to in paragraph (5) hereof, shall be decided upon by the court within 48 hours of the date of its receipt.

(7) The Ministry of Justice shall, within 20 days of the election announcement date at the latest, close the Public Prosecutors' Election Directory.

Method of Implementation of Council Members Election from among Public Prosecutors

Article 21

(1) Council Members Election from among public prosecutors shall take place on the same day.

(2) The elections shall be conducted at election points located in Higher Public Prosecutor's Offices and the Public Prosecutor's Office of the Republic of Macedonia.

(3) The elections shall be carried out at the election points by an election Board established on the basis of the Election Committee's decision.

(4) A Council member candidate may not be an Election Board member.

(5) An Election Board shall consist of a president, and deputy president from among the public prosecutors and two members and their deputies from among the higher public prosecutor advisors, independent public prosecutor advisors, public prosecutor advisors, law clerks and public prosecutor interns.

(6) The Election Committee must establish the Election Board seven days before the voting date.

Election Materials

Article 22

Election materials shall comprise:

- ballot boxes and voting booth screens;
- report forms;
- block of voting tickets in accordance with the extract from the Public Prosecutors' Election Directory;
- extract from the Public Prosecutors' Election Directory;
- candidate lists; and
- other materials required for voting.

Voting Ticket

Article 23

(1) The voting ticket shall contain:

- name of voting ticket ,
- serial number,
- number of election unit and name of the election place,
- given names and surnames of candidates in alphabetical order,

- public prosecutor's office from which the candidate is submitting candidacy application; and
- verification with the seal of public prosecutor's office which is the voting point.

(2) In addition to the data referred to in paragraph (1) hereof, the special voting ticket also contains data on the candidates' national background.

(3) The Election Committee shall prepare the voting ticket form in accordance with this Article.

Delivery of Election Materials

Article 24

The Election Committee shall deliver the election materials to the Election Boards' presidents 24 hours before the elections at the latest, in relation to which a report is composed.

Implementation of Voting

Article 25

(1) Voting shall take place on a workday.

(2) Voting shall commence at 8:00 A.M. and will last continuously until 4:00 P.M.

(3) Public prosecutors shall vote for one candidate from the general list and one candidate from the single special list.

(4) Public prosecutors shall provide identification at voting, by presenting an official identification document, and they shall vote by secret ballot.

(5) The Election Board can close the voting point even before the expiration of the deadline referred to in paragraph (2) hereinabove, if all public prosecutors registered in the extract from the Public Prosecutors' Election Directory have voted.

Report on Voting

Article 26

(1) After closing the voting point, Election Boards shall, by 17:00 P.M. of the same day at the latest, compose a report on the voting course and results and notify the Election Commission accordingly.

(2) The following data shall be entered into the report:

- total number of voters who have turned out and voted,
- total number of votes for each of the candidates,
- number of invalid tickets and
- comment on the course of voting

(3) The Election Board shall, within 8 hours after the completion of voting at the latest, submit the report together with the voting results and other election materials to the Commission.

Invalid Voting Tickets

Article 27

A voting ticket shall be considered invalid if it is not filled out, or more names on it are encircled, than the number of candidates to be elected according to the election unit.

Election Results

Article 28

(1) The Election Committee shall sum up the results from individual election units, establish the election results at the election units and announce the results through the media and on a bulletin board at the respective election unit, not later than 48 hours from the moment of closing of the election points.

(2) The candidate with highest number of votes per election unit shall be deemed elected Council member.

(3) If more than one candidate has won equal number of votes from one single election list, the elections for such candidates shall be repeated within seven days after the voting date.

(4) The Election Committee shall issue certificates to the Council members elected from among the public prosecutors.

(5) The certificate's format and contents shall be prescribed by an act issued by the Minister of Justice.

Voting Right Protection

Article 29

(1) The voting right protection procedure is urgent.

(2) Objections and complaints are submitted to the competent authorities.

(3) Sending objections and complaints by mail is not allowed.

Candidate's Voting Right Protection Procedure

Article 30

(1) In the procedure of voting, summing up and establishment of voting results for a Council member, every candidate is entitled to lodge an objection with the Election Committee within 5 hours after the completion of voting.

(2) The committee shall issue a decision within 12 hours after receiving the objection.

(3) The Committee decision can be appealed within 12 hours from the receipt of the said decision, by means of a petition for initiating administrative proceedings before a competent court.

(4) The petition referred to in paragraph (3) hereof, shall be decided upon by the court within 48 hours of the date of its receipt.

Voter's Voting Right Protection Procedure

Article 31

(1) Every voter whose voting right has been violated during the election procedure is entitled to lodge an objection with the Election Committee within 5 hours after the completion of voting.

(2) The committee shall issue a decision within 12 hours after receiving the objection.

(3) The Committee decision can be appealed within 12 hours from the receipt of the said decision, by means of a petition for initiating administrative proceedings before a competent court.

(4) The petition referred to in paragraph (3) hereof, shall be decided upon by the court within 48 hours of the date of its receipt.

Council Members Elected by the Assembly of the Republic of Macedonia

Article 32

(1) Council Members Elected by the Parliament of the Republic of Macedonia shall belong to the order of university professors of law, attorneys and other prominent lawyers.

(2) The session of the Parliament of the Republic of Macedonia at which members referred to in paragraph (1) hereof are to be elected, is urgent and it shall be held within not more than 30 days of the election of Council members elected by the public prosecutors.

Solemn Oath

Article 33

(1) Elected Council members and members by virtue of office shall take a solemn oath before the President of the Parliament of the Republic of Macedonia.

(2) The solemn oath reads as follows:

"I declare that I shall perform the duties of a member of the Council of Public Prosecutors honestly, conscientiously and responsibly and I shall respect the Constitution of the Republic of Macedonia, the laws and the international treaties ratified in accordance with the Constitution of the Republic of Macedonia".

(3) The newly elected members shall sign the solemn oath.

(4) Elected Council members and members by virtue of office shall take the solemn oath in the Macedonian language and sign it in the Macedonian language and its Cyrillic script.

(5) Elected Council members who belong to communities speaking an official language other than Macedonian, spoken by at least 20% of the citizens, shall take the solemn oath in the Macedonian language, and sign it in the Macedonian language and its Cyrillic script and in the language and script of that community.

(6) A signed copy of the solemn oath shall be handed to the newly elected public prosecutor.

Constitution of the Council

Article 34

(1) The constituting session shall be held within 30 days from the election of the majority of Council members.

(2) The constituting session shall be convened and chaired by the oldest Council member, until the President of the Council is elected.

Termination of Council Members Term of Office

Article 35

(1) A Council member's term of office shall terminate in the following cases:

1. when the term of office period expires;
2. on his/her request;
3. if he/she is convicted for a crime, by means of a final verdict, to at least 6 months imprisonment without parole, or a milder sentence, for another crime, which renders him/her unworthy of performing the duties of a Council member;
4. if he/she permanently loses the capacity to perform the duties;
5. if he/she is elected or appointed to another public position or occupation.

(2) In the case referred to in paragraph (1), item 2 of this Article, such candidate's term of office shall terminate when the Council, the Parliament of the Republic of Macedonia, or the Government of the Republic of Macedonia adopts the resignation.

(3) In the case referred to in paragraph (1), item 3 the term of office shall terminate on the date of the relevant verdict's becoming final.

(4) In the case referred to in paragraph (1), item 4 the term of office shall terminate when, on the basis of a final court verdict, the Council establishes at its session the termination of the Council member position due to permanent loss of capacity to perform the position related duties.

(5) In the case referred to in paragraph (1), item 5 the term of office shall terminate with the election to another position or occupation.

V. ELECTION, TERMINATION AND DISMISSAL OF A PUBLIC PROSECUTOR

Announcement of Election of a Public Prosecutor

Article 36

(1) The Council shall issue a decision on announcing the election of a public prosecutor immediately upon the public prosecutor's position becomes vacant, or on the basis of a need observed for a public prosecutor's position.

(2) The announcement shall be published in the "Official Gazette of the Republic of Macedonia" and in at least two daily newspapers, one of which is published in a language, other than Macedonian, spoken by at least 20% of the citizens of the Republic of Macedonia.

(3) The announcement will serve as notification for the interested candidates to submit applications to the Council, within 15 days from the day of its publishing in the "Official Gazette of the Republic of Macedonia".

Election of a Public Prosecutor at a Basic Public Prosecutor's Office

Article 37

(1) The Council shall elect a public prosecutor at a Basic Public Prosecutor's Office from the list of candidates submitted by the Judges and Public Prosecutors Training Academy, who have applied according to the announcement.

(2) If a candidate fails to apply to three successive announcements for a public prosecutor, he/she shall lose the defined priority in the Academy's list of candidates for election of public prosecutors.

Election of Public Prosecutors at the Public Prosecutor's Office of the Republic of Macedonia and Higher Public Prosecutor's Offices

Article 38

(1) The Council shall elect public prosecutors at the Public Prosecutor's Office of the Republic of Macedonia and Higher Public Prosecutor's Offices from the candidates who have applied according to the announcement and who meet the requirements and criteria stipulated in the Law on Public Prosecutor's Office and this Law.

The person elected public prosecutor by the Council shall have expert and professional qualities, he/she shall enjoy respect in carrying out the public prosecutor's duties, based on the following criteria:

1. expert knowledge, where specialization, graduate studies and attendance of continuing education shall be taken into account;
2. attitude to the work, or promptness in performing the duties as a public prosecutor;
3. ability to professionally deal with legal issues;
4. undertaking additional work activities in performing public prosecutor's duties, through participation in drafting regulations, mentorship, education, etc.;
5. enjoying and safeguarding the public prosecutor's and public prosecutor's office's reputation, which is determined on the basis of the manner of communication with the parties and other bodies, independence, impartiality and trustworthiness in performing the public prosecutor's duties and beyond them;
6. professional relations with the public prosecutor's office professional service

(2) If the candidate does not belong to the order of public prosecutors, the Council shall provide an opinion from the legal entity employing the candidate, as well as from other institutions on his/her expert and professional development in the field of law and its application.

Decision on Election of Public Prosecutors

Article 39

(1) The Council shall discuss and decide on the election of public prosecutors at a session attended by at least two-thirds of the total number of members.

(2) The candidate who wins the majority of votes from the total number of Council members shall be elected public prosecutor.

Election of a Higher and Basic Public Prosecutor

Article 40

(1) The Council shall elect a Higher Public Prosecutor at a Higher Public Prosecutor's Office and a Basic Public Prosecutor at a Basic Public Prosecutor's Office from the candidates who have applied from among the elected public prosecutors of the Republic of Macedonia and who meet the requirements and criteria stipulated in the Law on Public Prosecutor's Office and this Law, on the one hand, and are capable of carrying out duties of managerial nature, on the other.

(2) The candidate, who wins the majority of votes from the total number of Council members, shall be elected a Higher, i.e. Basic Public Prosecutor.

(3) In case the Public Prosecutor of the Republic of Macedonia, Higher or Basic Public Prosecutors are not reappointed, they shall continue performing the duties of public prosecutors at the same public prosecutor's office.

(4) In relation to the cases mentioned in paragraph 1 hereinabove, the Council shall issue a separate decision.

Equitable and Proportional Representation during the Election of Public Prosecutors

Article 41

When electing a Basic or a public prosecutor at public prosecutor's offices located in the territory of local self-government units where at least 20% of citizens speak an official language other than Macedonian, the Council shall decide in compliance with Article 39 hereof, in which case it is mandatory for the decision to be supported by the majority of votes from the present members who belong to the communities that are not the majority in the Republic of Macedonia.

Re-announcement of Election

Article 42

If none of the applying candidates meets the requirements prescribed or is elected, the election procedure shall immediately be repeated.

Termination of Public Prosecutor's Position

Article 43

The Council shall issue a decision whereby to establish the termination of a public prosecutor's position, in case of presence of any of the grounds stipulated by the Law on public Prosecutor's Office.

Termination of Public Prosecutor's Position at a Public Prosecutor's Own Request

Article 44

The Council shall issue a decision on the termination of a public prosecutor's position, if he/she requests so, without examining in detail the reasons for such request.

Termination of Public Prosecutor's Position due to Loss of Citizenship

Article 45

The Council shall issue a decision on the termination of a public prosecutor's position due to loss of citizenship, on the basis of a final decision by a competent authority.

Termination of Public Prosecutor's Position Due to Permanent Loss of the Capacity to Perform Relevant Duties

Article 46

(1) The Council shall, *ex officio*, initiate a procedure before the court of jurisdiction to establish permanent loss of capacity to perform public prosecutor's duties if it learns the relevant information on its own, or when such initiative is undertaken by the Public Prosecutor of the Republic of Macedonia, Higher or Basic Public Prosecutor.

(2) The court shall establish permanent loss of capacity to perform public prosecutor's duties on the basis of documents, including a finding, assessment and opinion of a competent health committee.

(3) Based on a final court verdict, the Council shall issue a decision whereby to establish the termination of a public prosecutor's position due to permanent loss of capacity to perform public prosecutor's duties.

Termination of Public Prosecutor's Position Due to Meeting Age Retirement Conditions

Article 47

The Council shall issue a decision on the termination of a public prosecutor's position due to reaching 65 years of age, whereby the conditions for exercising the right to age retirement are met, as prescribed by the Law.

Termination of Public Prosecutor's Position Due to a Criminal Act Committed

Article 48

(1) The Council shall establish the termination of a public prosecutor's position by means of a decision, if a public prosecutor is convicted of a crime to at least 6 months imprisonment without parole, or a milder sentence, for another crime, which renders him/her unworthy of performing the duties associated with the position, after the verdict whereby such sentence is imposed becomes final.

(2) The first instance court that has issued the decision shall, without any delay, submit a copy of the verdict to the Council.

Termination of Public Prosecutor's Position Due to Election or Appointment to another Public Position

Article 49

(1) The Council shall establish the termination of a public prosecutor's position by means of a decision, if the public prosecutor is elected or appointed to another public position, except for cases when the law stipulates that the public prosecutor's position is in abeyance, as of the date of election or appointment.

(2) The body which has elected, i.e. appointed a public prosecutor to another public position, shall immediately submit the act of appointment, i.e. election to the Council.

Grounds for Dismissal of a Public Prosecutor

Article 50

The Council shall issue a decision whereby to dismiss a public prosecutor:

- 1) when a disciplinary procedure reveals that he/she has committed a more serious disciplinary violation which renders him unworthy of performing the public prosecutor's duties, after the verdict's becoming final and
- 2) when incompetent and dishonest performance of the public prosecutor's duties, as stipulated by the Law, is observed.

Council Decisions

Article 51

(1) As a second instance body and when deciding upon an appeal, the Council can cancel, alter or confirm the decision of the Committee established in compliance with the Law on Public Prosecutor's Office.

(2) In case of confirming the decision of the Committee referred to in paragraph (1) hereof, whereby a measure of dismissal from public prosecutor's position is imposed, the Council shall issue a separate decision to establish the termination of the public prosecutor's position.

(3) The decision on termination of a public prosecutor's position and the decision on dismissal from the public prosecutor's position shall be submitted to the Public Prosecutor and the Public Prosecutor's Office of the Republic of Macedonia.

(4) The public prosecutor concerned can appeal the Council decisions, referred to in paragraph (3) hereof, by means of a petition for initiating administrative proceedings before a competent court.

Temporary Suspension of Public Prosecutor's Position

Article 52

(1) If a public prosecutor is suspended from his/her position due to a criminal procedure, disciplinary procedure or a procedure regarding incompetent performance of public prosecutor's duties, initiated against him/her, the public prosecutor can appeal such a decision with the Council, within three days from the date of receiving the relevant decision.

(2) When deciding upon the appeal, the Council can confirm, cancel or alter the decision referred to in paragraph (1) hereinabove.

VI. PROFESSIONAL SERVICE OF THE COUNCIL

Article 53

(1) The Council shall have a professional service.

(2) The professional service shall be managed by the Secretary.

(3) The Council shall pass acts regarding internal organization and systematized job description.

(4) In the process of recruitment for the Council professional service, proportional and equitable representation of citizens who belong to the communities that are not the majority in the Republic of Macedonia shall be provided.

Article 54

In addition to the general requirements pertaining to the employment at the public prosecutor's office, the candidate for the position of Secretary shall have at least 4 years of work experience after passing the Judicial examination.

VII. OPERATING ASSETS

Article 55

The Council's operating assets shall be provided from the Budget of Republic of Macedonia.

Article 56

(1) The salaries of Council members, the Secretary and civil servants shall be established by the Law.

(2) The member of the Council have right of salary compensation as the members of the Judicial Council of Republic of Macedonia, according to law anticipating salaries and compensations of salaries of the members of the Parliament and other elected and appointed officials.

VIII. TRANSITIONAL AND FINAL PROVISIONS

Article 57

(1) The Ministry of Justice shall initiate the procedure for election of members of the Council of Public Prosecutors of Republic of Macedonia within 30 days of the promulgation date of the Law.

(2) The first election of Council members shall be conducted by the Committee appointed by the Minister of Justice.

(3) The Committee referred to in paragraph (1) hereinabove shall consist of 7 members. Four Committee members shall come from the Ministry of Justice, while three members shall be from among the public prosecutors or deputy public prosecutors, appointed on the basis of their previously given consent.

(4) Committee members shall elect a president among themselves.

(5) Administrative and technical issues shall be managed by the Committee secretary, appointed by the Minister of Justice.

(6) When conducting the first election, the Committee referred to in paragraph (1) above shall have the competences of Committees referred to in Articles 18 and 19 hereof.

(7) The election of a Council member from the territory of the Higher Public Prosecutor's Office Gostivar, based on the prepared list of candidates for this territory, shall include the Basic Public Prosecutor's Offices Gostivar, Tetovo, Kicevo and Debar, and a special election unit at the Higher Public Prosecutor's Office Skopje.

(8) During the first Council member election, public prosecutors and deputy public prosecutors shall not be obliged to submit the data provided for in Article 17, paragraph (2), items 3 and 4, hereof.

(9) The deputy public prosecutor's position shall be in abeyance during their term of office at the Council. With termination of council members' term of office the deputy public prosecutor shall continuo performing function as public prosecutor in the office from which he/she was elected for a member of Council until termination of the term of office.

(10) If Higher or Basic Public Prosecutor is elected as a member of the Council, term of office as Higher or Basic Public Prosecutor shall be terminated. With termination of council members' term of office the Higher or Basic Public Prosecutor shall continue performing function as public prosecutor in the office from which he/she was elected for a member of Council until termination of the term of office as Higher or Basic Public Prosecutor.

(9) In compliance with Article 16 and Article 17 hereof, public prosecutor's work experience shall also imply deputy public prosecutor's or judge's work experience.

(10) The Minister of Justice shall summon and conduct the first constitutive session of the Council until the election of the president of the Council.

Article 58

Within 90 days from the date of its constituting, the Council shall enact Council Rules of Procedure, the Decision on Establishing the Number of Public Prosecutors at Public Prosecutor's Offices, the Book of Regulations on the Contents and Method of Maintaining the Personal List of Public Prosecutors and other general acts stipulated by this Law.

Article 59

On the day when the Council of Public Prosecutors of the Republic of Macedonia is constituted, the term of office of the members of the Council of Public Prosecutors, appointed in accordance with Article 36 of the Law on Public Prosecutor's Office (Official Gazette of RM, no. 38/04) shall terminate.

Article 60

The Ministry of Justice shall provide premises for the purpose of the Council.

Article 61

This Law shall enter into force on the eighth day of the date of its publishing in the "Official Gazette of the Republic of Macedonia" and shall start applying from _____.