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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
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**DRAFT RULES OF PROCEDURE ON CRITERIA AND
STANDARDS FOR THE EVALUATION OF THE QUALIFICATION,
COMPETENCE AND WORTHINESS OF CANDIDATES FOR
BEARERS OF PUBLIC PROSECUTOR'S FUNCTION
OF SERBIA**

Pursuant to Article 82, paragraph 1 of the Law on Public Prosecutors (*Official Gazette of the Republic of Serbia*, No 116/08) and Article 13 of the Law on the State Prosecutorial Council, the State Prosecutorial Council (*Official Gazette of the Republic of Serbia*, No 116/08), pronounces

**RULES OF PROCEDURE ON CRITERIA AND STANDARDS FOR EVALUATION OF
QUALIFICATION, COMPETENCE AND WORTHINESS OF CANDIDATES FOR BEARERS
OF PUBLIC PROSECUTOR'S FUNCTION**

**Chapter I
General provisions**

Subject and purpose of the Rules of Procedure

Article 1

(1) The Rules on Criteria and Standards for Evaluation of Qualification, Competence and Worthiness of Candidates for Bearers of Public Prosecutor's Function (hereinafter the Rules) relates to the election of Public Prosecutors and Deputy Public Prosecutors pursuant to Article 129 and 131 of the Law on Public Prosecutors (*Official Gazette of the Republic of Serbia*, December 22, 2008) who are elected or nominated pursuant to the Law on Public Prosecutors (*Official Gazette of the Republic of Serbia*, No 63/01, 42/02, 39/03, 44/04, 51/04, 61/05, 46/06 and 106/06) and Law on Organisation and Responsibility of Bodies of State in the Procedure against War Crimes (*Official Gazette of the Republic of Serbia*, No 67/03, 135/04, 61/05 and 101/07), and who are on the date of constitution of the State Prosecutorial Council bearers of the public prosecutor's function, as well as to the election of Public Prosecutors and to the first election of Deputy Public Prosecutors.

(2) The Rules denote objective and distinctive criteria, certifiable and comparable standards, and regulate impartial and control-prone process of establishment of qualification, competence and worthiness.

(3) Qualification, competence and worthiness represent the basis for candidacy and election of bearers of public prosecutor's function.

Establishment of qualification, competence and worthiness

Article 2

(1) Qualification is established based upon: general expert knowledge and possession of particular knowledge which are of importance for performing the function of public prosecutor.

(2) Competence is established based upon: demonstrated capability in application of expert knowledge and undertaking of procedural actions, demonstrated professional skill, analytical thinking, capability of opinion and decision making, skill in explanation of legal positions, quality of written and oral expression, communication skills, and capability for team work.

(3) Worthiness is established based upon the reputation the candidate has in the professional surrounding, through his/her behaviour within the performance of public prosecutor's function and outside it.

Establishment of degree of criteria fulfilment

Article 3

(1) The degree of meeting criteria for evaluation of qualification, competence and worthiness is denoted by the provisioned standards and is demonstrated by grades.

(2) The grade is an indicator of expertise and qualification of Public Prosecutor and Deputy Public Prosecutor in the performance of public prosecutor's duty.

(3) The grades are:

- does not satisfy,
- does satisfy,
- does satisfy for promotion.

Evaluation of qualification, competence and worthiness

Article 4

(1) Evaluation of qualification, competence and worthiness of a bearer of public prosecutor's function is the task of State Prosecutorial Council.

(2) The State Prosecutorial Council obtains data and opinions from bodies and organisations the candidate worked at, pursuant to Article 80 paragraph 2 of the Law on Public Prosecutors.

(3) The State Prosecutorial Council obtains data on a candidate from the official evidence of public prosecutors offices the candidate worked with in the past three years.

Establishment of average standard

Article 5

(1) The State Prosecutorial Council is obliged, within three months from the day of its constitution, to establish and announce the average standard number of: cases received and decisions rendered by each individual bearer of public prosecutor's function and category of prosecution office within the period of past three years.

(2) The average number for municipal prosecutor's office is established in relation to all the municipal prosecutors' offices in the area of immediately higher district public prosecutor's office, and is calculated for each of the past three years, by adding the total number of rendered decisions of municipal prosecutors' offices in the territory of immediately higher district prosecutor's office; thus obtained number is then divided by the sum of number of bearers of public prosecutor's function to whom the cases were assigned.

(3) The average number for district prosecutor's office is established in relation to all the district prosecutors' offices in the area of the Republic, and is calculated for each of the past three years, by adding the total number of rendered decisions of district prosecutors' offices; thus obtained number is then divided by the sum of number of bearers of public prosecutor's function to whom the cases were assigned.

(4) The average number for the Republic Prosecutor's Office is established according to the data of this office, by adding the total number of rendered decisions for each case type separately, thus obtained number is then divided by the sum of number of bearers of public prosecutor's function for each case type.

Explanation of expressions

Article 6

(1) Expressions in the Rules of Procedure have the following meaning:

(2) The decision rendered represents a procedurally relevant position of prosecutor, which comprises: decision to dismiss offence charges, motion for conducting an investigation, motion for extending investigation against new person, motion for stay of investigation, indictment, motion for indictment, motion for security measures against insane persons, motion for temporary process against a minor, adopted motion for dismissal of process against a minor due to purposelessness of criminal prosecution, motion for rendering of criminal sanctions against a minor, and in KTR cases registered official remark.

(3) Particularly complex cases and particularly complex jobs are the cases or jobs that are pronounced as such by justified decision of the Public Prosecutor.

Chapter II

Criteria for evaluation of Deputy Public Prosecutor who are, on the day of the constitution of the State Prosecutorial Council, bearers of the public prosecutor's function

Generally on criteria for evaluation of Deputy Public Prosecutor and their division

Article 7

(1) Criteria for evaluation of qualification and competence in the work of Deputy Public Prosecutor are as follows:

- efficiency in procedure,
- demonstrated expertise,
- capability demonstrated in undertaking procedural action, quality of written and oral expression and skilfulness in deposition of legal positions,
- adoption of new knowledge, application of new responsibilities, expert proficiency and training,
- relation to and cooperation with co-workers, court and other bodies of state, organisations and participants in the proceedings..

(2) Criteria are divided into quantitative and descriptive:

- quantitative criterion is represented by efficiency in procedure;
- descriptive criteria are: demonstrated expertise; demonstrated capability in undertaking of procedural actions, quality of written and oral expression and skilfulness in disposition of legal views; adoption of new knowledge, application of new responsibilities, expert proficiency and training; relation and cooperation with co-workers, court, other bodies of state, organisations and participants in the proceedings;

(3) Realisation of descriptive criteria is determined according to the data in the past three years.

Efficiency in procedure

Article 8

(1) Evaluation of efficiency in procedure is conducted in the following manner: data from evidence of public prosecutor's office related to the number of decisions rendered by bearer of public prosecutor's function are compared with data on average number of decisions rendered

in regard to the individual bearers of public prosecutor's function, pursuant to Article 5 of these Rules.

(2) Degree of criteria fulfilment:

A bearer of public prosecutor's function, who rendered the following number of decisions, is graded as:

- up to 50% of average number does not satisfy;
- between 50 and 120% of average number does satisfy;
- more than 120% over the average number does satisfy for promotion..

(3) Bearer of public prosecutor's function, who worked on the particularly complex problems or performed particularly complex duties within the public prosecutor's office, but realised up to 50% of the average standard, is to be graded as "does satisfy"; the one who realised between 50% and 120% of the average standard is to be graded as "does satisfy for promotion".

(4) The grade pursuant to paragraph 3 of this Article has to be particularly justified.

Demonstrated qualification

Article 9

(1) The grade on demonstrated qualification of the bearer of public prosecutor's function is based upon the assessment of degree of complexity of cases he/she was allocated with, work with interns and associates, demonstrated general expert knowledge which is necessary for the quality performance of function and expert knowledge from special areas of importance for the work in public prosecutor's office.

(2) Establishment of grade is provided based upon notification and remarks by the public prosecutor or notes and objections in the course of verification of his/her work, as well as foundations of objection to one's work.

(3) Data from paragraph 2 are presented to the Collegium by the Public Prosecutor.

(4) Degree of criteria fulfilment:

A bearer of public prosecutor's function who, within the period of evaluation:

- does not demonstrate expert knowledge; has numerous and substantial objections or is evaluated as possessing ground for numerous objections to his/her work does not satisfy;

- demonstrates necessary expert knowledge; his/her work is not surrounded by substantial objections does satisfy;

- demonstrates above the average expert knowledge; high degree of expert knowledge in special areas of importance for the work of public prosecutor's office; works on particularly complex cases; works with interns and associates; works within complex projects of training.....does satisfy for promotion.

(5) Evaluation from paragraph 4, item 3 of this Article has to be particularly justified.

Demonstrated competence in undertaking of procedural actions, quality of written and oral expression and capability in justification of legal positions

Article 10

(1) Evaluation of competence demonstrated in undertaking of procedural actions, quality of written and oral expression and capability in justification of legal positions is performed based upon: realised leadership role in pre-trial procedure; adaptation to the concrete process situation; initiative in procedure; capability of presentation of indictment act and contribution to the procedure efficiency; preciseness, literacy and intelligibility of acts, quality of oral expression, skill of participation in expert arguments and argumentation of legal positions.

(2) Establishment of evaluation is provided based upon observation or objection of Public Prosecutor, or observation or objections in the course of work review, as well as the substantiality of objection to candidate's work.

(3) Data from paragraph 2 are presented to the Collegium by the Public Prosecutor..

(4) Degree of criteria fulfilment:

A bearer of public prosecutor's function who, in the period of evaluation,

- does not realise leadership role in pre-criminal proceedings, has no initiative, gets many objections on precision in the course of review, as well as on literacy and intelligibility of disposition; has low level of explanation skills, is inactive in process, exposes in non-understanding manner and without expert arguments, does not adjust to changes in procedural situations does not satisfy;

- keeps the leadership role and initiative in pre-trial procedure at satisfactory level; gets rare objections on preciseness, literacy, intelligibility and justification of submissions; active in court proceedings in sufficient measure; successfully participates in expert debate; disposition is understandable and expertly supported; adjusts to changed procedural situations does satisfy;

- realises the leadership role in an extremely qualitative manner in pre-trial procedures; shows extremely high degree of initiative; preciseness, literacy, intelligibility and justification of acts at extremely high level; extremely active in court proceedings and extremely successfully participates in the debate; dispositions of extreme expert quality; adjusts to new procedure situations extremely well; actively contributes to the efficiency of procedure does satisfy for promotion..

(5) If the data from case file on bearer of public prosecutor's function, who is evaluated, do not provide enough grounds for establishment of evaluation pursuant to paragraph 2 of this Article, or if the data from case file are insufficient or unclear, Public Prosecutor can collect other or control existing data in order to get more objective evaluation..

Adoption of new knowledge, application of new responsibilities, expert education and training

Article 11

(1) Evaluation of adoption of new knowledge, application of new responsibilities, expert education and training is done based upon: readiness to adopt new knowledge, results accomplished in the application of new responsibilities, participation in expert education and training, as well as proficiency in work with new and information technologies.

(2) Establishment of evaluation is done based upon: data on active participation in trainings and seminars at home and abroad; completed specialist courses in areas of expertise relevant for his/her work; based upon published expert and scientific work in relevant periodicals, or expert and scientific publications; academic titles obtained in the relevant scientific area, as well as on data on application of new responsibilities (Articles 236, 237 of the Law on Criminal Procedure as well as Articles 58, 62 and 70 of the Law on Minor Perpetrators of Criminal Acts and Criminal-Legal Protection of Minors), as well as on use of new and information technologies.

(4) Evaluation of proficiency in the work with new and information technology is established based upon the data on computer and internet use, use of electronic database of legal regulations and court practice, internal programmes of prosecution and network of prosecutors office, where cases and data are kept in electronic format.

(5) Degree of criteria fulfilment:

Bearer of public prosecutor's function who, during the period of evaluation,

- refuses training, does not apply new responsibilities and does not use information technologiesdoes not satisfy;

- participates in training, applies new responsibilities, uses computer and electronic databases at his/her disposal does satisfy;

- actively participates in training, applies new responsibilities, publishes expert and science papers in relevant periodicals, publishes a monography from relevant expert or scientific area, possesses an academic title from the relevant scientific area, successfully presents expert issues at relevant conferences with international participation, uses computer and e-form data base at his/her disposal does satisfy for promotion..

Relation to and cooperation with co-workers, court and other bodies of state, organisations and parties

Article 12

(1) Evaluation of relation to and cooperation with co-workers, court and other bodies of state, organisations and parties is based upon: cooperation and professional relation towards other bearers of public prosecutor's function; readiness for exchange of opinion and extending of expert help; professional relation towards prosecutors' assistant, interns and employed, towards judges and employees of court, towards the court, other bodies and state and organisations with public authority, cooperation with professional and expert organisations, as well as with organisations that work in the area of interest for performance of function of public prosecution; attitude towards parties, respect of personality and dignity of parties in process and undertaking of measures for prevention of discrimination.

(2) Establishment of evaluation is done based upon observation or objection of Public Prosecutor, or observation and objections in the course of work review, as well as upon the foundation for complains related to one's work.

(3) Public Prosecutor will present the Collegium with certain data from paragraph 1 of this Article, which are at his/her disposal due to his/her capacity.

(4) Degree of criteria fulfilment:

Deputy Public Prosecutor who, in the period of evaluation,

- does not cooperate with other bearers of public prosecutor's function and does not exchange expert opinion; does not extend expert help and is in constant conflict with other

bearers of public prosecutor's function and other employees; relates unprofessionally towards judges and court employees; does not cooperate with court and other bodies of state; extremely unprofessionally acts in relation to parties, does not cooperate with professional and expert organisation, as well as the organisations dealing with issues of importance for performance of public prosecutor's functions when necessary; does not respect personality and dignity of parties in process and does not undertake measures to prevent discrimination, or, in general, seriously breaches the reputation of public prosecutor's office with his/her behaviour does not satisfy

- cooperation with other bearers of public prosecutor's function is at the expected professional level; exchanges expert opinion and provides expert help only if necessary; is not in conflict with employees; relation towards court, judges and court employees at the desired professional level; degree of cooperation with other bodies of state at professional level; cooperates with professional and expert organisations, as well as with organisations dealing with issues of importance for performance of public prosecutor's function when necessary; communicates with parties at professional level does satisfy;

- cooperation with other bearers of public prosecutor's function at high professional level; ready to extend help and exchange opinion; prone to team work and cooperation; good professional relations with the employed; relation towards court, judges and court employees at high professional level, as well as cooperation with professional and expert organisations and organisations that deal with issues of importance for performance of public prosecutor's function extremely good; highly professional cooperation with parties, with respect of their personalities and dignity, and, in general rises the reputation of public prosecutor's function at higher level does satisfy for promotion.

(5) Deputy Public Prosecutor, who, apart from regular duties performed in satisfactory manner, performs the duties of head of department or Deputy Public Prosecutor who is allocated to deputise the public prosecutor by yearly schedule, is evaluated as "does satisfy for promotion"..

Worthiness of Deputy Public Prosecutor

Article 13

(1) Evaluation of worthiness is done upon the collection of moral characteristics a deputy public prosecutor should possess, as well as upon his/her behaviour in accordance to those characteristics, which protect the reputation of public prosecutor's office.

(2) Establishment of evaluation is done based upon possession of moral characteristics such as: honesty, conscientiousness, fairness, awareness on social responsibility and demonstrated behaviour in the form of reliability, impartiality, dignity, taking over of responsibility for reputation of prosecution office in public, etc.

(3) Degree of criteria fulfilment:

Deputy Public Prosecutor who:

- does not possess to satisfactory degree the characteristics and does not conduct in a manner that would make him/her worthy is unworthy;
- possesses in sufficient measure characteristics and in sufficient manner conducts as worthyis considered worthy.

CHAPTER III

Criteria for evaluation of Public Prosecutor who are, on the day of the constitution of the State Prosecutorial Council, bearers of the public prosecutor's function

Generally on criteria for evaluation of Public Prosecutor

Article 14

(1) Special criteria for evaluation of qualification and competence in the work of Public Prosecutor (hereinafter *special criteria*) are:

- general capacity for heading the public prosecutor's office,
- capacity for realisation of supervision,
- capacity for improvement of work of public prosecutor's office, and
- capacity of crisis situation management.

(2) Special criteria are descriptive.

General capacity for heading the Public Prosecutor's Office

Article 15

(1) Evaluation of general capacity for heading the public prosecutor's office is done based upon: capability of public prosecutor to manage public prosecutor's office; organisational skills for material, financial, administrative and other activities that provide for regular, exact, timely, impartial and legal work of public prosecutor's office and its organisational units; provision of safety of data as well as ability of target definition and priority tasks in the work of public prosecutor's office; i.e. ability of defining goals and priority tasks in the work of public prosecutor's office; i.e. ability to stimulate bearers of public prosecutor's function and other employees to realise these goals and tasks; general ability of representing the public prosecutor's office and ability of improvement of togetherness within the public prosecutor's office.

(2) Establishment of evaluation is done based upon observation or objection of higher public prosecutor, i.e. observation or objections in the course of work review, grounds for complains against his/her work; realised results of work of prosecutor's office, activities of prosecutor in resolution of current issues dealing with the functioning of the prosecutor's office.

(3) Data from paragraph 2 are presented to the Collegium by Public Prosecutor and Higher Public Prosecutor.

(4) Degree of criteria fulfilment:

Public prosecutor who, in the period of evaluation,

- shows low level of capability of leadership in public prosecutor's office, does not provide, in adequate manner, correct, precise, timely, impartial and legal work of public prosecutors' office and some of its organisational units; does not posses capability of defining goals and priority tasks in the work of public prosecutor's office, or otherwise does not possess the ability to stimulate bearers of public prosecutor's function and other employees for the realisation of those goals and tasks; does not possess general ability of representing, nor improvement of togetherness in public prosecutor's office does not satisfy;

- possesses general capability of leadership in public prosecutor's office at a middle level; provides to fair extent correct, precise, timely, impartial and legal work of public prosecutor's office and some of its organisational units; possesses ability to define goals and priority tasks in the work of public prosecutor's office; i.e. has the ability of stimulating the bearers of public prosecutor's function and other employees for realisation of those goals and tasks; general ability of representation of public prosecutor's office is at a middle level, ability to improve togetherness in public prosecutor's office is at middle level does satisfy;

- general capability of leadership in public prosecutor's office is at high level; completely provides for correct, precise, timely, impartial and legal work of public prosecutor's office and some of its organisational units; possesses extreme capability of defining goals and priority tasks in the work of public prosecutor's office; i.e.. has particular ability of stimulating bearers of public prosecutor's function and other employees for realisation of those goals and tasks; general ability of representation of public prosecutor's office is at high level; ability to improve togetherness in public prosecutor's office is at high level does satisfy for promotion.

Capacity for realisation of supervision

Article 16

(1) Evaluation of capacity for realisation of supervision is done based upon the ability of supervising the work of deputy public prosecutor, civil servants and clerks, and work of lower public prosecutor's offices; ability of recognising and following complex cases, readiness for providing help and giving instructions and advise to deputy public prosecutors and lower public prosecutors, prosecutors' assistants and interns; ability to transfer instructions and information of higher public prosecution to lower public prosecutions, deputies and other employees, as well as the correct and timely decision making on objections and complains on the work of employees.

(2) Establishment of evaluation is done based upon observation or objections by higher public prosecutor, or observation or objections in the course of work review and control of grounds for complains for one's work.

(3) Data from paragraph 2 are presented to the Collegium by Higher Public Prosecutor..

(4) Degree of criteria fulfilment:

Public Prosecutor who, in the period of evaluation,

- does not undertake necessary measures of following and supervising the work; does not possess the ability of recognising and following complex cases to the adequate degree; does not possess the ability or is not ready to provide help and issue instructions and advise to the adequate degree to deputies of public prosecutor and lower public prosecutors, prosecutors' assistants and interns; does not possess, to the adequate degree, the ability of relaying instructions and information of higher public prosecutor to lower public prosecutor, deputies and other employed and does not, as a rule, decide on objections and complains on the work of his employed in a timely and regular manner does not satisfy;

- has few deficiencies in following and supervision of deputy public prosecutors, employees of state, clerks and work of lower public prosecutors; possesses the ability of recognising and supervision of complex cases; is ready to provide help and issue instructions and advise in adequate manner to deputies of public prosecutors and lower public prosecutors, prosecutions' assistants and interns; possesses, to fair extent, the ability of transferring instructions and information of higher public prosecutor to lower public prosecutors, deputies and other employed; as a rule, decides in timely and regular manner on complains related to work of his employed, does satisfy;

- completely and regularly follows and monitors the work of deputy public prosecutors, employees of state and clerks, the work of lower public prosecutions; possesses extreme capability and readiness for providing help and giving instructions and advise to deputy public prosecutors and lower public prosecutors, prosecutor's assistants and interns; possesses extreme capability of transferring instruction and information from higher public prosecutor to lower public prosecutions, deputies and other employees; decides in timely and regular manner

on objections and complains related to the work of his employed does satisfy for promotion.

Capacity for improvement of work of the Public Prosecutor's Office

Article 17

(1) Evaluation of capacity for improvement of work of public prosecutor's office is done based upon: use of most efficient methods and technical means in the administrative functioning; capacity of steering the employees towards the use of new and information technologies; capacity of steering of supervision and studying of public prosecution and court practice and transfer of changes in court practice; capacity of modifying the work and procedures of deputy public prosecutor, lower prosecutors and prosecutors' assistants in the application of law and other regulation; undertaking measures in order to build expert capacities of bearers of public prosecutor's function and others employees within the public prosecutor's office; and, particularly, organising of expert education of bearers of public prosecutor's function and the employed within the public prosecutor's office, etc.

(2) Degree of criteria fulfilment:

Public Prosecutor who, in the period of evaluation,

- to the insufficient degree stimulates the use of most efficient methods and technical means in administrative activities; does not steer the employees towards the use of new and information technologies, supervision and study of public prosecutors' and court practice and transfer of changes in legal comprehension of court; does not stimulate modification of work procedures subject to implementation of law and other regulation; is not ready to sufficient degree to undertake measures to build expert capacity of bearers of public prosecutor's function and others employed within the public prosecution; and, particularly organisation of expert education of bearers of public prosecutor's function and employed within the public prosecutor's office does not satisfy.

- as a rule, helps in use of most efficient methods and technical means in the administrative activities; steers the employees towards the use of new and information technologies; possesses capacity of steering the supervision and study of public prosecutors' and court practice and transfer of changes in legal comprehension of court; provides the modification of work procedures and actions of lower staff in the implementation of law and other regulation; undertakes measures to build expert capacity of bearers of public prosecutor's function and others employed within the public prosecution; and, particularly organisation of expert education of bearers of public prosecutor's function and employed within the public prosecutor's office does satisfy;

- stimulates the use of most efficient methods and technical means in the administrative activities; has pronounced capacity and readiness to steer the employees towards the use of new and information technologies, to steer the supervision and study of public prosecutors' and court practice and transfer of changes in legal comprehension of court, modification of work procedures and actions of lower staff in the implementation of law and other regulation; is extremely ready to undertake measures to build expert capacity of bearers of public prosecutor's function and others employed within the public prosecution; and, is particularly devoted to organisation of expert education of bearers of public prosecutor's function and employed within the public prosecutor's office does satisfy for promotion.

Capacity of crisis situation management

Article 18

(1) Evaluation of capacity of crisis situation management is done based upon: capacity

of timely and rightful decision making when urgent situations demand; skill in mediation between the employees in conflict situation; capacity of representing the office in public in situations when trust into work of public prosecutor's office is endangered; capacity of expressing professional integrity in crisis situation, etc.

(2) Degree of criteria fulfilment:

Public Prosecutor who, in the period of evaluation,

- to the insufficient degree demonstrates: capacity of management in crisis situations and of timely and rightful decision making when urgent situations demand; skill in mediation between the employed in conflict situation; capacity of representing the office in public in situations when trust into work of public prosecutor's office is endangered; capacity of expressing professional integrity in crisis situation does not satisfy.

- as a rule, demonstrates capacity of management in crisis situations and of timely and rightful decision making when circumstances demand; demonstrates skill in mediation between the employees in conflict situation; is able to represent the office in public in situations when trust into work of public prosecutor's office is endangered and has capacity of expressing professional integrity in crisis situation does satisfy;

- demonstrates special capacity of: management in crisis situations and of timely and rightful decision making when circumstances demand; demonstrates skill in mediation between the employees in conflict situation; is able to represent the office in public in situations when trust into work of public prosecutor's office is endangered and has capacity of expressing professional integrity in crisis situation satisfies for promotion.

Evaluation of public prosecutor to whom the cases are assigned

Article 19

(1) Public prosecutor to whom the cases are assigned for work is evaluated also based upon the criteria of evaluation for deputy public prosecutors.

(2) In the course of evaluation prevailing grounds come from criteria of evaluation for public prosecutors.

Worthiness of Public Prosecutor

Article 20

(1) Evaluation of worthiness of Public Prosecutor is done in the manner provided by Article 13 of the Rules.

Chapter IV

Evaluation of special categories of bearers of public prosecutor's function

Evaluation of bearer of public prosecutor's function who acts as second instance within the District Public Prosecutor's Office

Article 21

(1) For the bearer of public prosecutor's function within the District Public Prosecution Office, who is partially or completely engaged in the second instance cases, provisions of this Rules of Procedure will be adequately applied, those valid for bearer of public prosecutor's function, starting with average standard of decisions rendered per bearer of public prosecutor's function in the respective type of cases.

(2) Decision rendered in the sense of paragraph 1 of this Article is the qualified motion for court's decision on appeal or refrain from appeal by lower prosecutor.

Evaluation of Deputy Republic Public Prosecutor and bearers of Public Prosecutor's function in special prosecutions

Article 22

(1) Evaluation of Deputy Republic Public Prosecutor and bearer of public prosecutor's function from the Office of the War Crimes Prosecutor, Special Department of District Public Prosecution in Belgrade for Organised Crime, and Special Department of District Public Prosecution in Belgrade for High Tech Crime is done pursuant to regulations of these Rules that are valid for bearers of public prosecutor's function.

(2) The State Prosecutorial Council will, in special Rules of Procedure, provide for ways of additional evaluation for certain complex cases, demonstrated particular expertise or capability or demonstrated knowledge from particular areas in the course of evaluation of work of Deputy Republic Public Prosecutor and bearers of public prosecutor's function within special prosecutorial departments, in relevance to specific matter that is subject of work in those prosecution offices.

Chapter V

Establishment of qualification, competence and worthiness of prosecutors' assistants

Provision of opinion

Article 23

(1) When proposing candidates for public prosecutor's function, the State Prosecutorial Council establishes qualification, competence and worthiness of prosecutors' assistants.

(2) Establishment of qualification, competence and worthiness is done based upon data obtained from public prosecutor's office where a prosecutor's assistant is employed, or from the Republic Public Prosecution for the advisor.

(3) The Public Prosecutor provides opinion after obtaining the opinion from Deputy Public Prosecutor the prosecution assistant is working with, taking into account grades obtained at university, duration of study, grade obtained at Bar Association test, participation in training, specialist studies and courses completed, scientific and expert papers published, academic titles, evaluation of work as well as the demonstrated qualification in performance of tasks rendered.

(4) Evaluation of worthiness of prosecutors' assistants is done in a manner provided by Article 13 of the Rules.

Chapter VI

Establishment of qualification, competence and worthiness of candidates from other bodies and organisations

Provision of opinion

Article 24

(1) When proposing candidates from other bodies and organisation, for the function of public prosecutor, the State Prosecutorial Council establishes qualification, competence and

worthiness.

(2) Establishment of qualification, competence and worthiness is done based upon data and opinion obtained from bodies and organisations the candidate worked at within legal line of work.

(3) Qualification and competence of a candidate is specially confirmed based upon the control test results dealing with qualification and competence of candidate to perform the function of public prosecutor.

(4) The State Prosecutorial Council will, in a separate ruling, define the contents of the test for control of qualification and competence, as well as the process of evaluation.

(5) Apart from the data from paragraph 2, the data on candidate are also collected dealing with work he/she was at, grades obtained at university, duration of study, evaluation of work if he/she worked as civil servant, work engagement and achieved updating; grade obtained at Bar Association test, specialist studies and courses completed, scientific and expert papers published from relevant areas, academic titles from relevant area.

(6) Opinion from paragraph 2 contains evaluation of demonstrated qualification, competence and worthiness of candidate in performing the tasks entrusted with.

(7) Data and opinion on candidate judge and judge assistant the State Prosecutorial Council obtains from the president of the court a candidate works with, while for candidates from public attorney's office it is obtained from the Public Attorney.

(8) Data and opinion on a candidate from the ranks of lawyers the State Prosecutorial Council obtains from the Bar Association of Serbia.

Chapter VII

Procedure for establishment of qualification, competence and worthiness of candidates who are, on the day of the constitution of the State Prosecutorial Council, bearers of the public prosecutor's function

Establishment of qualification, competence and worthiness of candidates from the rank of Public Prosecutors

Article 25

(1) Opinion on qualification and competence of the candidates from the rank of Public Prosecutors is determined according to the opinion of the Collegium of the public prosecutor's office where the Public Prosecutor performs his function.

(2) Apart from the Collegium from paragraph 1 of this article, immediately higher Public Prosecutor is providing his opinion on qualification and competence of candidates from the rank of Public Prosecutors.

(3) If the opinion of the immediately higher Public Prosecutor in relation to qualification and competence of candidates from the rank of Public Prosecutors is in accordance with the opinion of the Collegium from paragraph 1 of this article, a joint opinion is submitted to the State Prosecutorial Council.

(4) If the opinion of the immediately higher Public Prosecutor in relation to qualification

and competence of candidates from the rank of Public Prosecutors is not in accordance with the opinion of the Collegium from paragraph 1 of this article, both opinions are separately submitted to the State Prosecutorial Council, which shall form its opinion after reviewing the whole file.

(5) It is presumed that the candidates from the rank of Public Prosecutors are worthy of performing public prosecutor's function, unless the contrary is established. The State Prosecutorial Council may, *ex officio*, determine the unworthiness of a candidate if there is reasonable doubt indicating that a candidate is not worthy.

Establishment of qualification, competence and worthiness of candidates from the rank of Deputy Public Prosecutors

Article 26

(1) Opinion on qualification and competence of the candidates from the rank of Deputy Public Prosecutors is determined according to the opinion of the Collegium of the public prosecutor's office where the Deputy Public Prosecutor performs his function.

(2) Apart from the Collegium from para. 1 of this article, Public Prosecutor is providing his opinion on qualification and competence of candidates from the rank of Deputy Public Prosecutors.

(3) If the opinion of Public Prosecutor in relation to qualification and competence of candidates from the rank of Deputy Public Prosecutors is in accordance with the opinion of the Collegium from para. 1 of this article, a joint opinion is submitted to the State Prosecutorial Council.

(4) If the opinion of the Public Prosecutor in relation to qualification and competence of candidates from the rank of Deputy Public Prosecutors is not in accordance with the opinion of the Collegium from paragraph 1 of this article, both opinions are separately submitted to the State Prosecutorial Council, which shall form its opinion after reviewing the whole file.

(5) It is presumed that the candidates from the rank of Deputy Public Prosecutors are worthy of performing public prosecutor's function, unless the contrary is established. The State Prosecutorial Council may, *ex officio*, determine the unworthiness of a candidate if there is reasonable doubt indicating that a candidate is not worthy.

Opinion of the Collegium

Article 27

(1) Collegium provides opinion on qualification and competence of bearer of public prosecutor's function based upon the evaluation pursuant to descriptive criteria from the anonymous survey and evaluation provided based upon the data on efficiency in proceedings for those Deputy Public Prosecutors, or Public Prosecutors, to whom the cases were assigned.

(2) In the environments where language of ethnic minority is in official use in court, Collegium is obliged to provide the State Prosecutorial Council with, apart from opinion on candidate, data on familiarisation of expert legal terminology in the ethnic minority language, pursuant to Article 82 paragraph 2 of the Law on Public Prosecution.

(3) Collegium of Public Prosecution Office, prior to providing the opinion on a candidate, can obtain other data of facts that can be of relevance for passing the opinion.

(4) Immediately higher Public Prosecutor and the Public Prosecutor are obliged to provide the Collegium of Public Prosecution Office the data of importance for provision of opinion on a candidate.

(5) In those Public Prosecution Offices where the Collegium is consisted of less than five bearers of public prosecutor's function, questionnaires submitted directly to the State Prosecutorial Council in a manner which ensures the secrecy of their content, shall be considered as the opinion of the Collegium.

Participation in procedure

Article 28

(1) The process of providing opinion of Collegium does not include the bearer of public prosecutor's function whose work is evaluated.

Manner of establishment of the opinion

Article 29

(1) Collegium of Public Prosecutor's Office prepares a report, on the basis of the results of anonymous survey, after which he provides an opinion.

(2) Members of Collegium conduct a simultaneous survey, using questionnaire which offers answers for degree of fulfilment of each of the criteria.

(3) Report on conducted survey comprises the total number of grades such as "does not satisfy", "does satisfy" and "satisfies for promotion" for each of the criteria.

(4) Collegium provides its opinion on qualification and competence of the candidate's work to the State Prosecutorial Council, with the final assessment if the candidate does not satisfy, does satisfy or satisfies for promotion.

(5) Collegium cannot grade a Deputy Public Prosecutor with "satisfies for promotion", if he was graded with "does not satisfy", according to the criteria of efficiency in performance or manifested qualification.

(6) Public Prosecutor's opinion on candidate's qualification and competence can also be based on the data from the official record.

(7) Public Prosecutor's opinion shall contain a final assessment, which has to be elaborated.

Collecting the data

Article 30

(1) If necessary, the Collegium of public prosecutor's office, prior to providing its opinion on a candidate, can obtain other data on facts of relevance for providing an opinion.

(2) Immediately higher Public Prosecutor and the Public Prosecutor are obliged to provide data of importance for provision of opinion, or proposal and election of candidates, to the Collegium of public prosecutor's office or the State Prosecutorial Council.

Submission of data and opinion to the State Prosecutorial Council

Article 31

(1) Immediately higher Public Prosecutor and the Public Prosecutor are obliged to provide to the State Prosecutorial Council even the data they became aware after provision of the Collegium's opinion, which are of relevance for proposal or election of a candidate.

Right of bearers of public prosecution function in relation to the opinion of the Collegium

Article 32

(1) Bearer of the public prosecution function has the right to be informed about the opinion of the Collegium before the submission of the opinion to the State Prosecutorial Council.

(2) Bearer of the public prosecution function has the right to request from the Public Prosecutor to be informed of the reasons for the grade contained in the opinion.

(3) If the bearer of the public prosecution function is not satisfied with the grade contained in the Public Prosecutor's opinion, or the reasons for such grade, he may file a complaint to the State Prosecutorial Council on foundation of the opinion of the Public Prosecutor or the Collegium.

**Chapter VIII
Decisions by the State Prosecutorial Council**

Obtaining of additional data

Article 33

(1) The State Prosecutorial Council, prior to its final evaluation of a candidate, can obtain other data of importance for evaluation.

(2) The State Prosecutorial Council is entitled to request that the candidate passes the test of personality which shall be conducted in a standardised and objective manner, by a specialised service.

Final evaluation and decision of the State Prosecutorial Council

Article 34

(1) After obtaining data and opinion from bodies and organisations a candidate worked with, the State Prosecutorial Council provides the final evaluation on qualification, competence and worthiness of candidate for bearer of public prosecutor's function.

(2) Based upon the final evaluation from paragraph 1 of this article, the State Prosecutorial Council makes the decision on proposal or election of a candidate.