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DRAFT AMENDMENTS
TO THE LAW
ON THE STATE PROSECUTORIAL COUNCIL
OF SERBIA

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WITH INSERTED DRAFT AMENDMENTS AND ADDITIONS FROM 2014

I. BASIC PROVISIONS

Scope of the Law

Article 1

This Law shall govern the status, competence, organization and manner of operation of the State Prosecutorial Council (hereinafter: the State Council), the requirements and election procedure of elective members of the State Council, duration of tenure and termination of office, and the provision of conditions and the means for the work of the State Council.

1. STATUS OF STATE COUNCIL

Independence

Article 2

The State Council is an autonomous body ensuring and guaranteeing autonomy of public prosecutors and deputy public prosecutors.

Within its competence, the State Council cooperates with the High Judicial Council, state and other authorities and organizations, prosecutorial councils of other states and international organizations.

Funds for the Operation of the State Council

Article 3

Funds for the operation of the State Council shall be provided from the budget of the Republic of Serbia, at the proposal of the State Council.

The State Council shall dispose of the funds referred to in paragraph 1 of this Article independently, in accordance with law.

Seat and Symbols of the State Prosecutors Council

Article 4

The seat of the State Council shall be in Belgrade

The State Council shall have a stamp containing the name and the Coat of Arms of the Republic of Serbia, and the name and seat of the body, in accordance with separate laws.

LAW ON THE STATE PROSECUTORS COUNCIL

Composition of the State Council

Article 5

The State Council shall have 11 members.

Members of the State Council shall include the Republican Public Prosecutor, the Minister competent for the judiciary and the Chairperson of the competent Committee of the National Assembly, as members by virtue of office, and eight elective members elected by the National Assembly, in accordance with this Law.

Elective members shall comprise six public prosecutors or deputy public prosecutors with permanent tenure, minimum one of whom is from the territory of autonomous provinces, and two distinguished and prominent jurists with minimum 15 years of professional experience, one of whom is an attorney and the other a Faculty of Law professor.

President and Deputy President of the CouncilArticle 6

President and Deputy President of the Council shall be elected and dismissed by a Council from the ranks of public prosecutors or Deputy Public prosecutors of the elective members of the Council, by a secret ballot, by majority vote of all members, in the manner stipulated by the Rules of procedure of the Council (hereinafter referred to as the Rules of procedure).

President of the Council represents the Council, manages its operations and performs other duties in accordance with law.

Deputy President of the council performs all duties of the President in the case of absence or incapacity of the President of the Council.

~~President of the State Council~~~~Article 6~~

~~The Republican Public Prosecutor shall be President of the State Council, by virtue of office.~~

~~President of the State Council represents the State Council, manages its operations and~~

~~performs other tasks, in accordance with law.~~

Deputy President**Article 7**

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The State Council has a Deputy President, who is elected from among ranks of prosecutors and

~~deputy public prosecutors — elective members of the State Council by the State Council and dismissed from office by the State Council.~~

~~Deputy President shall perform the tasks of the President if the latter is away or prevented from doing so.~~

~~Manner of election of the Deputy President of the State Council and the duration of term of office shall be regulated by the State Prosecutorial Council Rules of Procedure (hereinafter: Rules of Procedure).~~
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Relationship with Other Authorities

Article 8

Public prosecutors offices and other state bodies, as well as public prosecutors and deputy public prosecutors are obliged to proceed upon requests of the State Council for forwarding information, documents and other material relating to the performance of tasks from the competence of the State Council.

2. STATUS OF MEMBERS

Immunity

Article 9

A member of the State Council enjoys immunity of a public prosecutor.

A member of the State Council may not be held responsible for his/her opinion or voting in the State Council.

LAW ON THE STATE PROSECUTORS COUNCIL

A member of the State Council may not be deprived of his / her liberty in proceedings initiated for a criminal offence committed in discharge of duties of the State Council member without approval of the competent Committee of the National Assembly.

Removal from office of a member of the State Council

Article 9a

A member of the State Council is required to be removed from office when remanded in custody.

~~An elected member of the State Council, in addition to the reasons referred to in Paragraph 1 of this Article, is required to be removed from office when a proposal for~~

~~his/her dismissal from office of the State Council has been submitted, and a member of the State Council elected from among public prosecutors and deputy public prosecutors shall be dismissed when removed from the office of the public prosecutor or deputy public prosecutor.~~

In addition to the reasons specified in Paragraph 1 of this Article, elected Council member shall be suspended from the office due to the voting of no confidence, if his/her dismissal was proposed to the National Assembly, and an elected council member from ranks of public prosecutors and deputy public prosecutors shall be suspended if he/she is removed from office of public prosecutor and deputy public prosecutor.

An elected member of the State Council may be removed from office if the proceedings for his/her removal from office of the State Council or criminal procedure for an offense for which he/she could be dismissed from the office of the State Council have been initiated.

Decision on suspension and suspension duration

Article 9b

The decision on suspension of the State Council member is issued by the President of the State Council.

A member of the State Council shall be suspended from office until his/her release from custody, during the suspension from office of the public prosecutor or deputy public prosecutor, until the completion of proceedings for the removal of the State Council member from office or completion of the criminal procedure for an offense for which he could be dismissed from the office of the State Council.

Right to objection

Article 9v

An elected member of the State Council has the right to object to the decision of the State Council on suspension, for the reasons set forth in Article 9a, Paragraph 3 of this Law, within eight days after the delivery of the decision.

The State Council shall decide on the objection under Paragraph 1 of this Article within eight days from submission of the objection.

The reported objection does not delay execution of the decision referred to in Paragraph 1 of this Article.

Salaries and Fee for the Work

Article 10

Elective members of the State Council from among deputy public prosecutors during their term of office in the State Council shall exercise rights from employment in the State Council

The State Council members from paragraph 1 of this Article shall be entitled to a salary in the amount determined by multiplying the 6.00 coefficient with the baseline for calculation and

payment, in accordance with the Law on Public Prosecution.

The State Council members by virtue of office, the State Council members who are public prosecutors and the State Council members from among attorneys and Faculty of Law professors shall be entitled to a separate fee for their work in the State Council, which is determined by the competent Committee of the National Assembly.

Incompatibility of Jobs

Article 11

An elective member of the State Council from among attorneys and/or Faculty of Law professors, after taking up office, may not perform duties in regulatory bodies, executive bodies, public services and bodies of an autonomous province and local self-government units.

An elective member of the State Council from among deputy public prosecutors may be relieved from discharging duties of the deputy public prosecutor while exercising office in the State Council, based on a decision passed by the State Council.

Term of Office

Article 12

The term of office of members of the State Council shall be five years, save for members by virtue of office.

Elective members of the State Council may be re-elected, but not consecutively.

During the term of office, a public prosecutor and/or a deputy public prosecutor who is a member of the State Council cannot be elected public prosecutor and/or deputy public prosecutor in another public prosecutor's office.

II COMPETENCE AND MANNER OF OPERATION OF THE STATE COUNCIL

Competence

Article 13

The State Council:

- establishes a list of candidates for the election of the Republican Public Prosecutor and public prosecutors, which it submits to the Government;
- nominates to the National Assembly deputy public prosecutor candidates for the first election;
- elects deputy public prosecutors to permanent office of deputy public prosecutor;
- elects deputy public prosecutors with permanent tenure for deputy public prosecutors in a higher instance public prosecutor's office;
- decides on the termination of office of deputy public prosecutor;

- establishes reasons for the dismissal from office of a public prosecutor and/or deputy public prosecutor;
- designates the public prosecutor's office wherein a public prosecutor and deputy public prosecutors shall continue to perform duties of deputy public prosecutor in case a public prosecutor's office cease to exist,
 - rules on suspension of the Republican Public Prosecutor,
 - rules on the objection to the decision on suspension of a public prosecutor and/or deputy public prosecutor;
 - gives proposals on the volume and structure of budgetary funds required for operations of public prosecutor's offices in respect of overhead expenses, and oversee the spending thereof, in accordance with law;
 - determines what other functions, affairs or private interests are contrary to the dignity and autonomy of the public prosecutor's office;
 - appoints the Acting Republican Public Prosecutor;
 - rules on the objection to the decision of the Republican Public Prosecutor when considered that there was no election for a public prosecutor and deputy public prosecutor;
 - gives opinions on amendments to existing laws or the passing of new laws governing the status and functioning of public prosecutors and deputy public prosecutors, organisation of public prosecutor's offices, and of other laws applied by public prosecutor's offices;
 - passes the Code of Ethics;
 - keeps a personal file for each public prosecutor, deputy public prosecutor and employee in a public prosecutor's office;
 - appoints and dismisses the Disciplinary Prosecutor and the deputies thereof, and members of the Disciplinary Commission and the deputies thereof;
 - passes decisions on legal remedies in disciplinary proceedings;
 - passes Ordinance on Criteria for Performance Evaluation of public prosecutors and deputy public prosecutors;
 - passes a decision on legal remedy against the decision on performance evaluation of public prosecutors and deputy public prosecutors;
 - rules on objections in the procedure of election of State Council members from among public prosecutors and deputy public prosecutors;
 - performs tasks in respect of the implementation of the National Strategy for the Reform of Judiciary
 - establishes the curriculum of the training programme for deputy public prosecutors elected to office for the first time and prosecutor's aides, in accordance with law;
 - proposes the training programme for public prosecutors and deputy public prosecutors with permanent tenure;
 - performs other tasks set forth by law.

~~Manner of Operation~~~~Article 14~~

~~The State Council may decide to operate in a public session, in accordance with the Rules of Procedure.~~

~~Sessions of the State Council are convened by the President at his / her own initiative or at the proposal of at least three members of the State Council.~~

~~The State Council can operate if the session is attended by minimum six members of the State Council.~~

Manner of operationArticle 14

The Council sessions are open to public.

The Council may decide to work in a session closed to public, in accordance with the Rules of procedure.

The Council session is convened by the President on his own initiative or at the request of at least three members of the Council.

The Council may hold a session if at least six members of the Council are present.

~~Permanent Working Bodies~~~~Article 15~~

~~Electoral Commission and disciplinary bodies are permanent working bodies of the State Council.~~

~~Composition and manner of operation of permanent working bodies are governed by an act of the State Council.~~

Permanent working bodiesArticle 15

The Council establishes permanent working bodies in specific areas within its jurisdiction.

The establishment, composition and manner of operation of permanent working bodies shall be more closely regulated by the rules of procedure.

~~Ad Hoc Working Bodies~~~~Article 16~~

~~For the purpose of deliberation on certain issues from its competence, the State Council may form *ad hoc* working bodies.~~

~~The establishing, composition and manner of operation of *ad hoc* working bodies shall be governed in more detail by the Rules of Procedure.~~

Ad hoc working bodies

Article 16

The Council may establish ad hoc working bodies for consideration of specific issues within its competence and for giving proposals, opinions and expert explanations.

The decision of the establishment of ad hoc working body shall determine the composition, duties for which this body is established, the time on which it is established, time periods within it shall submit their reports on their work and other issues related to his work.

The operation mode of ad hoc working bodies is more closely regulated by special acts of the bodies.

Decision Taking

Article 17

Decisions of the State Council are passed by majority vote of all members.

Decisions of the State Council must be reasoned, where a legal remedy against them is allowed, and where prescribed so by law and the Rules of Procedure.

Rules of Procedure

Article 18

The State Council passes its Rules of Procedure governing in more detail, the manner of operation and the decision taking of the State Council.

The Rules of Procedure and other general acts of the State Council shall be published in the "Official Gazette of the Republic of Serbia" and on the website of the Council.

Transparency of Work

Article 19

The State Council submits an annual performance report to the National Assembly.

Annual reports are published on the web site of the Council.

The State Council shall inform the public on its activities on a regular basis in a manner specified under the Rules of Procedure.

III PROCEDURE FOR ELECTION OF THE STATE COUNCIL MEMBERS

1. GENERAL REQUIREMENTS

Authorized Nominators

Article 20

Elective members of the State Council are elected by the National Assembly, at the proposal of authorized nominators.

The State Council is an authorized nominator for elective members of the State Council from among public prosecutors and deputy public prosecutors.

The State Council is obliged to propose to the National Assembly the candidates directly elected by public prosecutors and deputy public prosecutors in a manner and in the procedure provided for by this Law.

The Bar Association of Serbia is an authorized nominator for an elective member of the State Council from among attorneys.

Candidates for elective members of the State Council from among Faculty of Law professors shall be nominated by the joint session of deans of law faculties in the Republic of Serbia.

Running for Office and Nomination

Article 21

The President of the State Council shall issue the decision on initiating the nomination procedure for elective members of the State Council not later than six months before the end of term of office of the elected members of the State Council.

The decision referred to in paragraph 1 of this Article shall be published in the "Official Gazette of the Republic of Serbia" [and on the web site of the Council](#).

The President of the State Council shall transmit the decision on initiating the nomination procedure for elective members of the State Council to the President of the Electoral Commission of the State Council, President of the Bar Association of Serbia and Dean of the oldest law faculty in the Republic of Serbia.

Authorized nominators shall submit the names of candidates for elective members of the State Council to the National Assembly of the Republic of Serbia not later than 90 days before the end of term of office of the elected members of the State Council, [and in the case of termination of office before the end of the mandate, within 30 days from the day of termination of office](#)

2. ELECTION OF CANDIDATES FOR STATE COUNCIL MEMBERS FROM THE RANKS OF PUBLIC PROSECUTORS AND DEPUTY PUBLIC PROSECUTORS

a) General Provisions

Representation of Public Prosecutor's Offices

Article 22

Elective members of the State Council from the ranks of public prosecutors and deputy public prosecutors are elected from the public prosecutor's offices as follows:

- one from the Republican Public Prosecutor's Office;
- one from the appellate public prosecutor's offices, the Prosecutor's Office for Organized Crime and the Prosecutor's Office for War Crimes;
- one from higher prosecutor's offices;
- two from basic public prosecutor's offices.
- one from a public prosecutor's office from the territory of an autonomous province.

Requirements for Candidacy

Article 23

A candidate for the elective member of the state council from the rank of public prosecutors and deputy public prosecutors may be any public prosecutor and any deputy public prosecutor with permanent tenure of office.

A candidate status shall be acquired by a public prosecutor and deputy public prosecutor who is proposed by the collegium of one or several public prosecutor's offices, by type and instance of a public prosecutor's office, that is, the public prosecutor's office from the territory of an autonomous province where s/he exercise public prosecutor's office, as well as the public prosecutor and deputy public prosecutor who is supported by at least 15 public prosecutors and deputy prosecutors from the type and instance of the public prosecutor's office where the candidate exercises public prosecutor's office and the public prosecutor and deputy public prosecutor from the public prosecutor's office from the territory of an autonomous province who is supported by at least 15 public prosecutors and deputy prosecutors from the public prosecutor's office from the territory of an autonomous province. One collegium of a public prosecutor's office may propose only one candidate.

The session of public prosecutors may propose only one candidate except the session of public prosecution from territory of autonomous provinces which is entitled to propose besides candidate for member of the Council from Article 22, Items 2 to 4 of this Law, also a candidate for the Council from Article 22, Item 5 of this Law.

By way of exception to paragraph 2 of this article, for acquiring the candidate status for an_-

elective member of the state council from rank of deputy republic public prosecutors, as well as from rank of the public prosecutor and deputy public prosecutors of the war crime prosecutor's office and the organised crime prosecutor's office, no motion of the collegium is required but the candidate status shall be acquired by application.

Voting on the nominated candidates at sessions of the Collegiums of the public prosecution referred to in paragraph 2 of this Article shall be secret.

Electoral Right and Ballot List

Article 24

Public prosecutors and deputy public prosecutors elect candidates for the State Council based on the free, general, equal and direct electoral right, in secret ballot.

No one has the right on any grounds whatsoever to prevent or force a public prosecutor or deputy public prosecutor to vote or to hold him/her accountable for voting.

The right to elect candidates for the State Council is vested in all public prosecutors and all deputy public prosecutors

Election commission establishes and prepares ballot list for each polling station. Ballot lists shall be concluded 15 days before the election.

~~-with permanent tenure of office.~~

A public prosecutor and deputy public prosecutor shall vote only for the candidate from the list of candidates of the type that is instance of the public prosecutor's office where s/he exercises its office. ~~_____A public prosecutor and/or deputy public prosecutor from the territory of an autonomous province shall also vote for the list of candidates for public prosecutor's offices from the territory of the autonomous province, in addition to the candidacy list referred to in paragraph 4 of this Article. Public prosecutor or a deputy public prosecutor from the territory of the autonomous province, in addition to candidate from the candidacy list mentioned in Paragraph 5 of this Article, shall also vote for the candidate from list of the candidates under article 22, Item 5 of this law.~~

Electoral Commission

Article 25

The procedure for nomination of candidates for elective members of the State Council from the ranks of public prosecutors and deputy public prosecutors is organized and conducted by the Electoral Commission of the State Council (hereinafter "Electoral Commission").

The Electoral Commission consists of the Chairperson, and four members and deputies thereof, elected by the State Council from the ranks of public prosecutors and deputy public prosecutors with permanent tenure, with their consent.

Deputy members of the Electoral Commission have the same rights and responsibilities as the members for whom they deputize.

The State Council members may not be members and deputy members of the Electoral Commission at the same time.

The term of office of members of the Electoral Commission is five years, with a possibility of re-election.

Members of the Electoral Commission may not run for elective membership of the State Council.

Status of the Electoral Commission

Article 26

The Electoral Commission is autonomous and independent in its work and operates on the basis of law and regulations passed on the basis of law.

The Electoral Commission takes decisions by majority vote of all members.

The Electoral Commission is accountable for its work to the State Council that shall provide the conditions for its work.

All public prosecutor's offices are required to extend assistance to the Electoral Commission and provide it with information necessary for its work.

Electoral Activities

Article 27

The Electoral Commission, on receiving the decision to commence the procedure for nomination of candidates, shall take a decision on election-related activities and time limits. The Chairperson of the Electoral Commission transmits to public prosecutors the decision on commencement of the procedure for nomination of candidates and the decision on election-related activities and time limits.

Public prosecutors are required to make available the decision on commencement of the nomination procedure and the decision on election-related activities and time limits to all deputy public prosecutors in their respective public prosecutor's offices, in an appropriate manner.

a) Procedure

Candidacy Application

Article 28

The candidacy application form is submitted to the Electoral Commission within 15 days from the day the decision on initiating the nomination procedure for elective members of the State Council is published in the "Official Gazette of the Republic of Serbia".

A signed statement of the candidate on accepting the candidacy and the decision of the Collegium of a public prosecutor's office on proposing a candidate, that is, form with signatures of public prosecutors and deputy public prosecutors who support the candidate, as well as personal and professional data about the candidate must be attached to the candidacy application form.

Procedure following the Application

Article 29

The Electoral Commission shall examine if the application is timely and complete. The Commission shall reject any untimely application form by a ruling.

The Electoral Commission shall, within 24 hours upon receiving an incomplete application form, inform the candidate to complete application form within 48 hours of receiving the said information, with a warning that otherwise the application will be rejected.

Final List of Candidates

Article 30

The Electoral Commission shall establish the final list of candidates within 8 days from the expiry of the time limit referred to in Article 28, paragraph 1 of this Law.

The Electoral Commission shall establish one final list of candidates for each instance and type of public prosecutor's office and/or from the public prosecutor's offices from the territory of an autonomous province whose public prosecutors and deputy public prosecutors are nominated for elective members of the State Council pursuant to the provision of Article 22 of this Law.

The sequence of candidates in the lists is determined based on the sequence of submission of application forms to the Electoral Commission.

Presentation of candidates

Article 30a

Beginning after seven days from the day of determining of the candidate list, the council is required to enable all applicants to the council to present all information from his/her personal and professional life as well as the positions on matters within the competence of the council on the website of state Council.

Time of Election and Polling Stations

Article 31

The Electoral Commission shall set the date and time of the election and notify thereabout all public prosecutors ten days before the election.

Public prosecutors shall send seven days before the election a public notification to deputy public prosecutors about the date and time of the election and also about the method of transportation to the polling stations which will be organized at the cost of public prosecutions.

Voting for candidates for elective members from among public prosecutors and deputy public prosecutors shall be carried out in polling stations in the public prosecutor's offices designated by the Electoral Commission. at Appellate Public Prosecutor's Offices.

Public Prosecutors and Deputy Public prosecutors vote at a polling station in the Appellate Public Prosecutor's office in whose territory is the public prosecutor's office in which they perform prosecutorial functions.

Public Prosecutors and Deputy public Prosecutors in the Republic Public Prosecution and the public prosecutor's office of special jurisdiction vote in the Appellate Public Prosecutor in Belgrade.

Polling Boards and Voting Material

Article 32

The Electoral Commission shall prepare in due time the voting-related material for each polling station, consisting of: an adequate number of ballots and the final list of candidates.

The Electoral Commission shall appoint a polling board for each polling station.

A polling board consists of three deputy public prosecutors who are not running for election.

Manner of Voting

Article 33

On the voting day the final list of candidates must be visibly displayed in all polling stations and in all public prosecutor's offices by type and instance of prosecutor's offices, that is, a public prosecutor's office from the territory of an autonomous province electing a candidate in that particular list.

Every public prosecutor and deputy public prosecutor shall vote in person. Ballot is secret.

Only stamped ballots are used for voting.

A polling board shall conduct the ballot in the premises of the public prosecutor's office designated by the public prosecutor in a timely manner.

Procedure after voting

Article 33a

Upon completion of the voting the polling board determines the number of unused ballots, determines the number of valid and invalid ballots and the number of votes that each candidate got on that polling place , the record will be made about all this information .

Ballot shall be considered as invalid if the ballot paper is unfilled, more then one candidate is rounded on ballot paper or the ballot paper is filled in that way that it cannot be determined for which candidate was voted.

The polling board shall place in special envelopes unused, valid and invalid ballots and together with the signed record of the voting results and shall submit all of this to the election commission.

If it is established that the number of ballots paper in the ballot box exceeds the number of public prosecutors and deputy public prosecutors who have voted, electoral committee shall be dissolved and a new one shall be appointed , and voting at that polling station shall be repeated within seven days.

Establishing of Results

Article 34

The Electoral Commission shall establish the total number of prosecutors and deputy public prosecutors and the number of public prosecutors and deputy public prosecutors who voted in each polling station, the number of unused, invalid and valid ballots, and the number of votes for each candidate per polling station, as well as the total number of votes received per candidate for each list of candidates.

3. DECISION ON NOMINATION OF CANDIDATES FOR ELECTIVE MEMBERS OF THE STATE COUNCIL

a) Nomination of Candidates from among Public Prosecutors and Deputy Public Prosecutors

Article 35

The State Council shall propose one candidate who won the largest number of votes from each list, based on the record on the establishing of election results, which is delivered by the Electoral Commission.

By way of exception to paragraph 1 of this article, the State Council shall propose two candidates with the highest number of votes from the list of candidates of public prosecutors and deputy public prosecutors of basic prosecutor's office.

In case when two or more candidates in one electoral list win an equal number of majority votes, the State Council shall propose the candidate who longer executes public prosecutor's office.

The State Council shall submit to the National Assembly the final decision on the nomination of candidates from ranks of public prosecutors, that is, deputy public prosecutors from each list of candidates.

b) Nomination of Candidates from among Attorneys

Article 36

The procedure for the nomination of the candidate for the elective member of the State Council from among attorneys is organized and conducted by the Bar Association of Serbia in a manner ensuring the widest possible representation of all its members.

The candidacy, election and nomination procedures are carried out in a manner and within time limits defined by the Bar Association of Serbia's act.

The Bar Association of Serbia shall submit a proposal for one ~~or several~~ candidates to the National Assembly.

c) Nomination of Candidates from among Professors

Article 37

The nomination of candidates for elective members of the State Council from among Faculty of Law professors is conducted in a manner and according to the procedure established by an act of the joint session of law school deans in the Republic of Serbia.

The dean of the oldest law faculty in the Republic of Serbia shall submit the proposal for the candidate for the State Council member from among Faculty of Law professors to the National Assembly, in accordance with the decision of the joint session of all law faculty deans in the Republic of Serbia.

4. ELECTION AND TAKING UP OFFICE

Election of Members

Article 38

The National Assembly shall elect the members of the State Council at the proposal of authorised nominators.

The National Assembly elects, for the member of State Council from ranks of public prosecutors and deputy public prosecutors, two candidates from the candidacy list of basic prosecutor's office, that is, one candidate from each of other lists of candidates.

If the elected State Council member fails to take up office within 30 days from the day of election in the National Assembly with no justifiable reason, s/he shall be deemed as if not elected. Reasons for the failure to take up office referred to in paragraph 3 of this Article are established by a decision of the State Council which shall notify the National

Assembly thereabout. The State Council shall organise repeated elections for this Member within 60 days.

IV TERMINATION OF OFFICE OF THE STATE COUNCIL MEMBERS

Reasons for Termination

Article 39

The term of Office of the State Council members by virtue of office shall be terminated when their office that gives grounds for their membership in the State Council is terminated. The term of Office of elected members of the State Council shall be terminated due to permanent loss of the work ability to perform duties of the State Council member, with resignation from the State Council membership, expiry of term of office and due to dismissal.

The term of Office of elected members of the State Council from among public prosecutors and deputy public prosecutors shall also be terminated in the State Council with the termination of office of public prosecutor and/or deputy public prosecutor.

The term of Office of an elected member of the State Council from among attorneys shall also be terminated in the State Council after the deletion from the Bar Association Register. The term of Office of an elected member of the State Council from among professors shall be terminated in the State Council with the termination of capacity of a Faculty of Law professor.

The office of the elected Council member shall also be terminated in other cases stipulated by law. Termination of the office of the electoral Council member shall be declared at its first next session.

Early Termination of the term of Office

Article 40

If the term of office of an elected State Council member is terminated before the expiry of the term which s/he was elected to, the State Council shall pass the decision from Article 21 paragraph 1 of this Law within 15 days.

The procedure of nomination and election of a new member shall be carried out in accordance with the provisions of this Law.

The term of office of the new member shall be 5 years.

V ~~PROCEDURE FOR~~ DISMISSAL OF ELECTED MEMBERS

~~Reasons~~

~~Article 41~~

~~An elected member of the State Council shall be dismissed before the term s/he has been elected to expires if s/he fails to perform the duty of the State Council member in compliance with the Constitution and law and/or if convicted for a criminal offence to unconditional imprisonment, and/or for a criminal offence rendering him/her unworthy of exercising office of the State Council member.~~ Reasons

Article 41

An elected member of the council shall be dismissed from office before expiration of the term s/he has been elected to if s/he fails to perform the duty of the Council member in compliance with the constitution and law and if convicted with final court decision to unconditional imprisonment for a criminal offense, and if convicted with a final court decision for an offence which renders him/her dishonorable of exercising office of the member of the Council.

~~*Initiative*~~

~~Article 42~~

~~An initiative for the dismissal of an elected member of the State Council may be filed by any member of the State Council.~~

~~An initiative for dismissal of an elected member of the State Council from among public prosecutors and deputy public prosecutors may also be filed by any public prosecutor, on the basis of a decision of the Collegium of the public prosecutor's office concerned.~~

~~An initiative for dismissal of an elected member of the State Council from among attorneys and/or Faculty of Law professors may be filed by their authorized nominators.~~

~~*Dismissal in the case of the conviction for the criminal offense*~~

Article 42

The Council shall submit to the National Assembly its proposal for dismissal of the elected member of the Council because of his/her final conviction to unconditional imprisonment or a conviction for an offense rendering him/her dishonorable for the position of member of the Council, at the next first session within 15 days from the day of that member's receipt of the final court decision on conviction.

~~*Assessment of Admissibility of Initiative*~~

~~Article 43~~

~~The State Council shall within reasonable time and upon receiving the initiative assess the probability of reasons for which dismissal is requested.~~

~~If it finds that the reasons for dismissal are not made probable, the State Council shall notify the initiator in writing that the initiative is not accepted.~~

~~*Initiative for dismissal*~~

Article 43

Initiative for dismissal of an elected member of the Council, who did not perform his/her duties in accordance with the constitution and laws, can be submitted by each member of the Council or the authorized nominator from the Article 23, Paragraph 2.

Initiative must be reasoned.

~~*Statement*~~

~~Article 44~~

~~Where the State Council accepts the initiative, it shall, before deciding to institute the proceedings, allow the State Council member, whose dismissal is initiated, to make a statement about the allegations of the initiative.~~

Admissibility of the initiative

Article 44

Upon the receipt of the initiative the Council enables a council member, whose dismissal is initiated, to answer the allegations of the initiative within three days.

The Council shall render a decision on the admissibility of the initiative within seven days of the expiration of the period referred to in Paragraph 1 of this Article.

If it determines that the initiative for the dismissal lacks merit, the Council notifies the applicant in writing within seven days from the date of the decision referred to in Paragraph 2 of this Article.

If it determines that the initiative for the dismissal is substantiated, the Council shall initiate the procedure for removal within seven days from rendering of the decision referred to in Paragraph 2 of this Article.

Elected member of the Council whose dismissal was initiated shall not participate in evaluation of the initiative.

Instituting the Proceedings

Article 45

~~The State Council shall take a decision on initiating the proceedings for dismissal within 15 days upon receiving the initiative.~~

~~The elected member concerned shall be allowed to make a statement about all the allegations relevant to taking the decision on dismissal.~~

Motion for dismissal

Article 45

Motion for dismissal of an elected member of the Council from the ranks of public prosecutors and deputy public prosecutor can submit at least 20 percent of the total number of public prosecutors and deputy public prosecutors who, in accordance with Article 24, Paragraphs 5 and 6 of this Law, are entitled to vote on the election of elected members of the Council in accordance with the type and instance of public prosecutor's office where the dismissed member was elected, in accordance with Article 22 of this Law.

Motion for dismissal of an elected member of the Council from the ranks of lawyers can submit at least 20 percent of the total number of lawyers Registered in registry of lawyers in of the Bar Association of Serbia and bar associations within its composition.

Motion for dismissal of an elective member of the Council from the ranks of the professors from law faculty can submit at least 20 percent of all law faculty deans.

Motion for dismissal of a Council member must be reasoned and have reasons from article 41 of this law.

~~***Dismissal***~~

~~Article 46~~

~~The State Council shall make a proposal on dismissal within 30 days of initiating the proceedings.~~

~~The State Council member whose dismissal is deliberated does not take part in the making of the proposal referred to in paragraph 1 of this Article.~~

~~The decision on dismissal, based on the proposal from paragraph 1 of this Article, shall be taken by the National Assembly.~~

Commencement of the procedure

Article 46

Procedure for dismissal of a council member of the Council is initiated when the Council accepts the initiative or when the proposal for dismissal is submitted.

In the case referred to in Paragraph 1 of this Article, the Council initiates the proceedings and informs the election commission or authorized nominators of the council members among lawyers and professors.

The procedure for dismissal shall be carried out within 30 days from the day of start of the procedure.

Proceedings before the Council

Article 46a

The Council shall, in the proceedings regulated by Rules of procedure and meeting the requirements of a fair trial, allow to the council member against whom an impeachment procedure is initiated, to submit at session his/her statement, on the facts relevant for the decision on dismissal.

The Council shall, after the procedure, render a reasoned decision on the admissibility of initiative or a reasoned opinion on the proposal for dismissal, and submit them to the Council member against whom the proceeding is initiated and to the submitter of initiative or of the proposal for dismissal.

The admissibility of the initiative or a reasoned opinion on the Proposal for dismissal shall be published on the web page of the Council.

Vote of confidence

Article 46b

Public prosecutors and deputy public prosecutors shall vote on confidence to an elected council member, by secret ballot, in accordance with Article 24, Paragraphs 5 and 6 of this Law.

The procedure of vote of confidence is subjected to the provisions of Article 31 to 34 of this Law.

An elected member received a vote of no confidence if voted by at least two thirds of public prosecutors or deputy public prosecutors who are entitled to vote and majority of them voted for dismissal.

The vote of confidence regarding the dismissal of the elected member of the Council from the ranks of lawyers and law faculty professors, is taken by their authorized nominators, in a manner and by the procedure applied to their election.

The decision on dismissal

Article 46v

The Council or nominators according to the Article 46b, Paragraph 4 of this Law, in a case of no confidence vote shall propose to the National Assembly a removal of the elected member of the Council who received a no confidence vote.

The member of the Council whose dismissal is being decided upon shall not participate in the proceedings referred to in Paragraph 1 of this Article.

Council shall suspend the procedure of dismissal of an elected member of the Council, within eight days of the voting if the voting did not result in a no confidence vote. A confidence vote proceeding cannot be taken against an elected council member within 6 months from the day of voting of confidence resulting in lack of no confidence vote.

The decision on dismissal, based on the proposals referred to the Paragraph 1 of this Article, shall be enacted by the National Assembly.

VI ADMINISTRATIVE OFFICE

Tasks and Organization of Work

Article 47

The Administrative Office within the State Council is hereby established for conducting professional, administrative and other affairs of the State Council.

Organization, tasks and manner of operation of the Administrative Office shall be governed in more detail by an act of the State Council.

Regulations governing the status of civil servants and ancillary staff shall apply to the rights and obligations of employees in the Administrative Office.

State Council Secretary

Article 48

The State Council shall have a Secretary, appointed for a period of five years, with the possibility of reappointment.

The secretary is appointed by the State Council.

The secretary manages the Administrative Office and is accountable to the State Council for his/her work.

The secretary shall have the status of an appointee.

Terms and conditions for appointment of Secretary shall be determined by an act of the State Council.

Assignment of Deputy Public Prosecutor

Article 49

A deputy public prosecutor may be assigned to the working bodies of the State Council to perform professional duties.

Decision on such assignment is passed by the State Council, upon obtaining the opinion of a public prosecutor from the public prosecutor's office in which the deputy public prosecutor performs his/her duty, with the written consent of the deputy public prosecutor.

The assignment may not last longer than three years.

VII TRANSITIONAL AND FINAL PROVISIONS

First Election of State Council Members

Article 50

The National Assembly shall elect elective members of the first composition of the State Council not later than 90 days from the day this Law enters into force.

During the election, the National Assembly is obliged to elect minimum one member of the State Council from among public prosecutors and/or deputy public prosecutors discharging public prosecutor's duties in a public prosecutor's office on the territory of an autonomous province.

Until such time as the first composition of the State Council is elected, the High Judiciary Council shall perform the tasks from the competence of the State Council regarding the election of elective members of the State Council from among public prosecutors and deputy public prosecutors.

Elective Members of the First Composition of the State Council from the Ranks of

Public Prosecutors and Deputy Public Prosecutors

Article 51

The elective members of the first composition of the State Council from among public prosecutors and deputy public prosecutors shall comprise two members each to be elected from among:

- Deputy Republican Public Prosecutors, the Prosecutor for War Crimes and Deputy Prosecutors for War Crimes;
- public prosecutors and/or deputy public prosecutors from district public prosecutor's offices;
- public prosecutors and/or deputy public prosecutors from municipal public prosecutor's offices.

Minimum one member of the State Council referred to in paragraph 1, bullet points two and three of this Article must come from a public prosecutor's office from the territory of an autonomous province.

Candidates for the first composition of the State Council shall be proposed to the High Judiciary Council by Collegiums of public prosecutor's offices according to type and instance of the public prosecutor's office wherein a candidate exercises office of public prosecutor, that is, deputy public prosecutor. One Collegium of a public prosecutor's office may nominate only one candidate.

By way of exception to paragraph 3 of this Article, Collegium of the Republican Public Prosecutor's Office and the Prosecutor's Office for War Crimes may nominate more than one candidate.

The candidates from paragraphs 3 and 4 of this Article shall be proposed to the High Judiciary Council within 15 days of the day this Law enters into force.

The High Judiciary Council shall, within 30 days of the day this Law enters into force, propose to the National Assembly one or several candidates for each elective member of the State Council from among public prosecutors and/or deputy public prosecutors in compliance with the number of public prosecutors and/or deputy public prosecutors according to type and instance of the public prosecutor's offices set forth under paragraph 1 of this Article. When proposing candidates, the High Judiciary Council shall take the proposals referred to in para. 3 and 4 of this Article into account.

The High Judiciary Council shall establish the proposal from paragraph 6 of this Article by majority vote of the narrower composition comprising standing members and invited members-public prosecutors.

Elective members of the first composition of the State Council from among deputy public prosecutors shall be entitled to a basic salary equal to the basic salary of the Republican Public Prosecutor by 1 January 2010.

Elective Members of the First Composition of the State Council from among

Attorneys and Faculty of Law professors

Article 52

The Bar Association of Serbia and the joint session of all law faculty deans in the Republic of Serbia are obliged to propose to the National Assembly, within 30 days of the day this Law enters into force, one or several candidates for the election of elective members of the first composition of the State Council from among attorneys and/or Faculty of Law professors.

The nomination of candidates referred to in paragraph 1 of this Article shall be conducted by analogous application of this Law.

Constitutive Session of the State Council

Article 53

The constitutive session of the State Council shall be held within seven days from the day of the election of elective members.

The constitutive session is convened and chaired by the Republican Public Prosecutor.

Termination of Term of Office of Elective Members of the First State

Council Composition

Article 54

Term of office of the elective members of the first composition of the State Council from among public prosecutors and deputy public prosecutors shall end on a date when elective members of the standing composition take up office, and not later than the expiry of the five-year's term of office.

Term of Office of the elective members of the first composition of the State Council from among attorneys and Faculty of Law professors shall end with the expiry of the term of office prescribed by this Law.

Term of Office of the elective members of the first composition of the State Council shall also end in all other cases as prescribed by the provisions of this Law.

Resumption of Office of Public Prosecutors and Deputy Public Prosecutors

Elective Members of the First State Council Composition

Article 55

An elective member from among deputy public prosecutors, after the termination of office in the first composition of the State Council, shall be elected to deputy public prosecutor duty in the public prosecutor's office wherefrom s/he was elected member, and/or in the public prosecutor's office that has assumed the jurisdiction of public prosecutor's office wherefrom s/he was elected member.

An elective member from among public prosecutors, after the termination of office in the first composition of the State Council, shall be elected to deputy public prosecutorial office in the same, directly superior public prosecutor's office and/or the public prosecutor's office that has assumed the jurisdiction of the public prosecutor's office wherefrom s/he was elected member.

The standing composition of the State Council shall pass the decisions from paragraphs 1 and 2 of this Article.

Time Limit for Conducting the Election Procedure for the Standing Composition of the State Council

Article 56

The procedure for election of members of the standing composition of the State Council from among public prosecutors and deputy public prosecutors shall be carried out within 6 months from the day of the beginning of operation of the public prosecutor's offices set under the Law on Public Prosecution.

Performance of Tasks of the Administrative Office and Taking over of Employees

Article 57

Within 90 days from the day of the establishment, the State Council shall take over from the Ministry competent for the judiciary the rights, obligations, cases and archives required for conducting the affairs assumed, in accordance with the competence specified by this Law.

The State Council shall also take over civil servants and ancillary staff operating within the scope of work assumed.

The manner of assuming cases and the taking over of civil servants and ancillary staff shall be regulated by an act of the Minister competent for the judiciary.

Until the vacancies provided for by the act on internal organization and job classification in the Administrative Office are filled in, certain professional and administrative task for the needs of the State Council may be performed by the Ministry competent for the judiciary, in accordance with the act of the State Council.

Bylaws

Article 58

Bylaws provided for by this Law shall be passed within 90 days from the day of the establishment of the State Council.

Until such acts referred to in paragraph 1 of this Article are passed, general acts of the High Judiciary Council shall apply unless they are contrary to this Law.

Assumption of Competences of the High Judiciary Council

Article 59

On the day of the establishment , the State Council shall assume competences of the High Judiciary Council set under the Law on Public Prosecution ("Official Gazette of the Republic of Serbia", Nos. 63/01, 42/02, 39/03, 44/04, 51/04, 46/06 and 106/06).

Termination of Force of the Law on High Judiciary Council

Article 60

Law on High Judiciary Council shall cease to be in force on the day of the constitution of the State Council ("Official Gazette of the Republic of Serbia", Nos. 63/01, 42/02, 39/03, 41/03 -correction, 44/04 and 61/05), in the part referring to public prosecutors and deputy public prosecutors.

Entry into Force of the Law

Article 61

This Law shall enter into force on the eighth day as of the day of publishing in the "Official Gazette of the Republic of Serbia".

Independent Articles of the Law on Amendments and Additions to the Law on the State

Prosecutorial Council

("Official Gazette of the Republic of Serbia", No. 101/ 2010)

Article 7

The election procedure for the Permanent Composition of the State Prosecutorial Council from the rank of public prosecutors and deputy public prosecutors shall be performed within 60 days from the entering into force of this Law.

Article 8

This Law shall enter into force the next day upon its publication in the "Official Gazette of the Republic of Serbia".

Independent Articles of the Law on Amendments and Additions to the Law on the State

Prosecutorial Council

("Official Gazette of the Republic of Serbia", No. 88/ 2011)

Article 4

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

Independent Articles of the Law on Amendments and Additions to the Law on the State Prosecutorial Council

("Official Gazette of the Republic of Serbia", No. xx/ 2014)

Article 16

Elected Council members elected in accordance with the Law on State Prosecutorial Council ("Official Gazette of the Republic of Serbia", No . 116/08, 101/10 and 88/11), shall perform their function until the expiration of the term of office which they were elected for.

Article 17

President and Deputy President of the Council will be elected, in accordance with this Law, within 30 days from the day of entry into force of this Law.

Article 18.

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