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DRAFT ORGANIC LAW
OF THE PUBLIC PROSECUTOR'S OFFICE
OF BOLIVIA

DRAFT ORGANIC LAW ON THE PUBLIC PROSECUTOR'S OFFICE
(VERSION PREPARED ON THE BASIS OF THE NATIONAL AND REGIONAL
WORKSHOPS)

**TITLE I
GENERAL PROVISIONS**

**CHAPTER I
PURPOSE AND GENERAL PRINCIPLES**

Article 1. Purpose.- The purpose of this Law is to regulate the structure, organisation, powers and functioning of the Public Prosecutor's Office, in accordance with the values, principles and functions recognised in the Political Constitution of the Plurinational State, laws, international treaties and conventions.

Article 2. Exercise.- I.- The Public Prosecutor's Office exercises its functions through the State Prosecutor General of the Plurinational State, **Departmental Prosecutors, Subject-Area Prosecutors** and other civil servants appointed in the manner determined by law.

II. The Chamber of Deputies of the Plurinational Legislative Assembly shall perform the prosecutorial function before the Chamber of Senators, against senior authorities of the Plurinational Constitutional Court, High Court of Justice, Agri-Environmental Court, Council of the Judiciary, State Prosecutor General and Deputy State Prosecutor General for offences committed in the exercise of their functions.

III. The Public Prosecutor's Office, through the corresponding prosecutors, shall direct and carry out investigations into offences committed in the exercise of the functions of the authorities referred to in the preceding paragraph, in accordance with the law.

Article 3. Functions.- The functions of the Public Prosecutor's Office are the functions laid down in Article 225 of the Political Constitution of the Plurinational State and in this Law.

Article 4. Principles.- The Public Prosecutor's Office, in exercising its functions and powers, shall be governed by the following **non-exhaustive** principles:

Legality. The actions of the Public Prosecutor's Office shall be governed by the provisions of the Political Constitution of the Plurinational State, current international treaties and conventions and the laws.

Expediency. The Public Prosecutor's Office shall exercise its powers and perform its functions promptly and appropriately in accordance with the Political Constitution of the Plurinational State, current international treaties and conventions and the laws. It shall also seek as a priority to resolve criminal disputes, where permitted to do so by law, through the use of conciliation, the expediency criteria and other alternatives to an oral hearing. **In all cases it shall essentially give priority to appropriate reparation for the victim.**

Objectivity. In bringing a public criminal prosecution, the Public Prosecutor's Office shall take into account not only any circumstances that enable the criminal liability of an accused to be proved, but also any circumstances that serve to mitigate or exclude it. When it seeks the application of expediency criteria and other alternative outcomes permitted by law, it shall do so on the basis of objective and general reasons.

This principle must also be observed in the other functions and actions performed by the Public Prosecutor's Office.

Responsibility. Servants of the Public Prosecutor's Office shall have civil, criminal, disciplinary and administrative responsibility for their acts in the exercise of their functions in accordance with the Political Constitution of the Plurinational State, the laws **and the institutions and mechanisms of social control.**

A criminal prosecution against prosecutors shall be brought independently of the corresponding disciplinary process.

Autonomy. In the exercise of its functions the Public Prosecutor's Office enjoys functional, administrative and financial autonomy in accordance with the Political Constitution of the Plurinational State and this Law.

Unity. The Public Prosecutor's Office is a single, indivisible entity and carries out its functions through the prosecutors and other servants appointed in accordance with the law, who shall represent it in all respects and shall act in a unified way.

Hierarchical structure. In order to perform its functions, the Public Prosecutor's Office is organised hierarchically. Each superior in the hierarchical structure controls the performance **of the civil servants under him or her and is responsible for their management.**

Protection of society. The Public Prosecutor's Office shall carry out its functions **in accordance with the provisions of the Political Constitution of the State and the laws**, in order to provide mechanisms that enable society to protect itself against crime, **by means of preventive actions and criminal prosecution.**

It shall generate appropriate actions to protect persons assisting in the fight against crime, **whether they are** police officers, prosecutors, witnesses and/or experts.

It shall promote social peace, giving priority to the prevention and prosecution of criminal acts that affect the general interests of society.

Obligatory action. The Public Prosecutor's Office shall bring a public criminal prosecution [*acción penal pública*] of its own motion whenever it is aware of a criminal act and there is sufficient evidence to prove that the crime was committed. Where a public criminal prosecution is conditional upon an application by a party or any form of preliminary proceedings, this shall not prevent the Public Prosecutor's Office from undertaking acts that are essential in order to preserve the evidence, provided that they do not affect the victim's interest.

A public criminal prosecution may not be suspended, interrupted or discontinued, save in the cases and in the ways expressly provided for by law.

The Public Prosecutor's Office must bring a prosecution in the name of the people [*acción popular*], and may intervene in other actions to defend the Constitution, in accordance with the provisions of the Political Constitution of the Plurinational State, international treaties and conventions, the Law on the Constitutional Court and the laws.

Pluralism of the legal system. Within the framework established by the Political Constitution of the State, the Public Prosecutor's Office, when exercising its functions and powers, and also in the relationship of cooperation and coordination with the legal systems of the indigenous and peasant nations and peoples, shall respect and **apply** the plurinational nature of the State.

Interculturalism. In the exercise of its functions, the Public Prosecutor's Office shall act with respect for the cultural, institutional, normative and linguistic diversity of the indigenous and peasant nations and peoples and must take such diversity into account when bringing a public criminal prosecution.

Probity. The conduct of the servants of the Public Prosecutor's Office shall be proper and transparent and shall be subject to criteria of justice, efficiency and efficacy for the benefit of the interests of society in general.

Suitability. In order to carry out their functions, the servants of the Public Prosecutor's Office must have ability **and experience in the exercise of the prosecutorial function. Their performance is governed by the ethical and moral principles of the plural society and the values that underpin the Plurinational State.**

Expediiousness. The Public Prosecutor's Office must exercise its functions promptly and without undue delay.

Confidentiality. I.- Investigation bodies and other civil servants within the Public Prosecutor's Office are prohibited from providing information to third parties **unconnected with the proceedings** about current investigations or institutional matters of which they are aware. In no case may the Public Prosecutor's Office disclose the identity or permit the distribution of images of children and adolescents who are directly or indirectly involved in matters under investigation. It must **guarantee the best interests of such individuals**, save where otherwise provided by law, **under its responsibility.**

II.- Any person wishing to obtain information may have access to the acts and decisions of the Public Prosecutor's Office, except where access is restricted by law.

Free services. The services of the Public Prosecutor's Office and its investigation bodies are free of charge, save as provided by law.

The relevant bodies of the Public Prosecutor's Office shall ensure the effective outcome of these services.

Due process. The Public Prosecutor's Office shall ensure that everyone who is subject to criminal proceedings has the right to and guarantee of a fair trial, in accordance with the Political Constitution of the Plurinational State, international treaties and conventions and the laws.

Independence. The Public Prosecutor's Office is not subject to any other public authority, or to political, religious or any other opinion.

Internally, and when carrying out their specific functions, prosecutors are only subject to the Political Constitution of the State, international treaties and conventions and this Law and are not required to obey improper instructions or interferences that contravene those enactments or to ignore the interests entrusted to them.

Legal certainty. The law must be applied objectively, so that people are aware of their rights, guarantees and obligations and to ensure legal certainty and foreseeability concerning all acts of the justice system.

Single criminal prosecution. The Public Prosecutor's Office shall ensure in all cases that nobody can be tried or sentenced more than once for the same act, even if the classification of the crime is changed or new circumstances are alleged.

Challenging prosecutorial decisions. The Public Prosecutor's Office shall guarantee the right of parties to challenge prosecutorial decisions in accordance with the Political Constitution of the State, current international treaties and conventions and this Law.

Respect for their own prior acts. By virtue of the proper and legitimate expectations that prosecutors generate in the exercise of their functions, they must respect their own prior judicial acts, as well as instructions and orders from their superiors, for the benefit of citizens, as a means of protecting legal certainty. These acts may be enforceable and effective in any court of the State.

CHAPTER II

THE FUNCTIONS OF THE PUBLIC PROSECUTOR'S OFFICE

Article 5.- Functions of the Public Prosecutor's Office. In order to comply with its constitutional functions, the Public Prosecutor's Office shall:

1. Promote the action of the justice system in defending legality and the general interests of society, **within the framework established by the Political Constitution of the Plurinational State, international treaties and conventions and the laws.**
2. **Bring public criminal prosecutions in accordance with the terms of the Political Constitution of the Plurinational State, international treaties and conventions and the laws.**
3. **Bring prosecutions in the name of the people and other constitutional actions in accordance with the terms of the Political Constitution of the Plurinational State, international treaties and conventions and the Law on the Constitutional Court.**
4. **Carry out functional management of investigations, independently and under own its responsibility, issuing direct orders to the members of police forces and/or bodies exercising criminal investigation functions and ensuring that investigations are conducted lawfully and with respect for the constitutional rights and guarantees of the persons involved.**
5. Organise and direct a specialist multidisciplinary criminal investigation, legal medicine and forensic science body, which shall include civilian and police investigators.
6. Watch over, promote and intervene in any case, matter or action, and request the measures needed for the protection of the person, interests, assets and constitutional rights and guarantees of women, children, adolescents, young people, elderly people, adults lacking legal capacity, the disabled, the poor and the absent, in accordance with the Constitution, international treaties and conventions and current laws.
7. Coordinate and actively participate, by bringing actions and issuing orders and decisions, of its own motion or at the request of a party, together with public institutions, organised civil society and other public or private law entities, in those cases where there is an objective risk or danger for the individual or society, within the framework of the defence of the law and general interests, with the aim of preventing physical, material or any other kind of damage or the commission of crime.
8. **Secure the early resolution of criminal proceedings by means of legal mechanisms, while defending and protecting individual and collective rights.**
9. **Promote conciliation and other alternative dispute resolution mechanisms in relation to offences involving financial loss or negligence which do not result in death and which do not jeopardise the interests, security and property of the State, and other conduct established by law.**
10. **Inform the victim of his or her rights and obligations in criminal proceedings and of the outcome of investigations. It shall also ensure that full attention is given to the victim, without prejudice to the protection of complainants, witnesses, civil servants and persons who have collaborated with the justice system.**
11. **Inform the suspect of his or her constitutional rights and guarantees and legal obligations.**
12. **Provide international judicial and administrative cooperation, exchange information and take any other actions provided for within the legal framework and under current international treaties and conventions; and failing these, under international reciprocity arrangements.**
13. **Provide, within the framework of coordination and cooperation, the necessary collaboration in relation to requests made by the indigenous justice system, and request that its natural authorities provide the conditions and resources necessary for the Public Prosecutor's Office to exercise its functions.**

14. **Ensure compliance with all legal provisions relating to the enforcement of sentences contained in the Political Constitution of the State, the laws and current international treaties and conventions.**
15. Issue a report prior to judicial decisions in those cases in which the law so provides.
16. Ensure the independence of judicial bodies and the proper administration of justice.
17. Ensure the defence of human rights in prisons, military detention centres or police stations, courts, psychiatric hospitals, detention centres for minors, health centres and other similar establishments so that the persons held in such establishments, or staying in them by reason of their office, the performance of a duty or a service requirement, are treated with due respect for their person, are not subjected to torture or cruel, inhuman, degrading or discriminatory treatment and have legal, medical, hospital and any other assistance needed in order to comply with that purpose, promoting the appropriate actions when the relevant rules are shown to have been violated or breached.
18. Intervene and require whatever steps may need to be taken in cases of emigration, immigration, naturalisation and/or residence of foreigners in national territory, in accordance with the Constitution, international treaties and conventions and the current laws.
19. **Any other function established by law.**

CHAPTER III **COOPERATION AND COORDINATION**

Article 6.- Cooperation obligation. I. To ensure the proper exercise of the functions of the Public Prosecutor's Office, every person, institution or office, public or private, has an obligation to provide information, supply required documentation or take any step requested by the Public Prosecutor's Office immediately, directly and free of charge, with the responsibility laid down in the Criminal Code. **This obligation may not be made conditional upon the payment of duties, stamps or any other type of fee.**

II. For the purpose of ensuring the fairness and efficacy of the procedure, prosecutors shall do everything possible to cooperate with the police, courts, lawyers, official guardians and other government bodies and institutions.

Article 7.- Institutional coordination.

I.- For the purpose of ensuring the proper exercise of the functions of the Public Prosecutor's Office and directing the State's criminal policy, the Public Prosecutor's Office shall maintain a relationship of coordination and cooperation with the legislative, executive, judicial and electoral authorities, the Plurinational Constitutional Court, the Office of the Ombudsman, the authorities of the indigenous nations and peoples, and with other institutions and offices of the State. On a reciprocal basis, it may be requested that general instructions be issued in the Public Prosecutor's Office **or that appropriate mechanisms conducive to the said functions** be adopted in the institutions and offices of the State.

II.- In no case may a request be made for the issue of instructions referring to a specific case.

III.- The Public Prosecutor's Office may address itself to private individuals and entities for the same purpose.

Article 8.- Effects. I. Once a request for coordination has been received, the State Prosecutor General of the Plurinational State may accept or reject it. In the former case it shall issue without delay the required instructions, with which compliance shall be mandatory. In the latter case the State Prosecutor General of the Plurinational State may reject the request by means of a reasoned decision where it is contrary to the Constitution, international treaties and conventions and the laws, or where it affects his or her independence and/or functional autonomy. Without prejudice to the possibility that the State Prosecutor General may consider that more information is required for the request to be admissible, he or she may request such clarification as he or she deems appropriate within five days of receiving the request.

II.- The aforementioned power may be exercised by Departmental Prosecutors following an appropriate communication and report to the State Prosecutor General of the Plurinational State.

Article 9.- Institutional cooperation. I. The State Prosecutor General may request the hierarchical superiors of public entities to second a civil servant in order to collaborate on the investigation of a specific case or to carry out expert assessments. The request may not be refused, but a duly reasoned objection may be made for reasons of serious prejudice to the public service, in which case the State Prosecutor General shall take the necessary steps to ensure that the entity and/or the services it provides are not severely affected.

II.- This power may also be exercised by Departmental Prosecutors in cases in which it is necessary owing to their nature and the need for rapid action, following a communication and report to the State Prosecutor General of the Plurinational State.

TITLE II ORGANISATION OF THE PUBLIC PROSECUTOR'S OFFICE

CHAPTER I HIERARCHICAL ORGANISATION

Article 10.- Hierarchical organisation. The hierarchical organisation of the Public Prosecutor's Office consists of the following levels:

- 1.- State Prosecutor General.
- 2.- **Deputy State Prosecutor General.**
- 3.- Regional Prosecutor.
- 4.- **Assistant Regional Prosecutors.**
- 5.- Senior Prosecutors.
- 6.- Specialist Subject-Area Prosecutors.
- 7.- Subject-Area Prosecutors.
- 8.- **Assistant Prosecutors.**
- 9.- **Itinerant Prosecutors.**

Article 11.- General requirements for appointment. In order to be a Prosecutor, a person must satisfy the following requirements:

1. Be a Bolivian national.
2. Have completed military service in the case of males.
3. Be a lawyer by profession.
4. Speak at least two of the country's official languages.
5. Not fall within the prohibitions, impediments and incompatibilities set out in this Law.

Article 12.- Appointment. The State Prosecutor General shall be appointed by the Plurinational Legislative Assembly.

Departmental Prosecutors shall be appointed by the State Prosecutor General.

Senior Prosecutors shall be appointed by the State Prosecutor General.

Specialist Subject-Area Prosecutors shall be appointed by the State Prosecutor General.

Subject-Area Prosecutors shall be appointed by the corresponding Departmental Prosecutor.

When taking up their appointment, prosecutors shall swear or promise to comply with and ensure compliance with the Political Constitution of the State, the laws and international treaties and conventions, the values and principles enshrined in them, to defend the law and the general interests of society, and to respect and guarantee the protection of individual and collective fundamental rights.

Article 13.- Impediments. The following persons may not be prosecutors:

1. Persons under a legal disability.
2. Persons against whom final charges have been brought.
3. Persons with a final conviction for offences committed while holding public office.
4. Persons with a final conviction for an intentional offence **which has yet to be enforced.**

Article 14.- Incompatibilities. In addition to the grounds set out in Article 239 of the Political Constitution of the State, the following shall constitute grounds for incompatibility with the exercise of the prosecutorial function:

1. Militancy and/or executive functions in political parties, groups or organisations.
2. Practising as a lawyer in a private capacity, save where the individual is acting for himself or herself, for direct ascendants or descendants or for his or her spouse.
3. The holding of public or private positions, whether or not they are paid positions, save in the case of an entity or body that defends prosecutors' rights.
4. Prosecutors with relatives up to the fourth degree in the case of blood relatives and the second degree in the case of relatives by marriage may not exercise their functions where there is a direct hierarchical relationship.

Article 15.- Prohibitions. In addition to the prohibitions established in Article 236 of the Political Constitution of the State, in order to ensure the proper performance of the functions of the Public Prosecutor's Office, prosecutors may not:

1. Attend in any official capacity or with official powers any public ceremony or meeting that does not correspond with the exercise of their functions.
2. Send congratulations or criticisms for their acts to public bodies or civil servants, save in the case of actions forming part of the prosecutorial and investigation function.
3. Reside somewhere other than the place for which they were appointed, save for temporary relocations or secondments.

Article 16.- Rights. Prosecutors shall have the following rights:

1. Not to be dismissed, removed, terminated or suspended from their functions, save in the cases specified in this Law.
2. To receive a salary that accords with their level of responsibility.
3. To receive ongoing training and updating.
4. To comply only with orders or guidelines relating to the exercise of their functions in the manner and on the conditions provided for in this Law
5. Not to be moved from the area in which they perform their functions, except temporarily and for duly justified reasons of necessity, to exercise the functions of the Public Prosecutor's Office, at their own request or to take up a position to which they have been promoted.
6. To have a place reserved for them in accordance with the prosecution career structure and the regulations governing it.
7. **To physical protection for themselves and their immediate family in the event that their security is threatened as a consequence of the performance of their functions. For this purpose the State Prosecutor General, Departmental Prosecutors or prosecutors immediately above the**

prosecutors affected or their superiors must take the appropriate safety measures with the respective security authorities.

- 8. To form or join professional associations in order to represent their interests, promote professional training and protect their rights.**
- 9. To enjoy such leave of absence, holidays, social security entitlements and incentive or reward schemes as may be provided for regulations.**

Article 17.- Immunities. Prosecutors shall enjoy the following immunities:

- 1. They may not be arrested, save where they are surprised in the act of committing a prosecutable offence. In such circumstances the corresponding authority shall notify the respective higher authority of the Public Prosecutor's Office and the Disciplinary Unit and provide them with summary information on the offence for the appropriate purposes.**
- 2. They may not appear in court to give evidence as witnesses in the cases in which they are involved as prosecutors, but they may do so by means of a written response, on oath and with the relevant specifications.**
- 3. No order for costs may be made against them in cases in which they are involved as prosecutors.**
- 4. Matters in which members of the Public Prosecutor's Office complain of interference from public authorities affecting the exercise of their functions shall be substantiated and decided by the State Prosecutor General in accordance with the functions laid down in the Political Constitution of the State and other current laws.**

Article 18.- Termination. Prosecutors shall cease to carry out their functions in the event of:

1. Supervening incapacity.
2. Their falling within any impediment or incompatibility provided for in the Political Constitution of the State and this Law.
3. Dismissal by a final decision in disciplinary proceedings.
4. Retirement.
5. Accepted resignation.
6. A final assessment that they are unfit to hold office as a result of a performance assessment in accordance with the prosecution career structure.
7. A final criminal conviction against them for an intentional offence.
8. The completion of the term of office for which they were appointed in accordance with the law
9. Having reached the age of 65.

In the cases provided for in points 3, 4, 5, 8 and 9, the termination shall be automatic. In all other cases the termination shall follow a summary check in accordance with regulations.

Article 19.- Substitutes. In the event of dismissal, resignation, recusal, absence or impediment, the State Prosecutor General shall be replaced by the Departmental Prosecutor for Chuquisaca and, if that is not possible, by the prosecutor appointed by the State Prosecutor General.

The Departmental Prosecutor shall be replaced by the prosecutor appointed by the State Prosecutor General from among the Subject-Area Prosecutors in the prosecution career structure who do not have a disciplinary record in the department in question. The list of substitutes shall be drawn up each year for this purpose.

Senior Prosecutors, Specialist Subject-Area Prosecutors and Subject-Area Prosecutors shall substitute for one another as established by their superiors, whether by establishing rotas or in some other way that guarantees the quality of the service.

CHAPTER II THE STATE PROSECUTOR GENERAL

Article 20.- State Prosecutor General. The State Prosecutor General of the Plurinational State of Bolivia is the head of the Public Prosecutor's Office. He or she shall be based in the city of Sucre and shall exercise authority throughout national territory over all the civil servants of the Public Prosecutor's Office, whatever the district to which they belong. The State Prosecutor General shall bring criminal prosecutions and shall have the powers conferred by the Political Constitution of the State and the laws on the Public Prosecutor's Office, personally or through the institution's bodies.

Article 21.- Requirements. **Candidates for the position of State Prosecutor General must:**

1. Be Bolivian by birth and a Bolivian citizen.
2. Have qualified as a lawyer in Bolivia.
3. Speak at least two of the country's official languages.
4. Have completed military service in the case of males.
5. Have no final criminal charges or final criminal conviction pending against them for any intentional offence.
6. Not fall within the grounds of incompatibility, impediments and prohibitions established in the Political Constitution of the State and this Law.
7. Be registered on the electoral roll.
8. Have reached the age of thirty.

9. Have proof of having practised as a prosecutor, judge, civil servant or lawyer for eight years.
10. Not have been dismissed following disciplinary proceedings whilst working for the Public Prosecutor's Office or the judicial authorities.

Article 22.- Dismissal. The State Prosecutor General shall be dismissed following a final judgment against him or her for any intentional offence committed in the exercise of his or her functions.

Article 23.- Powers. The State Prosecutor General has the following powers:

1. To preside over official events and represent the Public Prosecutor's Office.
2. To be responsible for the management, running and general supervision of the Public Prosecutor's Office.
3. **To contribute**, in coordination with the organs of the State, to the country's criminal policy.
4. To unify the action of the Public Prosecutor's Office and to establish the priorities, policies and standards in the exercise of its functions, in particular the prosecution of crime.
5. To convene and preside over the National Council of the Public Prosecutor's Office every six months and whenever so required.
6. To give orders and instructions to the prosecutors and civil servants working under him or her, both generally and in relation to specific matters, in the terms and with the scope established in this Law.
7. To ratify, modify or revoke instructions given where an objection to them has been raised in accordance with the procedure laid down in this Law.
8. To appoint one or more prosecutors to act on a particular matter or various matters, to replace one prosecutor with another, to form teams to work jointly or to assume the conduct of a case directly.
9. To bring a prosecution in the name of the people directly, in accordance with the law.
10. To order the temporary relocation of prosecutors for service reasons, to deal with specific matters, without this implying a permanent change in the place where they perform their functions.
11. To ratify or revoke decisions on temporary relocations made by Departmental Prosecutors where an objection has been made to them in accordance with the procedure provided for in this Law.
12. To ratify or revoke dismissals and stays ordered by Departmental Prosecutors where they have been responsible for the functional management of an investigation and dismissals and stays ordered by other prosecutors in those cases where they have acted on the specific instructions of the State Prosecutor General and to hear and decide disqualifications and recusals in such cases.
13. To engage specialist advisers for specific cases and to request the hierarchical superiors of public entities to second a particular civil servant in order to collaborate on the investigation of specific cases.

14. To be aware of the results communicated by the Directorate of the School of Prosecutors, Investigators and Servants of the Public Prosecutor's Office for the purposes of the appointment, promotion and/or specialisation of prosecutors within the scope of the prosecution career structure.
- 15. To appoint Itinerant Prosecutors in accordance with the needs of the service in the event of vacancies arising, the vacancy being filled in the meantime in accordance with the prosecution career structure, or in order to guarantee the presence of the Public Prosecutor's Office throughout national territory in accordance with this Law.**
16. To maintain the discipline of the service and to order the start of disciplinary actions against prosecutors who fail to comply with decisions issued in the course of their duties.
17. To appoint the Disciplinary Regime Director, the Director of the Institute of the Public Prosecutor's Office, the Director of the Institute of Forensic Investigations and the Director of Monitoring, Supervision and Evaluation, following a public competition, and to evaluate their performance in accordance with the regulations.
18. To appoint the General or Technical Secretary and other staff of the advisory team, the Director of Protection and Assistance for Victims, Witnesses and Civil Servants and the Administrative and Financial Director and to evaluate their performance in accordance with the regulations.
19. To appoint, remove, transfer, accept resignations from and give thanks for their services to prosecutors and the administrative staff of the Public Prosecutor's Office in accordance with the current rules and regulations.
20. To inspect the offices of the Public Prosecutor's Office whenever so required and the offices of bodies performing criminal police functions.
- 21. To revise, ratify, modify or revoke decisions and/or resolutions of more junior prosecutors, using his or her exclusive hierarchical power, where they affect the law, the general interests of society or the property of the State. This power may be used within a non-extendable period of five days from the issue of the decision in question, either of his or her motion or at the request of a party.**
22. To order the creation of prosecution offices and the allocation of prosecutors according to the needs and requirements of the service.
23. To order the creation of specialist units and the appointment of specialist prosecutors and coordinators of specialist units.
24. To approve, modify, abrogate and repeal regulations of the Public Prosecutor's Office.
25. To bring a criminal prosecution before the Supreme Court of Justice in proceedings involving constitutional privilege, with the right expressly to delegate this function to a prosecutor in specific cases.
26. To participate with the administrative authorities in crime prevention policies.

27. To request cooperation and sign agreements with national and foreign investigation institutions connected with the study of crime and forensic sciences.
28. To promote the use of technology in investigations and the use of crime investigation tools.
29. To approve and present the budget of the Public Prosecutor's Office to the Executive for incorporation into the National Budget Law.
30. To promote corrective measures of a general nature before the highest executive, police and administrative authorities and other public and private entities in relation to complaints and observations made during the investigation of criminal cases.
31. To request the competent police authority to bring disciplinary proceedings against police officers removed from the investigation for having failed to comply with orders from the court or the prosecution or for having acted negligently or inefficiently.
32. To sign agreements with public or private organisations, whether domestic or foreign.
33. To intervene in extradition proceedings in accordance with the provisions of the Code of Criminal Procedure, other laws, international conventions and treaties.
34. To appoint area coordinators from the ranks of the prosecutors according to the needs of the service and specialisation.
35. To make and revoke appointments, promotions, demotions and relocations of prosecutors, to grant leave of absence, accept resignations and authorise requests from prosecutors for transfers and exchanges in accordance with the regulations.
36. To delegate administrative acts and functions to administrative officials under their own responsibility.
37. Any other function specified by law.

Article 24.- Duty to provide information. In the exercise of the functions of the Public Prosecutor's Office, the State Prosecutor General is obliged to inform society and state entities about activities carried out and results achieved. For this purpose:

1. He or she shall report once a year to the Plurinational Legislative Assembly and other state bodies on the activities undertaken.
2. He or she shall compile, publish and distribute strategic plans, regulations and ratified general and specific instructions, together with the most important orders and decisions.
3. He or she shall publish the annual report and distribute it within society.

CHAPTER III DEPARTMENTAL PROSECUTORS

Article 25.- Departmental Prosecutors. Departmental Prosecutors are the highest ranking representatives of the Public Prosecutor's Office in each department.

They shall bring criminal prosecutions and prosecutions in the name of the people and shall exercise the powers that the Political Constitution of the State and the laws confer on the Public Prosecutor's Office, either themselves or through the prosecutors working under them, save where the State Prosecutor General assumes this function directly or entrusts it to another civil servant by express instruction, jointly or separately.

Candidates for the position of Departmental Prosecutor must:

1. Be Bolivian by birth and a Bolivian citizen.
2. Have qualified as a lawyer in Bolivia.
3. Speak at least two of the country's official languages.
4. Have completed military service in the case of males.
5. Have no final criminal charges or final criminal conviction pending against them for any intentional offence.
6. Not fall within the grounds of incompatibility, impediments and prohibitions established in the Political Constitution of the State and this Law.
7. Be registered on the electoral roll.
8. Have reached the age of thirty.
9. Have proof of having practised as a prosecutor, judge, civil servant or lawyer for six years.
10. Not have been dismissed following disciplinary proceedings whilst working for the Public Prosecutor's Office or the judicial authorities.

Article 26.- Appointment. Departmental Prosecutors shall be appointed by the State Prosecutor General following a public competition and following an evaluation of their professional qualifications and merits and shall be assessed on their performance in order to determine whether or not they are suitable for the position.

Departmental Prosecutors shall perform their functions for a period of five years and may not be reappointed for the following period.

Article 27.- Powers. Within the territorial scope of their functions, Departmental Prosecutors shall have the following powers:

1. To represent the Public Prosecutor's Office in the department to which they belong.
2. To comply and ensure compliance with circulars and instructions of the State Prosecutor General.
3. To maintain the discipline of the service, impose penalties on the prosecutors working under them and enforce the disciplinary penalties imposed.
4. To prepare the budget for their department in order to submit it for the consideration of the State Prosecutor General.
5. To grant leave of absence to the prosecutors under them in accordance with the regulations.

6. To establish the rota for shifts and substitutes for the prosecutors in their department.
7. To coordinate work with the other Departmental Prosecution Offices and to give them any assistance they may require.
8. To give orders and instructions to the prosecutors and civil servants under them, both generally and in relation to specific matters, in the terms and with the scope established in this Law.
9. To appoint one or more members of the Public Prosecutor's Office to act on secondment in particular cases, to re-assign duties among them, to form teams to work jointly or to assume direct responsibility for functional management.
10. To order the temporary relocation of prosecutors for service reasons.
11. To send written reports on their work to the State Prosecutor General every six months and whenever he or she so requires.
12. To request the competent police authority to bring disciplinary proceedings against police officers removed from the investigation for having failed to comply with orders from the court or prosecution or for having acted negligently or inefficiently.
13. To authorise the execution of the budget entries assigned to their department.
14. To check on the performance of the prosecutors under them and to keep a record of initial acts and final orders.
15. To decide on objections to dismissal or to discontinuance of proceedings in accordance with procedure and to bring matters to the attention of the State Prosecutor General where they fall within his or her competence.
16. To ensure that prosecutors keep the record of activities up to date on computerised monitoring systems or other systems in accordance with institutionally established procedures.
17. Any other power specified by law and the regulations on the Public Prosecutor's Office.

Article 28.- Unity of action. In order to maintain unity of criteria, to study matters of particular importance or matters which, owing to their complexity, affect criminal prosecution, to reach agreement on general and specific work systems with a view to laying down guidelines or on any other aspect affecting criminal prosecution in each department, or to establish positions on issues relating to the department's functions, the Departmental Prosecutor must convene a general meeting of the prosecutors working under him or her at least once every three months. Minutes of the meeting must be taken and shall be sent to the State Prosecutor General for information.

Prosecutors may submit a reasoned request to the Departmental Prosecutor asking him or her to convene a general meeting or to include a specific item on the agenda.

CHAPTER IV SENIOR PROSECUTORS

Article 29.- Senior Prosecutors. Senior Prosecutors shall be based in the city of Sucre and exceptionally in another city and shall be appointed by the State Prosecutor General. Their number shall be determined annually by the State Prosecutor General according to the needs of the service.

Candidates for the position of Senior Prosecutor must:

7. Be Bolivian by birth and a Bolivian citizen.
8. Have qualified as a lawyer in Bolivia.
9. Speak at least two of the country's official languages.
10. Have completed military service in the case of males.
11. Have no final criminal charges or final criminal conviction pending against them for any intentional offence.
12. Not fall within the grounds of incompatibility, impediments and prohibitions established in the Political Constitution of the State and this Law.
7. Be registered on the electoral roll.
8. Have reached the age of thirty.
9. Have proof of having practised as a prosecutor, judge, civil servant or lawyer for six years.
10. Not have been dismissed following disciplinary proceedings whilst working for the Public Prosecutor's Office or the judicial authorities.

In addition to the above requirements, Senior Prosecutors must specialise in some branch of the law.

Senior Prosecutors shall have the same powers as Subject-Area Prosecutors and the powers assigned to them by the State Prosecutor General.

Article 30.- Powers. In addition to the matters specified in the preceding article, Senior Prosecutors shall have the following powers:

1. To appear on behalf of the Public Prosecutor's Office, following instructions from the State Prosecutor General, before the Supreme Court of Justice, with all the powers specified in the Code of Criminal Procedure, without prejudice to the intervention of the prosecutor assigned to the case.
2. To file extraordinary judicial review applications against final convictions.
3. To appear before the Supreme Court of Justice by express delegation of the State Prosecutor General in proceedings involving constitutional privilege, without prejudice to the presence of the State Prosecutor General.
4. By express delegation of the State Prosecutor General of the Plurinational State, to act in constitutional actions.
5. Such other powers as the State Prosecutor General assigns to them.

CHAPTER V

SUBJECT-AREA PROSECUTORS

Article 31.- Functions. I.- Subject-Area Prosecutors shall bring criminal prosecutions and prosecutions in the name of the people, with all the powers that the Political Constitution of the State and the laws confer on the Public Prosecutor's Office, and shall intervene at the different stages of criminal proceedings, including before the court of cassation, where the Departmental Prosecutor or the State Prosecutor General so orders.

Candidates for the position of Subject-Area Prosecutor must:

1. Be Bolivian by birth and possess Bolivian citizenship.
2. Have qualified as a lawyer in Bolivia.
3. Speak at least two of the country's official languages.
4. Have completed military service in the case of males.
5. Have no final criminal charges or final criminal conviction pending against them for any intentional offence.
6. Not fall within the grounds of incompatibility, impediments and prohibitions established in the Political Constitution of the State and this Law.
7. Be registered on the electoral roll.
8. Have proof of having practised as a prosecutor, judge, civil servant or lawyer for four years and have successfully completed the Initial Training Course of the Prosecutors' School.
9. Not have been dismissed following disciplinary proceedings whilst working for the Public Prosecutor's Office or the judicial body

Article 32.- Powers. Subject-Area Prosecutors have the following powers:

1. To carry out functional management of police action, give direct orders and supervise the lawfulness and performance of investigation activities, fully complying and ensuring compliance with the principle of confidentiality in the cases assigned to them.
2. To intervene at all the stages of the preliminary and preparatory phase, ensuring that their purpose is fulfilled within the statutory time limits and that the appropriate orders are issued.
3. To intervene at the trial stage, providing support for the prosecution case and producing all the evidential materials.
4. To inform the suspect of the constitutional and legal rights and guarantees that are available to him or her, as well as satisfying themselves about the suspect's physical and/or mental state and recording it, particularly at the time of arrest.
5. To ensure that the suspect is assisted by a defence lawyer and to appoint a translator for him or her where appropriate.
6. To assign a state defence lawyer to a victim who lacks financial resources.
7. To deal with victims' requests and to inform them of their rights.
8. To order the bringing of formal charges, dismissal or the discontinuance of proceedings, giving reasons, and to give reasons for their decisions in accordance with the law.
9. To take all the necessary measures to protect the physical and psychological integrity of the victim or aggrieved party.
10. To inform a victim or aggrieved party who wishes to withdraw and/or reach conciliation in appropriate cases of the legal significance and importance of that act.
11. To take all the necessary measures to ensure that the victim or aggrieved party receives urgent medical and psychological attention and, when this is deemed necessary, to take measures to ensure that medical and psychological attention is extended to other persons.

12. To apply to the judicial authorities, in appropriate cases, for compensation for damage or to bring the civil action arising out of the offence in the cases laid down in the Code of Criminal Procedure.
13. To apply to the judicial authorities for the accused to be removed from the victim's home in the case of offences that threaten the victim's physical or mental integrity, along with any other interim measures that may be appropriate.
14. To treat the victim with due respect and consideration, ensuring that he or she has the right to be heard before each decision, under their responsibility.
15. To design and plan the functional management of the investigation of the case together with the assigned investigator and/or the necessary multidisciplinary team.
16. To order such preliminary steps to be taken in the investigation as are requested by the parties and the victim, and to justify and give reasons for a refusal to grant the request, where appropriate.
17. To order the adoption of interim measures in relation to persons and property, giving reasons for them.
18. To deal with provisional entries in the corresponding public registers in respect of goods seized.
19. To take part in inventory-taking and checking of goods seized and/or confiscated, and in the destruction of such goods.
- 20.** To send the Departmental Prosecutor a copy of the decisions taken in respect of initial acts and final orders.
21. To remove police officers from the investigation where there is good reason to do so.
22. To request, through the Departmental Prosecutor's Office, that disciplinary proceedings be brought against police officers removed from the investigation for having failed to comply with orders from the court or prosecution or for having acted negligently or inefficiently.
23. To require the judge or court to use the native language of the place where the hearing is taking place.
24. To file the appeals allowed by law and to pursue them before the appeal courts.
25. To ask the judge hearing the case to seize or confiscate the instruments and proceeds of the crime.
26. To inspect police detention centres in order to verify compliance with fundamental rights.
27. To provide a quarterly report to the Departmental Prosecutor on the matters in his or her charge.
28. To bring the constitutional defence actions provided for in the Political Constitution of the Plurinational State, under the terms and conditions laid down therein.
29. Any other power specified by law.

Article 33.- Duty to inform. Prosecutors shall inform their immediate superiors about any matters in their charge that require special treatment owing to the multiplicity of

facts, the high number of suspects or victims or the fact that they are linked to crimes committed by criminal organisations, stating specifically the difficulties and proposing how to resolve them.

In these cases the Departmental Prosecutor, of his or her own motion or at the request of the prosecutor in charge of the case, may order a Board of Prosecutors to be set up to evaluate the progress of the investigation, study the case and suggest any measures that it considers necessary.

Information on specific cases requested by state bodies that are not party to the proceedings must be dealt with through the Departmental Prosecutor.

Prosecutors must record their actions on the computer systems and physical register established by the Public Prosecutor's Office and must provide any statistical information requested from them truthfully and promptly.

CHAPTER VI SPECIALIST SUBJECT-AREA PROSECUTORS

Article 34.- Functions. I.- Specialist Subject-Area Prosecutors shall bring criminal prosecutions in a specialist field and prosecutions in the name of the people, with all the powers that the Political Constitution of the State and the laws confer on the Public Prosecutor's Office, and shall intervene at the different stages of criminal proceedings, including before the court of cassation, where the Departmental Prosecutor or the State Prosecutor General so orders.

They shall be appointed by the State Prosecutor General.

II.- In order to serve as a Specialist Subject-Area Prosecutor, it is necessary to have served as a Subject-Area Prosecutor for two years and to have successfully completed the Specialisation Courses run by the Institute of the Public Prosecutor's Office, including the practical training phase.

Article 35.- Powers. Specialist Prosecutors have the same powers as Subject-Area Prosecutors within the sphere of the assigned specialism.

The fact that a Subject-Area Prosecutor acts in specialist cases does not invalidate his or her acts, nor is it a ground for nullity, without prejudice to any disciplinary liability which might be incurred.

Article 36.- Duty to inform. Prosecutors shall inform the National Specialist Unit Coordinator about any matters in their charge that require special treatment owing to the multiplicity of facts, the high number of suspects or victims or the fact that they are linked to crimes committed by criminal organisations, stating specifically the difficulties and proposing how to resolve them.

In these cases the National Specialist Unit Coordinator, of his or her own motion or at the request of the prosecutor in charge of the case, may order a Board of Prosecutors

to be set up to evaluate the progress of the investigation, study the case and suggest any measures that it considers necessary.

Information on specific cases requested by state bodies that are not party to the proceedings must be dealt with through the National Specialist Unit Coordinator.

Article 37.- Common provision. A prosecution in the name of the people must be brought by any prosecutor on behalf of the Public Prosecutor's Office where, in the exercise of his or her functions, he or she becomes aware of the facts giving rise to it.

CHAPTER VII DEPUTY PROSECUTORS

Article 38.- Deputy State Prosecutor General. He or she comes immediately below the State Prosecutor General of the Plurinational State in the hierarchy of the Public Prosecutor's Office. He or she shall be based in the city of Sucre and shall exercise authority throughout national territory over all the civil servants of the Public Prosecutor's Office, whatever the district to which he or she belongs, on the conditions laid down in the following articles.

Article 39.- Functions. The Deputy State Prosecutor General shall have the following functions:

1. To deputise for or replace the State Prosecutor General in the exercise of the corresponding function, for reasons of death, dismissal, resignation, disqualification, recusal, temporary absence, leave of absence or any other legal impediment or where the State Prosecutor General so decides in order to meet functional needs, having the same powers as the State Prosecutor General in the replacement circumstances enumerated and the relevant powers with respect to the functional competences assigned to him or her.
2. To assist the State Prosecutor General in the exercise of his or her functions to the extent required by the needs of the service.
3. To act as full prosecutor or as deputy to the State Prosecutor General in the corresponding actions before the authorities and courts of justice of the State in accordance with the Constitution and other current laws.
4. All other functions entrusted to him or her as a result of the needs of the service.

Article 40.- Requirements. To apply for the position of Deputy State Prosecutor General, the same requirements must be satisfied as for the position of State Prosecutor General.

Article 41.- Term of office, replacement and dismissal. The Deputy State Prosecutor General shall perform his or her term of office in the same capacity and on the same conditions as the State Prosecutor General.

In the event of death, resignation, dismissal, disqualification or recusal, temporary absence or any other legal impediment, provided that this occurs at the same time as the impediment to the State Prosecutor General, so that they are both equally prevented from acting, he or she shall be replaced by the Departmental Prosecutor of Chuquisaca or by the Departmental Prosecutor nominated by the State Prosecutor General, taking into account the urgent needs of the service in all cases.

He or she shall be dismissed on the same grounds as the State Prosecutor General.

Article 42.- Duty to inform. The Deputy State Prosecutor shall inform the State Prosecutor General about the cases in which he or she is involved and the performance of the tasks entrusted to him or her.

Article 43.- Method of appointment. In accordance with Article 227. I of the Constitution, the Deputy State Prosecutor General shall be appointed by two thirds of the votes of the members present in the Plurinational Legislative Assembly following a public competition, assessment of professional capability and the other formalities laid down for the State Prosecutor General.

The appointment procedure shall be as follows:

1. The candidate obtaining the highest number of valid votes while meeting the percentage requirement laid down in the Constitution shall be appointed as the State Prosecutor General.
2. The candidate obtaining the next highest number of valid votes while meeting the percentage requirement laid down in the Constitution shall be appointed as the Deputy State Prosecutor General.
3. If the State Prosecutor General elected is a man, the woman with the highest number of votes shall be the Deputy State Prosecutor General.
4. If the State Prosecutor General elected is a woman, the man with the highest number of votes shall be the Deputy State Prosecutor General.

Article 44.- Deputy Departmental Prosecutors. Deputy Departmental Prosecutors, one for each department, are the most senior representatives of the Public Prosecutor's Office immediately after the Departmental Prosecutor.

Article 45.- Functions. They shall perform similar functions to the Deputy State Prosecutor General, to the extent permitted by the office of Departmental Prosecutor.

They are under the same duty to inform as the Departmental Prosecutor.

Article 46.- Requirements. In order to be a Deputy Departmental Prosecutor, the same conditions have to be satisfied as for the office of Departmental Prosecutor.

Article 47.- Appointment. The Deputy Departmental Prosecutors shall be appointed by the State Prosecutor General, in coordination with the Deputy State Prosecutor General, in the same way as the Departmental Prosecutors.

They shall hold office for a non-extendable period of five years and may not be reappointed.

CHAPTER VIII ASSISTANT PROSECUTORS

Article 48.- Nature. Assistant Prosecutors are auxiliary first-instance prosecutors who work in direct liaison with the Subject-Area Prosecutors and Specialist Subject-Area Prosecutors before the corresponding judges and courts of the State.

There may be as many Assistant Prosecutors as are necessary, according to the justified requirements of each Departmental Prosecutor and the needs of the service, which must be put forward to the Central State Prosecution Office by reference to the financial possibilities of the case.

Article 49.- Functions. Assistant Prosecutors shall have the following functions and duties:

1. To help or assist in any way that is relevant and useful with the functions of the Subject-Area Prosecutors or Specialist Subject-Area Prosecutors at first instance.
2. To deputise for or replace the respective full prosecutors in the exercise of their functions in the event of death, resignation, leave of absence, holiday, temporary absence, dismissal, disqualification or recusal, or any other lawful impediment, with the same powers and duties as are assigned to the other prosecutors.
3. To go to the places where their assistance is required, and where the needs of the service so require, as Itinerant Prosecutors and with the same powers and duties as any full prosecutor, by reasoned decision of the corresponding Departmental Prosecutor or his or her Deputy, provided such relocation does not unreasonably affect the work currently in progress.
4. To prepare prosecutorial decisions and whatever action or managerial task is entrusted to them by the Departmental Prosecutor or the Deputy Departmental Prosecutor, always taking into account the criterion of reasonableness referred to in the preceding paragraph.
5. To inform the Departmental Prosecutor or his or her Deputy, and the respective full prosecutor, about the actions and tasks entrusted to them.

Article 50.- Requirements. In order to be an Assistant Prosecutor, the same conditions must be satisfied as for a Subject-Area Prosecutor, except for the

requirement to have successfully completed the Initial Training Course of the Public Prosecutors' School and the respective practical training period.

Article 51.- Appointment. Assistant Prosecutors shall be appointed by the State Prosecutor General or his or her Deputy following a favourable report from the Departmental Prosecutor or his or her Deputy

Article 52.- Impediments, dismissal, rights, obligations and promotion, Assistant Prosecutors shall be subject to the same appointment conditions and requirements and the same impediments and prohibitions as other civil servants and Subject-Area Prosecutors or Specialist Subject-Area Prosecutors in particular.

They shall also be subject to the same grounds for removal or dismissal and to the same obligations as other prosecutors.

In terms of their rights, they shall have the same rights as full prosecutors and, in addition, in the event that they have obtained a good performance evaluation and/or a favourable report from the full prosecutor or from the Departmental Prosecutor or his or her Deputy, as the case may be, and if at least a year has elapsed since they started work, they shall be given priority when it comes to the appointment of full prosecutors to fill vacant posts.

CHAPTER IX CIVIL SERVANTS AND SUPPORT STAFF FOR THE PROSECUTION SERVICE

Article 53.- General Secretaries. The State Prosecutor General and Departmental Prosecutors shall have a General Secretary, who shall be a civil servant within the hierarchy and whose functions, requirements, appointment, rights and responsibilities shall be set out in detail in regulations.

Article 54.- Support staff. The different divisions of the Public Prosecutor's Office shall have the staff needed to support the functions performed by the prosecutors, without prejudice to the administrative and technical staff. Their appointment, functions and responsibilities shall be dealt with in regulations.

CHAPTER X SPECIALIST ADVISERS

Article 55.- Specialist advisers. In addition to the staff providing direct support for the functions of the State Prosecutor General, he or she may, by a reasoned decision, engage expert advisers to form multidisciplinary teams in those matters that require special treatment owing to the multiplicity of facts, the high number of suspects or victims or the fact that they are linked to organised crime, or to carry out expert assessments in accordance with criminal procedure. These advisers shall not be treated as permanent staff. Specialist advisers belonging to public entities shall be declared on secondment.

The State Prosecutor General, Departmental Prosecutors, Senior Prosecutors, Specialist Subject-Area Prosecutors, Subject-Area Prosecutors **and other**

prosecutors determined by this Law may request advice from experts working for public entities and ask for them to be seconded in order to form multidisciplinary investigation teams for specific cases or to carry out expert assessments in accordance with criminal procedure, and in accordance with the procedure established in this Law for institutional cooperation.

They may also request the collaboration of human rights bodies in the investigation of offences that affect individuals' fundamental human rights.

CHAPTER XI SPECIALIST UNITS

Article 56.- Functions. I.- By operation of law or by reason of the needs of the service, the State Prosecutor General shall establish and regulate the sphere of action, operation and organisation of specialist units dealing with the prevention and prosecution of offences, types of offence or matters relating to the functions of the Public Prosecutor's Office. These units shall have the support staff needed for their functions, without prejudice to the necessary administrative and technical staff.

II.- For the purpose stated, by way of guidance and on a non-exhaustive basis, the following areas shall be taken into consideration:

1. Primary prevention
2. Offences against humanity
3. Offences against the environment
4. Offences against the State
5. Offences relating to controlled substances
6. Customs and tax offences
7. Public corruption
8. IT offences
9. Offences relating to the improper or illegal use and trafficking of arms and explosives
10. Offences relating to racism and all forms of discrimination

Article 57.- Organisation. The specialist units shall be under the charge of a National Coordinator who shall be appointed by the State Prosecutor General from among Specialist Subject-area Prosecutors with at least one year's service.

If the specialism does not exist in the Public Prosecutor's Office, the appointment shall be made from among Subject-Area Prosecutors with at least two years' service within the prosecution career structure.

The National Coordinator shall establish guidelines enabling prosecution to be standardised in the subject area in which he or she specialises, taking into account the prevalence of collective risks or dangers and the prevalence of crime in each department, and while monitoring cases being conducted by Specialist Prosecutors. Without prejudice to the functions of other bodies of the

Public Prosecutor's Office, the National Coordinator shall evaluate the results obtained as a result of prosecutorial action, using verification tools.

Only Specialist Subject-Area Prosecutors qualified in the corresponding field within the prosecution career structure who have not been subject to disciplinary penalties in the 12 months prior to their appointment may be assigned to these specialist units. In the event that there are insufficient Specialist Subject-Area Prosecutors in the field in question, Subject-Area Prosecutors or Assistant Prosecutors may be assigned on a temporary basis.

Area or regional coordinators may be appointed according to the needs of the service.

CHAPTER XII PROSECUTION SERVICES

SECTION I THE PRIMARY PREVENTION OFFICE

Article 58.- Definition. For the purposes of prosecutorial action, primary prevention is understood to mean those situations in which human beings cause dangerous or high risk scenarios, often for themselves and frequently for other human beings or society, which require the prompt intervention of the State in order to prevent a harmful outcome or an adverse effect on a legal right protected by the law.

The aim of this prevention is to reduce or eliminate the obvious risk or to modify human behaviour associated with or prior to a foreseeable harmful outcome, together with its cause.

The purpose of prosecutorial action will be to safeguard the general interests of society, respect for the basic human rights of those involved in situations of risk or danger and observance of the values, principles, rights and guarantees enshrined in the Constitution, taking the following factors in particular into account:

1. The possibility or probability of a result.
2. The rational foreseeability of that result being harmful.

Article 59.- Exercise. The National Coordination Office of the Public Prosecutor's Office, in conjunction with any Departmental or Regional Coordination Offices that have been established, the Departmental Prosecutors or their Deputies, shall draw up annually or periodically, depending on the needs of the service and the prevalences referred to in Article 57 of this Law, the plans and programmes for preventive prosecutorial action, together with their effective execution or implementation.

In each Departmental Prosecutor's Office there shall be a Primary Prevention Office, composed of both prevention prosecutors and the necessary staff, as

defined by the National Coordination Office in accordance with the preceding paragraph.

As appropriate, the prosecutors involved shall take into account the due functions of cooperation, coordination and reporting, and the other functions laid down in this Law, with the other national, departmental, regional, autonomous, indigenous and other institutions and/or authorities, as required by the task undertaken or to be undertaken.

The prosecutors assigned shall play an active role in these procedures. They shall supervise the legality of the actions of the State entities charged with the task of primary prevention, such as the Bolivian police force and others. They shall perform their functions impartially and shall avoid all forms of political, social, religious, racial, cultural, sexual or other discrimination. They shall protect the public interest. They shall act objectively, taking due account of the situation in terms of the risk or danger scenario, its potential protagonists, suspects or victims. They shall pay attention to all the relevant circumstances, regardless of whether they are advantageous or disadvantageous for the suspect. They shall consider the opinions and concerns of the persons whose interests are affected. They shall keep the actions or materials in hand confidential, save where the performance of their duty or the needs of justice require otherwise, and shall apply the appropriate procedure in the event that it is established that the matter requiring their involvement constitutes an offence.

In all cases the prosecutors shall give due consideration to the application of immediate, swift and appropriate corrective measures, having regard to the cause of the matter and its protagonists, in coordination with the police or administrative authorities involved in the task of prevention, while taking account of the fact that the ultimate aim of this task is not actually the bringing of a criminal prosecution, unless this is warranted by the situation, and always exploring in each case the possibility of arrangements being made that reduce referrals to the courts, thus alleviating the excessive burden on them.

SECTION II

BASIC STRUCTURE OF THE DEPARTMENTAL PROSECUTION SERVICES

Article 60.- Public information and advice platform. In the Central Prosecution Office and in each Departmental Prosecution Office there shall be a public information and advice platform with the requisite number of counters and computer terminals, as appropriate.

Its functions shall include:

1. Operating and providing appropriate information to the users of the prosecution service.

2. Receiving applications, requests and petitions. The matter must be registered and acknowledgement of receipt must be given to the interested party, under the responsibility of the civil servant in charge.
3. Dispatching orders and other documents not requiring personal service in accordance with the law.
4. Any other function assigned to it by the State Prosecutor General or the Departmental Prosecutor, as the case may be.

In the case of urgent matters such as the filing of applications outside normal working hours or on non-business days, the relevant information, receipt and dispatch functions shall be performed by the duty staff.

Article 61.- Case Analysis and Early Settlement Unit. This unit shall function in each Departmental Prosecution Office and shall be responsible for:

1. Appropriate analysis of the admissibility and suitability for prosecution of the criminal cases that it is proposed to action on its own initiative, at the request of a party or by way of preventive police action. A dismissal *in limine* may be challenged by the interested party before the Departmental Prosecutor, with no further right of appeal.
2. Resolution of disputes by means of the procedures established by law in cases of: trivial offences, pecuniary offences not endangering human life or not seriously affecting the interests of the State, offences involving negligence which do not affect the public interest and others in accordance with law.
3. Offences where the offender is caught in the act in accordance with the procedure established by law.
4. Other appropriate cases in accordance with law.

Article 62.- Composition. The Case Analysis and Early Settlement Unit shall be under the charge of Specialist Prosecutors, in accordance with the rules in Article 58 of this Law.

Article 63.- Unit for relations with indigenous social control and justice. This unit shall function in each Departmental Prosecution Office and shall be responsible for:

1. Exercising and putting into practice the coordination and cooperation mechanisms established in the Political Constitution of the State and this Law.
2. Seeing to the temporary relocation of prosecutors in cases requiring their presence, especially cases handled by indigenous justice, or where this is warranted by the social control mechanisms.
3. Other appropriate cases according to law.

Article 64.- Composition. This unit shall be under the charge of a prosecutor specialising in the field or, if there is none, by such other prosecutor as the hierarchical authority determines.

SECTION III COMMON SERVICES

Article 65.- IT, Statistics and Case Monitoring Office. This office shall function in each Prosecution Office and shall be responsible for:

1. Handling, recording and centralising data, information and cases, including their status and conclusion, statistics and other information entrusted to it.
2. Sending data and other information to the relevant bodies for management reports and for the development of knowledge about social control.
3. Recording of data in the i3p system and other administrative tasks.

Prosecutors must provide and/or send the necessary data to this office for recording and storage, under their responsibility.

Article 66.- Composition. This office shall be under the charge of a professional specialising in the area and the necessary staff.

Article 67.- Protocol and Press Office. The Central State Prosecution Office and Departmental Prosecution Offices shall have a Social Communication, Public Relations, Protocol and Press Office, responsible for:

1. Providing relevant information to the social and public communications media in accordance with instructions from the appropriate higher authority.
2. Disseminating agreements, instructions, conventions and other documents which are of interest to citizens and which enhance the institutional character of the Public Prosecutor's Office.
3. Issuing appropriate official communications.
4. Assisting prosecutors and higher authorities in their dealings with social communications media and the public.
5. Organising and running official events in accordance with protocol.
6. Other obligations in accordance with rules and regulations.

Article 68.- Libraries. The Central State Prosecution Office and Departmental Prosecution Offices shall have specialist libraries at the service of members of the Public Prosecutor's Office, support staff and members of the public.

Article 69.- Prosecution Archive. The Central Prosecution Office and Departmental Prosecution Offices shall have a central archive for storing and preserving investigation notes on completed cases, procedural documents,

evidence and whatever other information may be necessary, under their responsibility and with a proper inventory.

It shall coordinate its work with the IT, Statistics and Case Monitoring Office. Where appropriate and by reason of the circumstances of the service, the Central Prosecution Office may combine the two offices in a single unit.

Article 70.- Physical Security Unit. The Central Prosecution Office and Departmental Prosecution Offices shall have the support of members of the security arm of the Bolivian police force who shall be responsible for the personal and physical safety of their respective members and the security of their premises.

For this purpose the higher authority shall request the appropriate police authorities to provide the necessary police personnel, who shall be declared on secondment for as long as their services in the respective Prosecution Office last.

The unit shall be under the charge of a head of security, who shall have the necessary powers to perform his or her duties and, where appropriate, to ask his or her superiors in rank in the Bolivian police force to provide more personnel where this is warranted by the situation.

Article 71.- Common provision. Matters relating to selection, appointment or promotion, assessment and continuance in post, duties and obligations, staff numbers and other attendant matters shall be dealt with in regulations.

CHAPTER XIII

THE NATIONAL COUNCIL OF THE PUBLIC PROSECUTOR'S OFFICE

Article 72.- Composition. The National Council of the Public Prosecutor's Office is shall be composed of:

1. The State Prosecutor General as Chair.
2. The Departmental Prosecutors.
3. A Subject-Area Prosecutor, who shall be appointed annually by the State Prosecutor General of the Plurinational State from among the prosecutors who have obtained the most points on the scale.
4. The Disciplinary Regime Director.

Directors, coordinators of specialist units, Senior Prosecutors and other civil servants from the Public Prosecutor's Office may be called upon to attend for specific topics.

Article 73.- Sessions. The National Council of the Public Prosecutor's Office shall meet every six months and the State Prosecutor General may convene it as often as he or she considers necessary. The State Prosecutor General must also convene the National Council of the Public Prosecutor's Office in order to consider matters of importance for the application of the law and to establish criteria for unity of action within the Public Prosecutor's Office.

Article 74.- Powers. The National Council of the Public Prosecutor's Office shall have the following powers:

1. To make proposals to the State Prosecutor General for draft regulations of the Public Prosecutor's Office or amendments to them.
2. To make proposals to the State Prosecutor General for the creation of prosecution offices or specialist units.
3. To propose criteria for the application of the law, the improvement of prosecution management and the quality of the service and to establish unity of action within the Public Prosecutor's Office.
4. To advise the State Prosecutor General when he or she so requests.
5. Any other powers established by law.

Article 75.- Quorum. The National Council of the Public Prosecutor's Office shall be quorate with two-thirds of its total membership.

Decisions shall be adopted by a simple majority and they shall not be binding on the State Prosecutor General.

TITLE III INSTRUCTIONS, PROCEDURAL ACTIONS AND CHALLENGES

CHAPTER I INSTRUCTIONS

Article 76.- Instructions. For the purpose of establishing criteria for the application of the law and establishing unity of action within the Public Prosecutor's Office, the State Prosecutor General and the Departmental Prosecutors shall give the prosecutors under their charge the instructions relevant to the exercise of their functions.

The instructions may be general or specific.

General instructions shall refer to mechanisms for the efficiency and efficacy of the service, contributions to the development of the State's criminal policy depending on the national or local crime situation, the promotion of equity and consistency in the criteria adopted when decisions are taken on prevention, prosecution or punishment, including the bringing of appropriate disciplinary proceedings; and whatever other tasks may be necessary within the framework of the principles, values, rights and guarantees established in the Constitution, international treaties and conventions and this Law.

Specific instructions shall relate to the actions of the prosecutor in a specific matter, to his or her temporary relocation, replacement or redeployment.

Prosecutors who receive an instruction from their superior concerning the exercise of their functions must comply with it, without prejudice to the right to state their position or to object to the instruction, giving reasons, before the same authority in accordance with the provisions of this Law.

Article 77.- Form. Instructions shall be given in writing together with the reasons and transmitted by any method of communication that ensures their receipt. In necessary cases and exceptionally, instructions may be given verbally, by any method of communication, and confirmed in writing within twenty-four hours.

Article 78.- Objection. Prosecutors may only have instructions from their superiors reconsidered via an objection. The **recipient prosecutor** must inform his or her superior, giving reasons, that he or she considers the instructions to be contrary to the law, manifestly arbitrary, inappropriate to the institutional functions or prejudicial to the investigation.

General instructions **from the State Prosecutor General** may only be challenged by an objection from the Departmental Prosecutors; lower-ranking prosecutors may only object to a general instruction when required to apply it to a specific case.

Article 79.- Procedure. Objections shall be raised before the authority that issued the instructions within a non-extendable period of twenty-four hours, **which shall run from the time of notification or acknowledgement of receipt of the instruction.**

In the case of provinces, and where the means of communication are not expeditious, the time limit shall be applied by reference to the distance, on the basis of one day for every 200 kilometres.

Where an objection is raised to an instruction from the State Prosecutor General it shall be the State Prosecutor General who decides the matter, giving reasons, within a maximum of seventy-two hours from receipt. The State Prosecutor General may confirm, modify or revoke the instructions that are objected to and must communicate the decision in writing. If he or she does not decide on the objection within this time period, the objection shall be admitted.

The review of the decision dismissing the objection shall only be taken as far as the State Prosecutor General if the prosecutor raising the objection so requests.

In all cases the confirmation shall be duly reasoned, with a detailed description of the responsibilities to which it gives rise, without prejudice to the fact that the superior may allocate the case to another civil servant.

Where an objection is raised to an instruction from a Departmental Prosecutor and he or she confirms its legitimacy or appropriateness within forty-eight hours of its receipt, he or she shall forward the instruction to the State Prosecutor General, together with the objection, background and decision, within the next twenty-four hours, **provided that the objecting prosecutor has expressly so requested. If that is not the case, the instruction must be complied with immediately.**

The State Prosecutor General shall decide the objection within a maximum of seventy-two hours from receipt. If within this period the objection is not decided, it shall be admitted and the instruction that gave rise to it shall be deemed to be ineffective. The decision of the State Prosecutor General shall be communicated to the Departmental Prosecutor and to the objecting prosecutor.

If the Departmental Prosecutor modifies it or deems it ineffective, he or she shall communicate the decision to the objecting prosecutor for immediate compliance.

Article 80.- Effects. Objections to specific instructions shall have suspensive effect until a final decision has been taken on them, save where they concern procedural acts that are subject to time limits or that do not permit delay. In these cases the objecting prosecutor shall be released from responsibility for the acts performed, provided that his or her objection has been admitted.

CHAPTER II PROCEDURAL ACTIONS

Article 81.- Bringing a criminal prosecution. Prosecutors, in performing their functions, shall carry out all the procedural steps, investigations and other actions necessary for bringing a criminal prosecution.

In performing their functions they may not use evidence obtained unlawfully or evidence obtained by virtue of information originating from an unlawful procedure or medium. **In these cases they shall take action against the persons who have used illegal or wrongful methods to obtain such evidence, adopting the necessary measures to ensure that the persons responsible are brought to justice.**

Article 82.- Evidentiary activity. In the gathering and production of evidence, prosecutors shall preserve the conditions of immediacy with respect to all the subjects of the proceedings and the evidence. They shall ensure that all the items of evidence are properly collected and preserved. They shall also narrowly construe the rules on the bringing of evidence by reading out statements.

Article 83.- Form. Prosecutors shall formulate their orders and decisions in a reasoned and specific manner. They shall proceed orally at hearings and trials and in writing in all other cases, observing the appropriate procedural forms.

The requirement to give reasons may not be replaced by a mere description of the investigations undertaken.

Article 84.- Notices and summonses. Notices and summonses shall be served by the Public Prosecutor's Office within twenty-four hours of the issue of the order or decision and by any legal method of communication that ensures their receipt or by the method that the interested party has expressly accepted or proposed. **In all cases the requirements of the Code of Criminal Procedure and other related provisions shall be observed.**

In those cases in which the parties have not furnished full details of their home address and/or address for service or have provided false or wrong information in this respect, notices shall be served by the most suitable method that ensures their receipt by the addressee and, if there is no other option, through the notice board of the Prosecution Office dealing with the case. Any nullity of service shall be the exclusive responsibility of the person who has omitted to give an address or has given a wrong or false address.

In all proceedings conducted by the Central Prosecution Office, notices shall always be posted on its notice board.

Every final decision must be personally served and the prosecution authority shall be responsible for ensuring that this is done.

Article 85.- Formal records. Actions of prosecutors that have to be formally recorded in order to be valid shall be recorded in accordance with the requirements and formalities laid down in the Code of Criminal Procedure. The prosecutor may also order the correction of the formal requirements via the procedural rectification procedure. **This rectification may be carried out at any point up to the formal hearing in accordance with law.**

The omission of formalities only deprives the formal record of effect or renders its content invalid if they cannot be supplied with certainty based on other items of evidence.

The validation of formal records must not involve any infringement of constitutional rights and guarantees.

Article 86.- Alternative outcomes. In those cases in which it is appropriate to apply outcomes other than an oral hearing, as provided for in the Code of Criminal Procedure, prosecutors must request them without delay and under their responsibility, provided that the conditions required by law are present.

Article 87.- Immediate procedure. In cases where the offender is caught in the act, the case prosecutor must observe the specific procedure, seeking the resolution of the criminal case as a matter of priority.

Article 88.- Conciliation. Where the Public Prosecutor's Office is required to prosecute offences of a pecuniary nature or offences involving negligence that do not result in death, and provided no State interests are at stake, the prosecutor must, of his or her own motion or at the request of a party, urge the parties to state on what conditions they would be prepared to reach conciliation.

In order to facilitate agreement between the parties, the prosecutor may request advice and assistance from persons or entities specialising in conciliation, or order the conciliation to take place at a specialist centre, or ask the judge to encourage conciliation.

Article 89.- Hierarchical remedy. A challenge to the dismissal of a complaint and to the discontinuation of proceedings shall be decided by the prosecutor's superior on the basis of the grounds stated by the parties, within the time period provided for by law. **If warranted by the case, the prosecutor may set out his or her own reasons where they constitute mandatory grounds in relation to the fact which gave rise to his or her decision.**

The party affected by the upholding of the dismissal or discontinuation of proceedings may challenge the decision by lodging an application, giving reasons, with the judge responsible for overseeing constitutional rights and guarantees, within a non-extendable period of three days from when the final decision is known. Such an application may only be made in cases of objective infringement of such rights and guarantees. Factual matters in relation to the investigation cannot be challenged.

The prosecutor whose decision has been revoked or modified may be removed from the case at the express request of a party, lodged with the appropriate higher-ranking prosecutor within a non-extendable period of twenty-four hours from when the hierarchical or judicial decision is known.

Article 90.- Hierarchical review. The highest authority of the Public Prosecutor's Office, using its powers, may uphold or revoke dismissal decisions or decisions to discontinue proceedings in the case of offences linked to acts of corruption or to controlled substances, customs offences, mass victim cases, cases involving minors, cases in which there is no private complainant and cases involving an infringement of fundamental rights within ten days of the case file being received.

Article 91.- Guarantees for the accused. The prosecutor shall ensure at all times that the accused is aware of his or her fundamental rights, the constitutional and legal guarantees available to him or her and the state of the investigations or the proceedings when he or she is expressly consulted for that purpose, save in cases subject to restrictions or confidentiality, and of the conditions that have to be satisfied whenever an alternative outcome to court proceedings is appropriate.

In the event that the accused lacks financial resources, a state defence lawyer shall be assigned free of charge.

Article 92.- Guarantees for the victim. The Public Prosecutor's Office shall address the needs of the victim and shall inform him or her of his or her rights and obligations in the criminal proceedings and about the outcome of the investigations, even if the victim has not brought a private complaint [*querrela*]; the prosecutor shall protect the victim's right to be heard before each decision of the court and shall assign a state defence lawyer to any victim who lacks financial resources.

The victim shall be treated with the care, respect and consideration due to a person who has suffered abuse.

The victim may request a higher-ranking prosecutor to replace the prosecutor assigned to the case if he or she thinks the prosecutor is not performing his or her duties properly. The decision of the higher-ranking prosecutor shall give reasons and the decision must be reached within a non-extendable period of five days, under his or her responsibility.

Article 93.- Proceedings against minors. In investigations and proceedings against minors over the age of criminal responsibility and in proceedings to establish the responsibility of minors under the age of criminal responsibility in accordance with the law, the Public Prosecutor's Office shall act with Specialist Prosecutors and shall ensure that:

1. The conduct of the proceedings does not cause greater harm and that their dignity is protected and their identity kept confidential;
2. The media do not publish the names or images of those involved;
3. As far as possible the imposition of measures depriving them of their liberty is avoided and, if such measures are imposed, they must be kept in facilities that are separate from facilities for adults, bearing in mind the needs specific to their age.
4. Preferential treatment is given to minors deprived of their liberty by judicial, administrative and police authorities.
5. The sentence or penalty imposed is suitable for the purposes of education, rehabilitation and social integration and respects their rights;
6. Any socio-educational measures ordered do not take on the characteristics of criminal sanctions.
7. Any other provisions prescribed by law.

Article 94.- Psycho-social report. In the investigations and proceedings referred to above, the Public Prosecutor's Office shall request a psycho-social report from a public or private institution or body duly accredited to defend the rights of children, adolescents and young people and shall take their contents into account before issuing its final order or the appropriate decision. A copy of the report must be attached to the order.

Article 95.- Restrictions in relation to proceedings. Access to the investigations and proceedings referred to above shall be restricted, even after judgment has been given in the case in question, without prejudice to the reservations and exceptions provided for by law.

In no case shall the criminal record of minors facing prosecution be used against them, even if they have reached their majority.

Article 96.- Proceedings against members of indigenous peasant nations and peoples. In investigations and criminal proceedings against members of indigenous peasant nations and peoples in the ordinary courts, the Public Prosecutor's Office shall act with consideration for their cultural diversity and world view. Wherever possible it shall listen to the opinion of an expert or of the authorities or organisations of indigenous peasant nations and peoples, without that opinion being binding on the prosecutor's decision. Reasons must be given on this aspect in the decisions issued.

CHAPTER III DISQUALIFICATION AND RECUSAL

Article 97.- Grounds. Prosecutors shall be disqualified on the following grounds:

1. A relationship with one of the parties, his or her agents, lawyers or the judge, up to the fourth degree of blood relationship and the second degree by marriage.
2. A spiritual relationship with one of the parties, as a godfather or godchild by marriage or baptism.
3. A close friendship or enmity with one of the parties shown by well-known, unequivocal and recent facts. Recusal shall not apply in any case where the prosecutor suffers personal attacks or insults after assuming responsibility for managing a case or hearing and determining a matter.
4. Being a creditor, debtor or guarantor of one of the parties, except in the case of legal persons.
5. Having been a lawyer, agent, witness, expert or guardian in the matter that he or she is required to hear and determine.
6. Having a pending court case with one of the parties, **provided that it has not been provoked intentionally so as to remove him or her from the case.**
7. Having received unlawful benefits or gifts from one of the parties.
8. Having expressed an opinion on the subject-matter of the case in a public manner.

No more than three prosecutors may be disqualified successively.

Where a recusal is clearly inappropriate, does not fall under any of the grounds specified or is not supported, the prosecutor's hierarchical superior shall proceed to reject it *in limine* and must immediately inform the disqualified prosecutor so that he or she can continue to deal with the case.

Article 98.- Recusal procedure. Within three days of learning of the ground for recusal, the parties may submit a reasoned request for recusal to the prosecutor's hierarchical superior, accompanying it with sufficient evidence and expressly indicating the date on which and circumstances in which the ground relied on became known.

Once the request for recusal has been made, the higher-ranking prosecutor shall notify the prosecutor under challenge so that he or she can submit a report within twenty-four hours of the notification. Within twenty-four hours of receipt of the report, the higher-ranking prosecutor shall decide the matter of recusal by a reasoned final decision.

The parties may not challenge the higher-ranking prosecutor or request another recusal on the same grounds.

If the challenge is upheld, the prosecutor in question shall be permanently removed from the case and may not resume dealing with it even if the ground that led to his or her recusal no longer applies.

The higher-ranking prosecutor dealing with the recusal request shall ensure that the new prosecutor appointed does not come under the grounds for recusal detailed in the preceding article.

Article 99.- Disqualification. Prosecutors may only disqualify themselves on the grounds laid down for recusal, while observing the time limits and requirements that apply to recusal. In those cases in which there is no identified victim and no private complainant, the prosecutor must make his or her impediment known to his or her hierarchical superior by means of a reasoned report accompanied by the investigation notes, without prejudice to the essential measures which must be taken to preserve evidence or procedural documents. The higher-ranking prosecutor must reach his or her decision within a maximum period of forty-eight hours. In the event that the disqualification is ruled lawful, he or she shall order the case to be prosecuted by another prosecutor. In the event that the disqualification is ruled unlawful, he or she shall impose a fine equivalent to one day's salary and a copy of the decision shall be sent to the Disciplinary Regime Director.

The State Prosecutor General may not be disqualified, but may disqualify himself or herself from dealing with a case, on the grounds established **in this Law**. For this purpose the State Prosecutor General shall issue a reasoned decision and shall refer the hearing of the matter to **his or her deputy**.

TITLE IV **INVESTIGATION BODIES**

CHAPTER I **BODIES PERFORMING CRIMINAL INVESTIGATION FUNCTIONS**

Article 100.- Technical Investigation Team. The Public Prosecutor's Office shall have its own specialist multidisciplinary investigation team which, together with the Forensic Investigations Institute and the Bolivian police force, through their different investigation units and, where necessary, independent professionals, shall be responsible for identifying and apprehending the suspect, identifying and assisting victims, collecting, analysing and safeguarding evidence, and any other actions ordered by the prosecutor leading the investigation.

Where active members of the Bolivian police force are appointed for this purpose, they shall be declared on permanent secondment by their commanding officers. This declaration shall be issued on a simple request from the hierarchical prosecution authority, without delay and without affecting their career in the police.

Article 101.- Functional management. Members of the technical investigations team or bodies performing criminal investigation functions must perform their functions under the functional management of the prosecutor or prosecutors assigned to the case, from whom they shall receive direct orders and instructions.

Functional management shall mean legal and strategic management of the investigation, **under the principles set forth in this Law, together with** the issuing of

direct orders to the technical investigations team or bodies performing criminal investigation functions, ensuring legality and respect for the constitutional rights and guarantees of the persons involved, supervising compliance with them and initiating disciplinary proceedings against civil servants who fail to perform their duties, without prejudice to the corresponding civil, administrative or criminal liability.

Article 102.- Investigative measures. The members of the technical investigations team or bodies performing criminal investigation functions may carry out preliminary or immediate-response investigations **in order to secure the evidence and the crime scene, assist the victim, and make arrests where legally appropriate.** They must inform the Public Prosecutor's Office of the steps taken within eight hours of their first involvement. They shall then act under the functional management of the prosecutor.

Members of the Bolivian police force must necessarily and compulsorily intervene directly in cases where the offender is caught in the act or where they have direct knowledge of a fact which is considered a crime, taking the necessary actions under their responsibility.

Article 103.- Special committee. In cases of special investigations, **the higher-ranking or general prosecutor** may order the setting up of a special investigation committee made up of national and international police officers and others.

Article 104.- Responsibility. Without prejudice to the responsibility that lies with the State, civil servants who perform criminal investigation functions shall be criminally, civilly and administratively liable for poor performance of their duties, after due process.

CHAPTER II FORENSIC INVESTIGATIONS INSTITUTE

Article 105.- Purpose. The Forensic Investigations Institute is the body charged with carrying out all the technical-scientific, criminal investigation, legal medicine and forensic science studies required for the investigation of offences by the Public Prosecutor's Office. It shall also be responsible for technical-scientific studies entrusted to it by order of a court for verification of other matters.

In its technical functions it is independent and issues reports and opinions in accordance with the rules of scientific investigation and expert assessments, as the case may be, **under the responsibility laid down in this Law.**

Article 106.- Structure. The Forensic Investigations Institute shall be made up of a national Directorate, **specialist Directorates** and the organic structure **established by regulations**, according to the needs of the service.

The Institute's staff shall be appointed by public competition. It shall have multidisciplinary teams to support the criminal investigation. Its organisation and functioning shall be regulated by the State Prosecutor General.

The use of mobile laboratories may be ordered, especially for work involving immediate action, in all places where so required, in accordance with the provisions to be set out in regulations.

Article 107.- Functions. The Forensic Investigations Institute shall have the following functions:

1. To carry out medico-legal, psychological and psychiatric examinations; to carry out technical-scientific laboratory analyses; to carry out any specialist technical investigations that may be requested by the prosecutor and/or entrusted to it by order of a court.
2. To carry out expert assessments and issue reports and opinions in accordance with the rules of scientific investigation and the criminal procedure.
3. To implement and draw up scientific programmes on forensic and criminal investigation and apply the results achieved.
4. To publish the resulting scientific activities, programmes and investigations.
5. To collaborate within and outside the State with institutions, authorities and individuals in relation to the investigation of crime in coordination with the Central State Prosecution Office.
6. To send reports on its activities to the State Prosecutor General and to the Departmental Prosecutors.
7. Any other functions assigned to it by law and/or regulations.

Article 108.- Reporting structure. The Forensic Investigations Institute reports administratively and financially to the Central State Prosecution Office and enjoys **financial, administrative and functional independence** in the performance of its technical-scientific tasks.

It is proposed to add the following in the final part:

CHAPTER III THE PROSECUTION MANAGEMENT, SUPERVISION AND EVALUATION SYSTEM OF THE PUBLIC PROSECUTOR'S OFFICE

Article 109.- Prosecution Management, Supervision and Evaluation Directorate. The Prosecution Management, Supervision and Evaluation Directorate is charged with monitoring the proper functioning of the Public Prosecutor's Office in order to ensure and promote efficiency and efficacy and assist in identifying the needs of the civil servants working in the Public Prosecutor's Office in terms of training, education or improvement, and evaluating the performance of prosecutors in carrying out their responsibilities in accordance with the prosecution career structure. It shall have functional autonomy when performing its tasks. It may receive general instructions from the State Prosecutor General on general aspects of its functions.

Article 110.- Structure. The Prosecution Management, Supervision and Evaluation Directorate shall consist of the Director and the inspectors, who may be members of the prosecution career structure. Area or regional coordinators may be appointed according to the needs of the service. Its organisation and functioning shall be regulated by regulations.

Article 111.- Director. The Prosecution Management, Supervision and Evaluation Director shall be appointed by the State Prosecutor General following a public competition and on merit. **Particular weight shall be given to experience gained** during a prosecutorial career. The Prosecution Management, Supervision and Evaluation Director must also satisfy the requirements laid down for Departmental Prosecutors. He or she shall be appointed for a five-year term and may be reappointed, provided that he or she participates in the corresponding competition and is selected on merit.

Article 112.- Functions. The functions of the Director of Prosecution Management, Supervision and Evaluation of the Public Prosecutor's Office shall be as follows:

1. To establish guidelines making it possible to standardise the bringing of criminal prosecutions, taking into account the prevalence of offences in each department.
2. To propose general instructions, manuals and other guides aimed at improving the work of prosecutors.
3. To check on and monitor the general instructions, regulations, manuals, standards and other guides in force in the Public Prosecutor's Office for the performance of its functions.
4. To evaluate the results obtained from criminal proceedings, using verification tools and statistics.
5. To ensure that the Public Prosecutor's Office has IT systems to record the actions of prosecutors and other civil servants appropriately, or any other method that ensures this objective is met.
6. To design and propose institutional management policies.
7. To propose institutional management targets, having regard to the suitability and efficiency of staff and the quality of services, and taking into account the quantity, complexity and nature of cases, as well as the human and material resources available.
8. To manage the performance evaluation process in order to establish whether or not an individual is performing satisfactorily in his or her post.
9. To manage the procedures for inspecting cases, units or offices of the Public Prosecutor's Office.
10. To initiate disciplinary or criminal proceedings if, in exercising its functions, it obtains reliable knowledge about the probable commission of disciplinary offences and/or crimes.
11. To propose the creation of specialist offices and units or area coordination offices according to the needs of the service.
12. To coordinate initial, ongoing or permanent and specialist training for prosecutors, together with performance management instruments and investigation materials, with the Training Institute of the Public Prosecutor's Office.
13. To coordinate scientific, criminal and forensic investigation programmes with the Forensic Investigations Institute.
14. Any other function assigned to it by law.

CHAPTER IV
THE DIRECTORATE FOR PROTECTION AND ASSISTANCE TO
VICTIMS, WITNESSES AND CIVIL SERVANTS

Article 113.- Directorate for Protection and Assistance to Victims, Witnesses and Civil Servants. This Directorate is charged with protection and assistance to victims, witnesses to crime, persons who collaborate with the prosecution services and civil servants of the Public Prosecutor's Office.

Article 114.- Structure. The Directorate is made up of a Director and the necessary support staff, to be determined by regulations. The Director shall be appointed by the State Prosecutor General and must satisfy the requirements for Departmental Prosecutors. He or she shall have technical and logistical support staff under him or her, together with a multidisciplinary advisory team where necessary. Area and regional coordination offices may be established, and units shall be established in the Central State Prosecution Office and in the Departmental Prosecution Offices, performing functions according to the needs of the service. Its organisation and functioning shall be regulated by the Public Prosecutor's Office.

Article 115.- Powers. This Directorate shall have the following powers:

1. To deal through the prosecutor assigned to the case with requests for protection from the victim or a witness, his or her spouse or cohabitee, ascendants, descendants, brothers and sisters, blood relatives up to the second degree and the legal and medical-social evaluation of each particular case.
2. To coordinate, together with the prosecutor assigned to the case, actions proposed by the victim in order to pursue the civil action arising from the offence where the victim is not in a socio-economic position to bring a claim, or where the person who has suffered harm lacks capacity and does not have legal representation.
3. To require the various bodies of the Public Prosecutor's Office to provide information on proceedings and results obtained in relation to cases with which they are dealing where they are in the victim's interest.
4. To promote the implementation of national or international cooperation programmes with public or private institutions and to coordinate the activities that are necessary to carry out victim and witness assistance plans.
5. To establish in coordination with the police whatever physical protection mechanisms may be necessary for the victims of crime, complainants, witnesses, civil servants of the Public Prosecutor's Office or persons who, by virtue of their collaboration with the prosecution services, find their physical integrity or that of their family under threat.
6. Any other powers provided for by regulations.

CHAPTER V
THE NATIONAL SCHOOL OF PROSECUTORS, INVESTIGATORS AND CIVIL
SERVANTS OF THE PUBLIC PROSECUTOR'S OFFICE

Article 116.- Purpose. The School is the technical-academic body within the Public Prosecutor's Office that is **charged with planning, managing and developing** procedures for initial, in-service, updating, specialist and promotion training for prosecutors, investigators and civil servants in the Public Prosecutor's Office, and systematising legal opinion, national legislation, comparative legislation and case-law relevant to the functions of the Public Prosecutor's Office.

The headquarters of the School shall be in the city of Sucre, in the place or locations that the State Prosecutor General determines, having heard the opinion of the National Council of the Public Prosecutor's Office.

Article 117.- Board. The National Prosecutors' School shall act under the authority of a Board consisting of:

1. The State Prosecutor General as its Chair.
2. Two Departmental Prosecutors appointed by the National Council of the Public Prosecutor's Office.
3. The Disciplinary Regime Director and the Monitoring, Supervision and Evaluation Director.
4. The Director of the School, who shall participate as secretary.

Article 118.- Structure. The National Prosecutors' School shall be composed of:

- The Director.
- Heads of department.
- Technical support team.

The Director and other staff of the School shall be appointed by public competition on the basis of merit and experience by the State Prosecutor General. Members of the prosecution career structure may be appointed.

Its organisation and operation shall be regulated by the Central State Prosecution Office and shall be subject to evaluation in accordance with the regulations.

Article 119.- Functions. The Board of the National Prosecutors' School shall have the following functions:

1. To approve the general activities plan and the academic plan proposed by the School's Director.
2. To propose a list of candidates to the State Prosecutor General for selection and employment as teachers in the School, along with support staff.
3. To approve the School's draft budget proposed by the Director.
4. To approve cooperation agreements with national and international agencies and bodies for signature by the State Prosecutor General.

5. To require the School's Director to provide reports on the implementation of programmes for systemisation, updating, education and training, and any other programmes considered necessary.
6. To instruct the School's Director to comply with plans, programmes and activities.

Article 120.- Representation. The Director of the National Prosecutors' School, acting on the authority of the State Prosecutor General, legally represents the School in its relationship with all public and private bodies.

Article 121.- Technical support team. The team shall be made up of multidisciplinary professionals whose functions shall be determined by regulations.

TITLE V HUMAN RESOURCES

CHAPTER I THE PROSECUTION CAREER SYSTEM

Article 122.- The prosecution career structure. The prosecution career structure is the system covering the appointment, continuance in post, evaluation and promotion of prosecutors in the Public Prosecutor's Office. It is based on recognition of merit and gradual accreditation of prosecutors' knowledge and legal training.

Internal and external competition procedures shall be organised depending on the needs of the service and vacancies within the structure of the Public Prosecutor's Office.

Article 123.- Continuance in post. The continuance in post and promotion of prosecutors shall be guaranteed by the prosecution career structure. Prosecutors may not be dismissed, removed, terminated or suspended, save in the cases specified by law.

Article 124.- Structure. The prosecution career structure includes Subject-Area Prosecutors. The prosecution career system is made up of the following subsystems:

1. Planning and entry.
2. Evaluation, continuance in post and promotion.
3. Training and specialisation.
4. Staff establishment table and information.
5. Remuneration.

Article 125.- Planning and entry subsystem. The planning and entry subsystem comprises the following phases:

1. Internal and external public competitions following an assessment of needs.

2. Selection, through competitions based on merit, examination of knowledge and/or competence. This shall include an initial training process which shall be under the charge of the National Prosecutors' School and shall be attended personally, all phases of which must be completed satisfactorily, including the practical training period.
3. Induction through the actions required to familiarise new civil servants with the mission, plans and programmes of the Public Prosecutor's Office and with the position that he or she is taking up, together with the rules to be complied with.

It shall be subject to principles of transparency, equality, merit and ability by means of objective public assessment and complaint mechanisms.

Article 126.- Training and specialisation subsystem. The training and specialisation subsystem includes ongoing or specialist training for prosecutors to encourage their improved performance in the duties inherent in the post and specialist training on the prosecution of particular offences or on a specific subject area.

Article 127.- Evaluation, continuance in post and promotion subsystem. The evaluation, continuance in post and promotion subsystem includes the set of rules and procedures for evaluating the performance of prosecutors in carrying out their duties, in terms of standards of probity, suitability, efficiency and efficacy, in order to decide on their continuance in post and advancement in the prosecution career structure.

For the purposes of the provisions of the preceding paragraph, every prosecutor in the prosecution career structure shall be evaluated at least once every year.

Other prosecutors appointed to meet the needs of the service shall also be evaluated at least once every year.

Article 128.- Staff establishment table and information subsystem. The prosecution staff establishment table and information subsystem shall record in a systematic, organised and permanent way the recruitment, performance, training, strengths, weaknesses, promotion and retirement of prosecutors.

Article 129.- Remuneration subsystem. The remuneration subsystem includes the set of rules established to provide appropriate remuneration for prosecutors for the performance of their duties, along with individual performance incentives based on the results of the staff and institutional management evaluations by reference to the targets set. This remuneration shall be subject to a scale fixed in relation to the responsibility of the position.

CHAPTER II THE STAFF PROVISION AND ADMINISTRATIVE CAREER SYSTEM

Article 130.- Staff provision system. The staff provision system is the process of selecting and recruiting human resources whose specialist knowledge covers the

requirements inherent in the investigation, administration and logistical support functions. Its structure shall be determined by regulations.

Article 131.- Staff. In order to perform its functions, the Public Prosecutor's Office shall have the necessary staff to perform investigation, administration and technical support functions, organised in accordance with regulations.

Article 132.- Administrative career structure. The administrative career structure encompasses all staff who perform investigation, administration and technical support functions as employees of the Public Prosecutor's Office in accordance with regulations and is the system covering their appointment, continuance in post, evaluation and promotion.

Article 133.- Agreements. The State Prosecutor General, through the Departmental Prosecutors, may enter into agreements with public and/or private universities or professional and/or technical training institutes so that students on law degree courses or other courses connected with the functions of the Public Prosecutor's Office may undertake voluntary work to support the management of the institution as part of their academic practice.

No other person may perform any function having these characteristics in the Public Prosecutor's Office.

TITLE VI DISCIPLINARY REGIME

CHAPTER I GENERAL PROVISIONS

Article 134.- Disciplinary regime. This is the set of legal principles, rules, institutional functions and procedures that enables the Public Prosecutor's Office, within the framework of the Political Constitution of the State, to exercise the power to apply disciplinary penalties when prosecutors commit a disciplinary offence of the kind specified in this Law.

Article 135.- Principles of liability.- All members of the Public Prosecutor's Office shall be criminally, civilly and administratively liable for offences committed in the exercise of their functions. The disciplinary penalty is independent of civil and criminal liability. The criminal penalty does not exclude the application of a disciplinary penalty for the same offence, nor does it preclude or suspend the disciplinary investigation or proceedings. Once disciplinary proceedings have been started, if a prosecutor resigns from or abandons his or her post, the disciplinary process shall not be interrupted and shall continue until its completion.

Article 136.- Due process. Every civil servant in the Public Prosecutor's Office who is subject to disciplinary proceedings shall have the right to a just and fair process in which his or her rights shall be aligned with the general legal provisions that are applicable to persons in a similar situation, and which shall include the requirements of substance and form that must be observed in the investigation and the conduct of the disciplinary proceedings by competent civil servants.

A person who is the subject of disciplinary proceedings shall be considered innocent until found guilty in a final, unappealable decision.

Article 137.- Rights of the defence. A person who is the subject of disciplinary proceedings shall have the right to be informed by the disciplinary authority, disciplinary examiner, tribunal or investigator of his or her right to appoint a defence lawyer whom he or she trusts. In the event that he or she does not appoint a lawyer, one shall be appointed for him or her immediately and without further formalities, or the person who is the subject of the disciplinary proceedings may be authorised to defend himself or herself personally, provided that this does not prejudice the efficacy of the defence.

Article 138.- Personal scope of application. The disciplinary regime described in this Title is applicable to Departmental Prosecutors, Senior Prosecutors, Specialist Subject-Area Prosecutors, Subject-Area Prosecutors and Assistant Prosecutors.

The authorities and staff within the national hierarchy, save for the State Prosecutor General and his or her Deputy, and those of the disciplinary system, shall also subject to this disciplinary regime and shall be judged in accordance with the procedure established in this Law.

This regime also applies to persons doing paid or unpaid practical training, save where the agreements signed in respect of such training provide otherwise.

Article 139.- Temporal scope of application. The provisions of this disciplinary regime and the corresponding regulations shall apply automatically to all cases from the date of its entry into force.

Procedural measures taken under the previous regime shall remain valid. Matters and offences which predate this Law and have not yet been subject to proceedings must be dealt with under the procedure laid down in this regime.

Article 140.- Disciplinary offences. Disciplinary offences are classified as very serious, serious and minor. Disciplinary proceedings and penalties shall be governed by this Law, save in the case of paragraph two of the preceding article.

Article 141.- Very serious offences.

I.- The following are considered very serious offences:

1. A negligent failure to follow instructions or circulars received that may damage the criminal prosecution process or the institution, provided the instructions or circulars were issued in the manner provided for in this Law.
2. Unjustified absence for more than three consecutive days or five days in total within one month, without prejudice to any allowances that may be made by means of regulations.
3. Reporting for duty in a state of inebriation or an inappropriate state.
4. Destroying, modifying, concealing, suppressing, altering, inserting or causing the insertion of false statements in documents or evidence in criminal or disciplinary proceedings, personally or through another person.
5. A negligent failure to comply with time limits, leading to the termination of a criminal action or to it becoming time-barred or being abandoned. **In the case of restricted appeals¹ and appeals to the Court of Cassation², the prosecutor shall have full autonomy to decide whether their submission is appropriate, unless the next highest ranking prosecutor or the Litigation Ombudsman objectively determines negligence on the prosecutor's part, in which case it shall be considered a very serious offence.**
6. Making a formal charge or accusation in the knowledge that it is based on evidence obtained in violation of fundamental rights and/or judicial guarantees, in accordance with the Political Constitution of the State, international treaties and conventions and the laws, or based on evidence that is clearly falsified.
7. Requesting or receiving, directly or through an intermediary, for oneself or for a third party, money, gifts or any other benefit or accepting an offer or promise to perform, cease to perform or delay any act relating to his or her functions (THIS POINT CONSTITUTES A CRIMINAL OFFENCE)
8. A negligent failure to exercise his or her disciplinary power.
9. A negligent failure to comply with time limits in disciplinary proceedings for which he or she is responsible.
10. Accepting or exercising orders, pressure or commissions that compromise objectivity and probity in the performance of his or her duties.
11. Undue subordination to any authority, person, organisation or entity that jeopardises objectivity and probity in the performance of his or her duties where this is a publicly known fact.

¹ Translator's note: recurso de apelación restringida – an appeal against a failure to follow the law or an incorrect application of it.

² Translator's note: recurso de casación – final level of appeal.

12. Allowing persons from outside the institution to intervene in the prosecution function, save with the prior agreement or express authorisation of the hierarchical authority.
13. Bullying or sexual harassment in the course of the working relationship or the provision of services which creates an objectively intimidatory, hostile or humiliating environment for the person or persons subjected to it.
14. Mistreatment or **malicious** refusal of a service by reason of discrimination on the grounds of sex, origin, culture, nationality, citizenship, language, economic or social condition, disability or any other grounds established in the Political Constitution of the State and the laws. (THIS POINT IS REGULATED BY LAW NO. 45 AND ITS REGULATIONS)
15. Coming under the prohibitions detailed in this Law.
16. **Committing a serious offence after being sanctioned for two previous serious offences.**
17. Making a false and reckless declaration in statistical reports.
18. Withdrawing accusations made or discontinuing appeals lodged, **without giving proper reasons.**
19. Revealing matters or information learned in the exercise of his or her duties that jeopardise the investigation or in respect of which there is a duty to restrict disclosure.
20. Allowing the team of investigators or the police officers carrying out direct action to commit any act of violence, ill-treatment or torture prohibited by the Political Constitution of the State, international treaties and conventions and the laws.
21. Having had two disqualification requests declared illegal in one year.
22. Issuing improper **or unfounded** decisions in order to prejudice or benefit one of the parties.
23. **Appointing or favouring the appointment of persons coming under the grounds of incompatibility or prohibition laid down in the Constitution and this Law as prosecutors or prosecution support staff.**

II.- The penalty for this type of offence shall be permanent dismissal from the position held, termination of employment and consequent permanent withdrawal from the prosecution career structure.

Article 142.- Serious offences.

I.- The following are considered serious offences:

1. A negligent failure to follow instructions or circulars received that may damage the criminal prosecution process or the institution, provided the instructions or circulars were issued in the manner provided for in this Law.
2. Unjustified absence for more than two consecutive days or three days in total within one month, without prejudice to any allowances that may be made by means of regulations.

3. Unjustified failure to comply with time limits, excluding those cases classified as a very serious offence.
4. A negligent failure to comply with time limits in the disciplinary proceedings under his or her charge.
5. A negligent failure to exercise his or her disciplinary power.
6. Loss of documents under his or her charge due to failure to take proper care of them where this may cause prejudice to a case or to the institution.
7. Giving instructions, interfering or exerting any form of pressure with the aim of improperly favouring one of the parties in criminal, administrative or disciplinary proceedings.
8. Intentionally giving wrong information to the parties in relation to criminal proceedings.
9. Not giving information to the parties in relation to criminal proceedings, save where disclosure of the proceedings has been declared restricted in accordance with the provisions of criminal procedure or where there is a legally established duty of confidentiality or discretion.
10. Disclosing by any method information that infringes constitutionally recognised rights in favour of parties to the proceedings or the victim.
11. Making false statements in applications or procedures relating to: leave of absence, secondments, authorisations, declarations of incompatibility and salaries.
12. Negligently making false declarations in statistical reports.
13. Abusing his or her position in order to obtain favourable treatment for himself or herself or for third parties from authorities, civil servants or individuals.
14. Misappropriating equipment, materials or goods that are under his or her responsibility, for his or her personal use or for use by third parties.
15. Unjustified absences from hearings or proceedings which the Political Constitution of the State, treaties, international conventions and laws require him or her to attend.
16. Failure to observe the duty to disqualify himself or herself, when he or she is aware that one of the grounds for disqualification exists.
17. Being found guilty of three minor offences **in the course of a year.**
18. Failure to properly record procedural steps and investigations on the computer system in the manner and in accordance with the procedures laid down by the institution.
19. Unjustifiably suspending hearings in proceedings and/or investigations.
20. Committing acts of physical violence or ill-treatment against superiors, subordinates or work colleagues.
21. Not ensuring awareness of and compliance with the rights of persons arrested, apprehended or detained, provided this does not constitute a very serious offence.
22. Illegally returning vehicles, goods and other objects of value that have been seized or confiscated **or unjustifiably refusing to return such goods when they are his or her custody.**

23. Actively participating in political parties, citizens' groups or unions.

24. Unjustifiably refusing to submit to inspections or reviews ordered by higher-ranking authorities, in the performance of his or her specific duties.

II.- The penalty for serious offences of this type shall be either: loss of the right to promotion for a year, temporary relocation to the provinces where appropriate or a fine of up to 40% of the basic salary.

Article 143.- Minor offences.

I.- The following are considered minor offences:

1. Unjustified absence from work for one day or two days in total within one month.
2. Repeated ill-treatment of parties to the proceedings and of civil servants providing support for the prosecution.
3. Failure to comply with the duty to grant a hearing to a party who has a legitimate right to one or failing to attend at the time set for it without a justified reason.
4. Leaving the place where he or she works, without the appropriate leave of absence or authorisation, during working hours and without justification.
5. Showing discourtesy or disrespect to equals or subordinates in the hierarchical structure, citizens, institutions, judges and senior judges, prosecutors, prosecution and judicial support staff, forensic doctors, lawyers, investigators, indigenous authorities, persons requiring special care such as disabled persons, pregnant women, the elderly, children and adolescents, where, in view of the circumstances, the failure does not merit classification as a serious offence.
6. Unjustified failure to respect orders or observations received from superiors, save where this constitutes a more serious offence.
7. Showing discourtesy or disrespect to citizens, institutions, judges, senior judges, lawyers and other parties to proceedings when a request is made to use an official language in the event of it being proved that he or she had an adequate and sufficient knowledge of that language or where he or she did not make appropriate provision for the participation of a translator or interpreter, given his or her lack of knowledge of the language.
8. Inappropriate handling of investigation notes, documents and other procedural matters entrusted to him or her in the exercise of his or her specific functions, save where this constitutes a more serious offence.
9. Any other action that represents inappropriate, negligent, careless or dilatory personal or professional conduct in the performance of his or her duties and damage to the image of the prosecution service, where this can be properly repaired or remedied.

10. The performance of duties that do not form part of his or her specific functions during working hours.

11. Unjustifiable refusal to work the shifts allocated to him or her.

II.- The penalty for this type of offence shall be either: a verbal warning, a written warning recorded on the staff establishment table or a fine of up to three days' salary.

Article 144.- Limitation. Minor offences shall become time-barred three months after their commission, serious offences **one year** after their commission and very serious offences **two years** after their commission.

If the offender concealed evidence in such a way as to **impede** knowledge of the offence, the limitation period shall start to run from when the impediment ceased.

The lodging of the complaint shall interrupt the limitation period.

CHAPTER II STRUCTURE OF THE DISCIPLINARY REGIME

SECTION I DISCIPLINARY AUTHORITIES. ADMINISTRATIVE LEVEL

Article 145.- National Disciplinary Regime Directorate. The National Disciplinary Regime Directorate is charged with exercising disciplinary supervision over the prosecutors in the Public Prosecutor's Office and with investigating and processing disciplinary offences, **and has national jurisdiction.** In exercising this function it must guarantee and promote efficiency and efficacy in the performance of its functions, powers, instructions and obligations in accordance with the principles of the disciplinary regime and the prosecution career structure. In performing its functions it shall have functional autonomy. It may receive general instructions from the State Prosecutor General on general aspects of its functions but not on specific cases.

Its headquarters shall be in the Central State Prosecution Office.

Article 146.- Departmental Disciplinary Regime Directorates. Within each Departmental Prosecution Office there shall be a Disciplinary Regime Directorate with jurisdiction within the department. It shall have similar powers to the National Disciplinary Regime Directorate.

Article 147.- Structure. The National Disciplinary Regime Directorate and the Departmental Disciplinary Regime Directorates shall be composed of a Director, the Disciplinary Examiners' Office, disciplinary investigators and the necessary support staff. With the exception of the support staff, they may be members of the prosecution career structure. However, once they have been appointed as members of the disciplinary regime, they may not act as prosecutors in preventive or substantive cases within the framework of this Law, although this does not mean that they are outside the prosecution career structure. Their organisation and functioning shall be regulated by regulations.

Article 148.- Directors. **The National and Departmental Disciplinary Regime Directors shall be appointed by the State Prosecutor General following a public competition and on merit.** In order to be a National or Departmental Disciplinary Regime Director the requirements for appointment as a Departmental Prosecutor must be satisfied. They shall hold office for five years and shall be subject to performance reviews whilst in post. They may be reappointed provided they take part in the corresponding competition and are selected on merit.

Article 149.- Functions. The Disciplinary Regime **Directors** of the Public Prosecutor's Office shall have the following functions:

1. To receive and pursue complaints against prosecutors and support staff up to the level of Departmental Prosecutors in accordance with the disciplinary procedure and the provisions of Article 110 of this Law.
2. To monitor and supervise compliance with the disciplinary procedure, in particular compliance with time limits, without interfering in the decision of the relevant disciplinary investigator, disciplinary examiner and other relevant disciplinary authorities.
3. **To organise the Disciplinary Examiners' Office and disciplinary investigators in accordance with regulations.**
4. To provide information on the outcome of investigations whenever the complainant, **the Litigation Ombudsman or any other authority so requests in the legitimate exercise of their powers.**
5. To order a disciplinary investigation to be carried out, of their own motion or following receipt of a complaint, into the commission of disciplinary offences or irregularities in the exercise of their functions by the prosecutors and other civil servants involved.
6. To present the outcome of the investigations conducted to the **State Prosecutor General or to the Departmental Prosecutors, as the case may be**, sending a copy of the paperwork to the State Prosecutor General in all cases.
7. To lodge a criminal complaint against prosecutors where, as a result of a disciplinary investigation, there is sufficient evidence of the probable commission of criminal offences in the exercise or on the occasion of their functions and to check that in such circumstances the investigations are carried out in accordance with the law.
8. To develop permanent programmes to prevent acts of corruption amongst prosecutors and civil servants of the Public Prosecutor's Office.
9. To send copies of disciplinary decisions for inclusion in the staff establishment table.
10. To report on the performance of their functions annually and whenever requested to do so to the State Prosecutor General **or to the corresponding Departmental Prosecutor.**

11. To verify compliance with the instructions and orders of the State Prosecutor General, **or of the Departmental Prosecutors as the case may be**, and, wherever appropriate, to determine such responsibilities as **may be necessary**.
12. To order the sending of relevant information to the Public Prosecutor's Office so that a criminal action can be started against the complainant in cases where the complaint is declared to be reckless or false.
13. To evaluate **disciplinary examiners** and prosecution investigators in accordance with the regulations.
14. **Departmental Directors shall coordinate with the National Director the tasks, instructions and other activities contributing to the aims of the disciplinary regime and shall provide the National Director with a report annually and whenever he or she so requires.**
15. To require the help or collaboration of other State authorities in the performance of their specific functions.
16. To enforce and ensure compliance with the disciplinary penalties imposed.
17. To keep the register of disciplinary penalties.
18. To provide reports and take other appropriate action for dealing with the rehabilitation of prosecutors sanctioned for very serious offences.
19. Any other function established by law or regulations.

Article 150.- Capacity to bring proceedings. The only persons with capacity to initiate disciplinary proceedings against prosecutors shall be the parties to the proceedings, the victim, even if he or she is not a private complainant in the criminal case, and the state bodies empowered by law within a criminal case in progress, without prejudice to the right of the Director to start proceedings of his or her own motion in accordance with this Law.

The Litigation Ombudsman shall also have capacity to bring proceedings in accordance with the powers conferred on him or her by this Law or regulations.

Article 151.- Prevention and internal management work. The National Disciplinary Regime Director and the Departmental Directors may order preventive measures to be taken to encourage good performance by prosecutors, such as inspections, checks on the quality of the service and other checks relating to the function, with a view to detecting errors or shortcomings that can be immediately remedied or rectified or generating appropriate training procedures in coordination with other relevant bodies of the Public Prosecutor's Office.

The manner of performing these tasks and the handling of the results shall be detailed in regulations.

SECTION II

DISCIPLINARY AUTHORITIES. DECISION-MAKING OR OPERATIONAL LEVEL

Article 152.- Disciplinary authorities. In the first fifteen working days of each year, the Central State Prosecution Office and each Departmental Prosecution Office shall appoint, confirm in office or restructure a Disciplinary Examiners' Office, disciplinary investigators and Departmental Disciplinary Tribunals under the charge of the National Disciplinary Regime Directorate and the Departmental Disciplinary Regime Directorates, under their responsibility.

Article 153.- Disciplinary Examiners' Office. The National and Departmental Disciplinary Regime Directors of the Public Prosecutor's Office shall establish a Disciplinary Examiners' Office in accordance with the preceding article which shall be under the charge of disciplinary examiners, who shall be responsible for:

1. Leading the investigation into the matters complained of and gathering the evidence to prove them, jointly with the investigators under them.
2. Determining the responsibility of the alleged perpetrators and forming their conclusions, classifying the offence committed in accordance with the disciplinary provisions of this Law and its implementing regulations, taking an objective view in all cases.
3. Setting dates for and personally conducting hearings for the production of evidence, inspections, expert assessments and whatever procedural step may be useful in order to establish the truth of the facts alleged against the civil servant.
4. Complying with the time limits set under the disciplinary regime.
5. Requesting the relevant Disciplinary Regime Director to ensure the cooperation of authorities or individuals, both within and outside the Public Prosecutor's Office, in order to obtain reports and whatever procedural step may be necessary in the instant case.
6. Providing any reports requested by competent authorities or anyone showing a legitimate interest in obtaining them, supplying them through the normal channels via the relevant Director.
7. Appointing the secretary responsible for the case from among the Public Prosecutor's Office's support staff, after hearing the Director's opinion, without prejudice to the fact that the Director may permanently appoint a civil servant with responsibility for this function.
8. Keeping with due care and diligence the evidence and record of actions taken and performing other tasks falling to them or prescribed by regulations.
9. Supporting the disciplinary prosecution.
10. Challenging decisions of the Disciplinary Tribunal that cause damage.

11. Deciding cases relating to minor disciplinary offences under summary procedure.
12. Other powers conferred by this Law or relevant regulations.

Article 154.- Requirements, number of disciplinary examiners, duration and prosecution career structure. In order to be a disciplinary examiner in disciplinary matters, the same requirements must be satisfied as for a Specialist Subject-Area Prosecutor.

The number of disciplinary examiners in each Office, the duration of their appointment and the preservation of their position in the prosecution career structure, together with other related matters, shall be determined by regulations.

Article 155.- Disciplinary regime investigators. As provided in Article 152, disciplinary investigators shall be appointed in each Disciplinary Regime Directorate. Their number, the requirements for appointment and continuance in post, their powers and responsibilities and other related matters shall be determined by regulations.

Functionally they shall report to the respective disciplinary examiner and administratively to the corresponding Disciplinary Regime Director.

Article 156.- Disciplinary Tribunals. A Disciplinary Tribunal shall be set up in each Disciplinary Regime Directorate in accordance with Article 152. It shall be composed of three full members and three substitutes, selected in the following way:

a) DEPARTMENTAL DISCIPLINARY TRIBUNALS:

- 1.- The Departmental Prosecutor or the **authority expressly delegated by him or her.**
- 2.- A full member chosen by the State Prosecutor General from the civil servants in the Public Prosecutor's Office.
- 3.- The Subject-Area Prosecutor from the department who has achieved the highest assessment in the evaluation.

b) NATIONAL DISCIPLINARY TRIBUNAL:

- 1.- The State Prosecutor General or the authority expressly delegated by him or her.
- 2.- A Senior Prosecutor appointed by the State Prosecutor General.
- 3.- The Subject-Area Prosecutor who has achieved the highest assessment in the evaluation at national level.

Article 157.- Competences. Departmental Disciplinary Tribunals shall be competent to:

1. Hear, conduct and decide disciplinary proceedings against Subject-Area Prosecutors, Specialist Prosecutors, **Assistant Prosecutors, Itinerant Prosecutors and other civil servants** in support functions within the department for serious and very serious offences committed in the exercise of their functions.
2. Adopt the interim measures provided for in this Title in the disciplinary cases which they hear.
3. Hear and decide **applications lodged with them** for reconsideration of decisions given in disciplinary proceedings.
4. Hear and decide **appeals submitted in relation to summary proceedings conducted by disciplinary examiners.**
5. **Receive, allow or dismiss *in limine*, as appropriate, appeals lodged with the National Disciplinary Tribunal.**
6. **Exercise disciplinary supervision and authority over staff working directly for them.**
7. **Perform such other functions as this Law or its implementing regulations may specify.**

The Departmental Disciplinary Tribunal of the department of Sucre shall be competent to hear, conduct and decide disciplinary proceedings against civil servants working for the IDIF and civil servants working as support staff in the Central State Prosecution Office.

The National Disciplinary Tribunal shall be competent to:

1. Hear, conduct and decide disciplinary proceedings against Departmental Prosecutors, Senior Prosecutors, **the General Secretary of the Central State Prosecution Office, other authorities within the national hierarchy of the Public Prosecutor's Office and the disciplinary regime in general, except for the State Prosecutor General and his or her Deputy**, for serious and very serious offences committed in the exercise of their functions.
2. Adopt the interim measures provided for in this Title in disciplinary cases.
3. Hear and decide **applications lodged with it** to reconsider decisions given in disciplinary proceedings.
4. **Hear and decide appeals allowed by Departmental Disciplinary Tribunals.**
5. **Hear and decide reasoned appeals against dismissals *in limine* by Departmental Disciplinary Tribunals.**
6. **Exercise disciplinary supervision and authority over staff working directly for it.**
7. **Perform such other functions as this Law or its implementing regulations may specify.**

Cases against members of the National Disciplinary Tribunal shall be heard by the National Council of the Public Prosecutor's Office established in Chapter X of Title II of this Law, with a right of appeal to the State Prosecutor General. In the case of members of the Council, with the exception of the State Prosecutor General, it shall be for the State Prosecutor General to call on the appropriate authority to act as substitute in the exercise of the disciplinary function.

Article 158.- Requirements for membership of a Disciplinary Tribunal.

In order to be a member of a Disciplinary Tribunal, an individual must satisfy the following requirements:

- 1. Have held the office of prosecutor or judge for at least two years, or have served as a full-time prosecutor for the same duration.**
2. Not have had a disciplinary penalty imposed on him or her and not have disciplinary proceedings pending against him or her for a serious or very serious offence.

Practising prosecutors must be declared on secondment for as long as their functions as full disciplinary judges last, so that they can dedicate themselves exclusively to such tasks when hearing and deciding specific cases. Ordinary or special investigations for which they are responsible must be passed to a prosecutor chosen by their hierarchical superior, to the Assistant Prosecutor or to the Itinerant Prosecutor, as the case may be.

Article 159.- Disqualification and recusal. The following are grounds for disqualification or recusal of **disciplinary examiners and members** of Disciplinary Tribunals:

1. Having a blood relationship up to the fourth degree or a relationship by marriage up to the second degree or a relationship by adoption with the complainant or with the civil servant who is the subject of the disciplinary proceedings.
2. Being the spouse or cohabitee of the complainant or the civil servant who is the subject of the disciplinary proceedings.
3. Being a godparent or godchild of the complainant or the civil servant who is the subject of the disciplinary proceedings.
4. Having a close friendship or manifest enmity with the civil servant who is the subject of the disciplinary proceedings. Recusal shall not apply in any case where the disciplinary examiner or Tribunal is the victim of personal attacks or insults by the civil servant who is the subject of the disciplinary proceedings after having started to deal with the case.

5. Being the creditor, debtor or guarantor of the complainant, **the investigators assigned to the case** or the civil servant who is the subject of the disciplinary proceedings.
6. Having previously made a complaint about or been the subject of a complaint from the civil servant who is the subject of the disciplinary proceedings or the complainant.
7. Sponsoring or being a party in criminal proceedings under the charge of the prosecutor who is the subject of the disciplinary proceedings.

Article 160.- Disqualification and recusal procedure. I.- A disciplinary examiner or member of a Disciplinary Tribunal falling under one of the grounds for disqualification has a duty to disqualify himself or herself from the outset of the proceedings by means of a written report giving reasons, accompanied by the corresponding documentation.

In the case of an examiner, the request for disqualification shall be made to the corresponding Disciplinary Regime Director so that he or she can designate the person who will replace the examiner if the disqualification is accepted. If it is not, the case shall be returned to the examiner seeking disqualification so that he or she can continue to deal with the case.

In the case of members of the Disciplinary Tribunal, the request for disqualification shall be made to the President of the Tribunal, who shall decide on the appropriate action together with the other qualifying members, with the member seeking disqualification being excluded. In the event of a dissenting opinion or if the necessary quorum is not achieved, the respective substitutes shall be called upon.

II.- A request for recusal of a disciplinary examiner shall be made in writing, giving reasons and providing evidence and appropriate documentation, within three days of the party being notified of the order to start the investigation.

The disciplinary examiner, in the event that he or she accepts the recusal, shall send the case file to the Disciplinary Regime Director so that he or she can designate the replacement. If the recusal is not accepted, the examiner shall send the case file to the Disciplinary Regime Director, together with the appropriate report, so that he or she can decide on the recusal within a non-extendable period of three days from receipt of the case file, with no further right of appeal.

A request for the recusal of members of a Disciplinary Tribunal shall be made in writing to the Tribunal itself, giving reasons and providing evidence, within three days of having learned of the setting of the case for preliminary hearing.

In the event that the member whose recusal is requested accepts the recusal, the President of the Tribunal shall call on the respective substitute.

If the recusal is not accepted, the President and the other qualifying members or persons called on for the purpose shall decide on the appropriate action on the basis of the accompanying evidence and report.

If the disqualification or recusal is requested for all three members of the Disciplinary Tribunal, **the substitutes called on by the President for this purpose** shall decide on the disqualification or recusal.

III.- In all cases of disqualification or recusal that are declared unfounded, a fine shall be imposed on the corresponding disciplinary authority or person applying for the recusal. The fine shall be the equivalent of one day's salary for the disciplinary examiner or the Disciplinary Tribunal respectively. The authority whose recusal was sought shall immediately resume hearing the case.

In the event that the disqualification or recusal is declared proven, the authority concerned shall be removed for good, even if the ground that led to the disqualification or recusal later disappears. The substitute called on shall take on the case with full powers, although completed disciplinary actions in the case shall not be invalidated.

IV.- A new request for recusal on the same ground may not be made.

V.- Surviving disqualifications and recusals against full members or substitutes shall follow the procedure set out above.

VI.- The authorities who are competent to decide on the disqualification or recusal may not disqualify themselves or be the subject of recusal.

VII.- Appeal authorities may disqualify themselves or be recused on the grounds set out in Article 129 and shall follow the procedure set out above, save that the request for disqualification must be made immediately, as the first action, and the request for recusal within three days of the party being notified of the decree accepting the appeal.

VIII.- In the event of an impediment due to the disqualification or recusal of full members and substitutes, the Departmental Prosecutor or the State Prosecutor General shall decide on the appropriate course of action

IX.- The fact of having intervened in challenges to decisions imposing interim measures does not constitute a ground for disqualification or recusal.

X.- In the case of members of the National Council of the Public Prosecutor's Office, requests for disqualification and recusal shall be decided by the other authorities called upon for this purpose alone by the State Prosecutor General, in accordance with the second part of Article 40 of this Law. If they are declared founded, and in order to form the necessary quorum, the authorities called upon shall automatically take responsibility for hearing the case.

XI.- The State Prosecutor General and his or her Deputy may not disqualify themselves or be recused.

SECTION III THE LITIGATION OMBUDSMAN

Article 161.- Special Regime.- The Office of the Litigation Ombudsman is a Specialist Unit reporting to the Ministry of Justice, based at the seat of Government, and may set up offices in all departments of the country. It shall form part of the Unit of the same name created by the Law on the Judiciary.

The Office of the Litigation Ombudsman shall have powers to monitor and ensure the proper conduct of disciplinary and criminal proceedings against authorities and civil servants of the Public Prosecutor's Office.

It shall coordinate its actions with the People's Ombudsman and other bodies regulated by this Law.

It shall provide any reports that are requested from it by the Plurinational Legislative Assembly through any member of the Assembly.

The requirements relating to appointment, composition, term of office, remuneration, office allocation and any other appropriate matters shall be set out in regulations to be issued by the aforementioned Ministry, in coordination with the National Council of the Public Prosecutor's Office, within no more than ninety days of the entry into force of this Law.

CHAPTER III DISCIPLINARY PROCEDURE

SECTION I PROCEDURE FOR SERIOUS AND VERY SERIOUS OFFENCES

Article 162.- Initiation of proceedings. Disciplinary proceedings shall be initiated by the Disciplinary Regime of the Public Prosecutor's Office of its own motion where it receives due notice of the commission of an offence or as a result of a complaint from the person affected. **In the case of departmental civil servants, it shall be**

the responsibility of the authority immediately above them in the hierarchy to initiate proceedings of its own motion. In the case of national authorities or civil servants, it shall likewise be the responsibility of the authority immediately above them.

Complaints must be made to the **Disciplinary Regime Directorates**, in writing or verbally. **In the latter case a detailed record shall be made and shall also be signed by the civil servant receiving the complaint.** It must contain: **a description of the facts and the offence**, the time and place it was committed, an indication of the civil servant to whom it is attributed, the identification and signature of the complainant.

A complaint against the National Disciplinary Regime Director, Departmental Disciplinary Regime Directors, Departmental Prosecutors, Disciplinary Tribunals, civil servants in the Forensic Investigations Institute and other senior authorities of the Public Prosecutor's Office, save for the State Prosecutor General, shall be made to the Public Prosecutor's Office.

The complainant **shall have** the right to be informed about the progress of the disciplinary proceedings and the decisions taken.

Article 163.- Investigation. When the Disciplinary Regime of the Public Prosecutor's Office becomes aware, as a result of a complaint, **on the initiative of the authorities mentioned in the preceding article**, or by any reliable method, of the commission of a disciplinary offence, **it shall proceed within three working days to issue the order to start the investigation, calling on the corresponding disciplinary examiner, who shall immediately proceed with the necessary investigations, along with the investigators under his or her charge.**

The investigation shall last for a maximum of sixty days, which shall start to run from the notification of the complaint and/or order for the start of the investigation to the person under investigation and shall end with the issue of the final decision.

Having been notified of the start of the investigation, the civil servant who is the subject of the disciplinary proceedings shall give an address for service; if he or she fails to do so, during the investigation his or her address shall be deemed to be that of the secretary of the Departmental Prosecution Office or Central Prosecution Office, as the case may be, and during the hearing of the case, that of the secretary of the Disciplinary Tribunal.

Article 164.- Final decision. Once the investigation is complete, the **disciplinary examiner** shall issue a final decision, which must contain:

- 1.- The particulars of the civil servant who is the subject of the disciplinary proceedings.
- 2.- A description of **the facts** and the alleged offence, stating the time and place of commission.
- 3.- A citation of the legal rules that classify the offence and, where appropriate, the legal rules that have been infringed.
- 4.- The decision to hear the case or to close it due to lack of evidence.
- 5.- The reasons for decision.
- 6.- A request for the application of interim measures, **if appropriate**.

The decision to hear the case must be accompanied by all the evidence on which it is based.

If a decision has been taken to close the case, the **disciplinary examiner** must notify this decision to the person under investigation and the complainant. The complainant may lodge an objection against the decision with the same authority within three working days. Once the objection has been received, the case-file must be sent to the corresponding **Disciplinary Regime Director** of the Public Prosecutor's Office within twenty-four hours and he or she must decide on the objection within five working days of it being sent. He or she must confirm or revoke the decision to close the case and there is no further right of appeal. If the five-day period expires without the Disciplinary Regime Director of the Public Prosecutor's Office having issued a decision, the closure of the case shall be deemed to be confirmed.

In the event that the closure of the case has been ordered, new disciplinary proceedings cannot be started against the same civil servant for the same matter.

Article 165.- Start of proceedings. In the event that a decision is made to hear the case, the **disciplinary examiner** must send the case-file to the Disciplinary Tribunal within twenty-four hours.

Once it has received the final decision to hear the case, the Disciplinary Tribunal shall signify its acceptance of the case, **issue the order to start proceedings, with a detailed statement of the facts and the alleged offences**, indicate the day and time of the preliminary hearing, which must take place within the following five working days, and order the civil servant who is the subject of the proceedings to appear at the hearing.

It shall also order that notification be given to the complainant, the disciplinary examiner, the higher-ranking authority which initiated the bringing of proceedings and/or the Departmental Disciplinary Regime Director, and also to the Litigation Ombudsman.

It shall also adopt the necessary measures for the preservation and/or production of evidence or to prevent the intimidation of witnesses, experts and other parties.

There shall be no right of appeal against the order to hear the case.

The Tribunal shall determine its composition internally and record this in a formal document . Interlocutory and final decisions shall be made by a majority of its members. The President may sign orders that merely give directions on procedural matters.

Article 166.- Interim measures. In the case of offences for which the penalty is dismissal or transfer, the Disciplinary Tribunal, at a hearing and by means of a decision giving reasons, may order a temporary relocation or **temporary change of functions for the person who is the subject of the proceedings for as long as the proceedings last, provided that it does not affect the exercise of his or her defence.**

Article 167.- Leave of absence. A civil servant who is the subject of proceedings for very serious or serious offences may request leave of absence from the Departmental Prosecutor or the State Prosecutor General, as the case may be. **This leave of absence shall be granted** without pay or as part of the civil servant's holiday entitlement for as long as the proceedings last so that the civil servant can exercise his or her right of defence. The request may not be refused.

Article 168.- Preliminary hearing. If the civil servant who is the subject of the proceedings admits liability at the preliminary hearing, the Disciplinary Tribunal shall immediately issue the corresponding decision.

Should the civil servant who is the subject of the proceedings fail to appear without good reason, **the competent authority shall order the setting of the case for full hearing. If the failure to appear is justified, a new preliminary hearing shall be scheduled without further delay.**

If the civil servant who is the subject of the proceedings **denies, evades or remains silent about liability attributed to him or her**, the proceedings shall continue and the civil servant may put forward his or her defence.

At this hearing the civil servant who is the subject of the proceedings may plead the defences of limitation, *res judicata* due to the existence of a final decision in disciplinary proceedings brought against him or her for the same facts, or *lis pendens* because there are currently other disciplinary proceedings pending against him or her for the same facts, and must provide the corresponding evidence. If the defence is pleaded orally at the hearing, the complainant and the **Litigation Ombudsman, if present, and the disciplinary examiner** shall have the right to be

heard and, on the basis of the submissions made, the Disciplinary Tribunal shall decide the question at the hearing itself. A decision rejecting the defence precludes it being pleaded at a later date for the same reason.

The decision rejecting the defence may only be challenged together with the final decision in the disciplinary proceedings.

The Disciplinary Tribunal shall set a date and time for the full hearing, which must take place within not less than six and not more than fifteen working days, and this shall have the effect of a summons for the civil servant who is the subject of the disciplinary proceedings and **the other parties**. It shall also issue the orders necessary to ensure that admitted items of incriminating or exonerating evidence are introduced into the proceedings.

Hearings cannot be postponed due to the non-attendance of the complainant, the authority which initiated the bringing of proceedings or the Litigation Ombudsman.

Article 169.- Full hearing. At the full hearing the complainant and the **Litigation Ombudsman shall have the right to be heard, if present, along with the disciplinary examiner and the civil servant who is the subject of the proceedings, so that they can present their allegations or defence submissions. The evidence for and against the allegations shall then be produced.**

In the event that the civil servant who is the subject of the proceedings has been duly summonsed or notified but fails to attend the hearings or to provide a good reason for his or her absence, he or she shall be declared in contempt and the proceedings shall continue to their conclusion.

After receiving the evidence for and against the allegations, the Disciplinary Tribunal shall declare the taking of evidence concluded and shall order closing submissions to be made by the **complainant and the Litigation Ombudsman, if present, the disciplinary examiner and the civil servant who is the subject of the proceedings, or the defence lawyer assigned to the case if he or she is in contempt. If there are two or more complainants, disciplinary examiners and civil servants, all of them may speak and the Tribunal must ensure that this right is not abused and that there are no unnecessary repetitions or delays.** Once the submissions have been concluded, the Disciplinary Tribunal shall issue the corresponding decision at the hearing itself.

If, due to the late hour or the complexity of the case, the Tribunal cannot issue its decision in full, it may defer the reading of the grounds to a later hearing, which must take place within the next three days and cannot be postponed.

Article 170.- Decision. The decision shall give reasons, must be signed and read at the hearing itself and must contain:

1. The details of the Tribunal, the place and date on which it is issued, the names of the Tribunal members, the complainant, the disciplinary examiner, **the civil servant who is the subject of the proceedings and of any defence lawyers who may have participated.**
2. A description of **the fact or facts and the offence or offences**, stating the time and place of commission.
3. A citation of the legal rules that classify the offence and, where appropriate, the legal rules infringed.
4. The grounds for the decision.
5. The operative part, in which the decision to impose a penalty is recorded, declaring the offence to have been proved or dropping the charges against the civil servant who is the subject of the proceedings and declaring the offence unproven. Where appropriate it shall expressly state that the complaint was made recklessly or falsely.
6. The determination of the disciplinary penalty where appropriate and the order with regard to costs.
7. The signature of the members of the Disciplinary Tribunal.

The decision shall be notified by being read out and a copy shall be given to the civil servant who is the subject of the proceedings, **the complainant and the other parties. In the event that the civil servant is in contempt, he or she shall be notified via the secretary of the Disciplinary Tribunal, without prejudice to notification to his or her chosen or appointed defence lawyer.**

SECTION II PROCEDURE FOR MINOR OFFENCES

Article 171.- Summary proceedings. Disciplinary proceedings for the commission of the offences described in Article 114 of this Law shall be dealt with by means of summary proceedings under the charge of the disciplinary examiner.

Once the action has been brought, of the disciplinary examiner's own motion, following a complaint or at the request of the corresponding authority, it shall be brought directly to the attention of the disciplinary examiner on duty at the time, who shall deal with it in no more than ten working days, starting from the time when the person against whom the complaint is made is notified that proceedings are being started.

At the end of the time period referred to above, the disciplinary examiner shall issue the corresponding decision in one of the following forms:

1. Closure of the case file because the existence of the facts or the participation of the person against whom the complaint is made in it has not been proved, or because there is no justification for imposing any penalty.
2. A finding of not guilty because the evidence put forward is not sufficient to justify any penalty.
3. The imposition of a penalty where the offence has been demonstrated or proved.

Article 172.- Enforcement of penalties. Responsibility for this shall lie with the relevant Disciplinary Regime Director.

SECTION III GUIDELINES FOR ASSESSING PENALTIES

Article 173.- General provision. Disciplinary examiners or members of Disciplinary Tribunals must consider the following guidelines when fixing penalties:

1. The seriousness of the offence.
2. The previous record of the civil servant who is the subject of the proceedings in his or her post.
3. The damage actually caused, particularly damage affecting the provision of the service.
4. Whether the civil servant has received previous disciplinary penalties and, if so, the reasons that gave rise to the penalties.
5. The reparation of the damage, if any.
6. The cooperation provided in the course of the investigation and the disciplinary proceedings.

In all cases judges in disciplinary proceedings must consider the proportionality between the offence committed and the penalty to be imposed.

SECTION IV MECHANISMS FOR CHALLENGING DECISIONS

Article 174.- Challenge. The party affected by a disciplinary decision may challenge it, with a statement of the harm suffered, by means of the following remedies:

- 1.- **REVIEW:** Against purely procedural orders which do not close the case or determine its outcome.

2.- APPEAL: Against decisions or judgments which determine the outcome of the case or impose a penalty.

Article 175.- REVIEW procedure. Applications for review shall be made, giving reasons, to the disciplinary authority which issued the order, asking it to set aside or modify its decision, having been informed of its error.

In the case of interlocutory orders which do not close the case or decisions dismissing an appeal *in limine*, an appeal application may be made in the alternative, and shall be based on the review application, should it be rejected.

This application shall be made within a non-extendable period of twenty-four hours from the notification of the procedural order or decision. There is no right of appeal against purely procedural orders.

The relevant authority shall decide the review application within a non-extendable period of five days from its acceptance. In the event that an appeal application is made in the alternative, the case file shall be sent to the appropriate tribunal within no more than twenty-four hours from the notification to the parties.

Article 176.- APPEAL procedure. The appeal procedure shall be applicable in the case of final disciplinary decisions or judgments given by disciplinary examiners or Disciplinary Tribunals.

The appeal application, which must give reasons, must be filed within a non-extendable period of three days from notification to the party affected and must be made to the authority that issued the decision being challenged. That authority shall rule on its admissibility and acceptance within a period of not more than twenty-four hours. If it is accepted, the case file shall be sent to the relevant higher authority within a further period of not more than twenty-four hours from the notification to the parties.

Article 177.- Procedure before the authority dealing with the appeal. Once the case file is received, the appeal tribunal shall order the acceptance of the appeal and the notification of the parties, who may submit recently obtained evidence with an express statement to such effect, or evidence which could not be produced at first instance, within a period of not more than five days from notification of the acceptance of the appeal.

After this time period has expired, the appeal tribunal shall rule in one of the manners specified in this Section, within a non-extendable period of five days starting from the date of assignment of the case.

Article 178.- Forms of decision on appeal. The relevant tribunal shall rule in one of the following ways:

1. That the appeal is upheld if it is merited, in which case the tribunal shall order the authority that dealt with the case to issue a new decision, without further formalities and within the time limit laid down in this Law, taking into account the opinion of the appeal tribunal.
2. That the appeal is dismissed, in which case it must send the case file back to the referring authority within no more than three days from notification to the parties, for the appropriate action.
3. That the proceedings are null and void, where there is evidence of incurable procedural defects and provided that the party raised them at the appropriate time and with proper reasons. In this case the relevant fine shall be imposed on the lower-ranking authority, depending on the level of negligence or lack of care observed.

Where, owing to the nature of the case, it is not necessary to send it back to the authority which issued the decision challenged, the appeal tribunal shall decide the question directly.

Article 179.- Effects. Reviews and/or appeals in the alternative shall not have suspensive effect.

Appeals allowed against final decisions shall have suspensive effect, those actions that are strictly necessary being referred to the higher-ranking authority, unless the parties expressly request that others be referred to it.

Article 180.- Enforceability, recording and deletion. Once the decision is final, it must be complied with immediately.

The final decision must be sent to the **relevant** Disciplinary Regime **Directorates** of the Public Prosecutor's Office and recorded in the staff establishment table.

The record of minor offences shall be automatically deleted after a year if the civil servant has not had another penalty imposed for a disciplinary offence.

The record of serious offences shall be automatically deleted after three years if the civil servant has not had another penalty imposed for a disciplinary offence.

Deletion of the record of very serious offences shall take place after the same period as for serious offences provided the person concerned has applied to the National Council of the Public Prosecutor's Office for rehabilitation.

Article 181.- Further right of appeal. Within the five days immediately after the disciplinary penalty has become final, the person affected may, solely in the case of a serious or very serious offence, make a further appeal application [*avocación*], giving reasons, directly to the State Prosecutor General, requesting him or her to review the merits of the penalty imposed.

The State Prosecutor General shall rule on the admissibility of the appeal. If he or she considers it to be sufficiently well founded, he or she shall order the case file to be sent to him or her and, having heard the opinion of the National Council of the Public Prosecutor's Office, shall decide on the appropriate action within a maximum of thirty days starting from when the "order" was made.

The decision may be:

1. To reject the appeal because the application lacks merit
2. To allow the appeal and decide directly on the penalty imposed
3. To remit the matter to the lower tribunal, setting aside the previous actions, so that it can decide the case by reference to the reasoning and doctrine established in the appeal order.

The further right of appeal shall be exercised solely and exclusively in the case of a serious infringement of procedural rights and guarantees relating to the defence.

TITLE VII RULES RELATING TO ADMINISTRATIVE, ECONOMIC AND FINANCIAL MATTERS

SINGLE CHAPTER FUNCTIONAL, FINANCIAL AND ADMINISTRATIVE AUTONOMY

Article 182.- Functional autonomy. This is the power of the Public Prosecutor's Office to determine its institutional objectives and strategic and operational plans, without prejudice to coordination and cooperation between institutions, within the limits set by constitutional provisions; to lay down internal rules, regulations and standards; to impose administrative and disciplinary penalties and enforce its decisions; to review its own acts of its own motion by issuing new decisions for which the institution can bear responsibility. In the exercise of their functions, members of the Public Prosecutor's Office may receive orders only from their hierarchical superiors, in the manner and on the conditions provided for in this Law.

Administrative autonomy. This is the power of the Public Prosecutor's Office to manage and decide its own affairs in terms of service provision, in order to determine the budget, the execution of expenditure, and monitoring and auditing arrangements, and to organise itself internally, without intervention from other authorities, with the power also to make rules and regulations to regulate these matters, within the framework of the current legislation on administrative supervision.

Financial autonomy. This is the power of the Public Prosecutor's Office to have the revenues of its own that it needs to perform the functions vested in it by law for the benefit of society, the power to regulate its own budget that is conferred on certain public bodies, enabling it to choose the sources of financing that best suit it.

Administrative and financial decentralisation.- This is the power of the Public Prosecutor's Office to decentralise the use and administration of economic resources to each Departmental Directorate for the purpose of optimising the services entrusted to it.

Article 183.- Administrative and Financial Directorate.-

The Administrative and Financial Directorate has the following functions:

1. To prepare and propose to the State Prosecutor General the draft annual budget of the Public Prosecutor's Office and the annual operating programme;
2. To ensure that the institution has the necessary logistical materials and resources to perform its functions;
3. To execute and authorise expenditure, purchases and contracts, save where the State Prosecutor General determines that they require his or her authorisation;
4. To procure the necessary resources for expenditure on investigation in cases of criminal and disciplinary proceedings connected with the functions of the Public Prosecutor's Office.
5. To promote and manage the collection of the revenues of the Public Prosecutor's Office.
6. To prepare and execute special revenue items;
7. To administer the institution's revenues, applying them for the purpose established in this Law;
8. To coordinate with the executive body and the Comptroller General's Office all tax, treasury and governmental control issues in accordance with the law.
9. To carry out all administrative and organisational tasks of the Public Prosecutor's Office which the State Prosecutor General entrusts to it and to advise the State Prosecutor General on all the institution's administrative and financial problems.
10. To act as the highest executive authority for administrative and financial matters within the Public Prosecutor's Office in accordance with the corresponding regulations.
- 11. To decentralise the use of the economic resources allocated to the Public Prosecutor's Office to each Administrative and Financial Directorate of the Departmental Prosecution Offices in accordance with regulations.**
- 12. To create Administrative and Financial Directorates in each Departmental Prosecution Office in accordance with regulations.**
13. Any other power established by law or regulation or expressly conferred on it by the State Prosecutor General.

Article 184.- Responsibility for administrative and financial management. The Administrative and Financial Director, the unit heads and the persons responsible for administration, programming, organisation, execution and monitoring of operations, are directly responsible for the proper handling of resources and for their results.

Article 185.- Appointment. The Administrative and Financial Director shall be appointed by the State Prosecutor General following a public competition based on merit. The appointment shall last for five years.

Article 186.- Structure. The Administrative and Financial Directorate shall be composed of the Director and the necessary support staff according to the needs of the service. Its organisation and functioning shall be regulated by regulations.

Article 187.- Resources. The Public Prosecutor's Office has the following resources:

1. The sums allocated to it each year from the Treasury General of the Nation.
2. Its own revenues from:
 - a) 0.02% from the signature of each contract awarded by the State to natural and/or legal persons following public tender processes, payable by the successful bidder.
 - b) 25% of the value of goods seized or confiscated in relation to offences involving controlled substances, public corruption or related matters and organised crime.
 - c) 20% of the auction proceeds from goods confiscated as a result of customs or tax offences.
 - d) Approved national, departmental or municipal duties or levies.
 - f) 50% of court fees.
 - e) Donations and legacies from individuals or entities, national or foreign, public or private.
 - f) Revenues from inter-institutional agreements entered into by the Public Prosecutor's Office with national or foreign institutions or bodies.
 - g) Revenues from the disposal of its assets, following approval by the Legislative Assembly.
 - h) Other revenues generated by the institution's activities.
 - i) Loans or borrowings contracted in accordance with the rules of the National Treasury and Public Credit System.
 - j) When approving plans for urban developments or the dividing of land into lots, municipal authorities must designate a space that is sufficient for the functioning of offices of the Public Prosecutor's Office within the areas concerned.

Article 188.- Use of own revenues. A special entry shall be created in the budget for the institution's own revenues, which may only be used for:

1. Strengthening the institution, which includes:
 - a) Infrastructure and equipment for the institution,
 - b) Training for civil servants and employees, and
 - c) Performance incentive scheme for civil servants in the Public Prosecutor's Office, approved by the State Prosecutor General.
2. Investigation expenditure on:
 - a) Public corruption

- b) Controlled substances
- c) Customs
- d) The environment
- e) Other specialist areas

3. Others

- a) Security of citizens.
- b) Technical and scientific investigation.
- c) Maintaining programmes providing support and protection for the victim, witnesses, civil servants and persons who have collaborated in criminal prosecutions.
- d) Compensation fund for errors by prosecutors.

Article 189.- Exemption. The Public Prosecutor's Office shall be exempt from the payment of duties, judicial, administrative and police bonds, stamps and other tariffs for the proceedings and actions undertaken in the exercise of their functions.

TRANSITIONAL PROVISIONS

One. Appointments. Prosecutors, Directors and other staff whose appointment is required by the needs of the service, until the full implementation of the prosecution career structure and the corresponding competitions for their appointment, shall be appointed by the State Prosecutor General and shall be treated as temporary staff.

Temporary prosecutors shall have all the responsibilities inherent in the post and shall enjoy the rights set out in Article 18 of this Law, save for points 1 to 5.

Two. Transitional nature of the prosecution career structure.- In order to remain in the prosecution career structure, prosecutors who have joined the prosecution career structure or who are in a trial period in accordance with Law N° 2175, must, within a period of 90 days from the publication of this Law, by a public and participatory process, be subject to an evaluation of the performance of their functions, using criteria of probity and objectivity to determine whether or not they are suitable to remain in the position.