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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**REPUBLIC OF MOLDOVA**

**LAW N°3/2016 (\*)**

**ON THE PROSECUTION OFFICE**

**(As in force before “the July 2019 amendments”)**

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*(\*) translation provided by the authorities*

**PARLIAMENT OF THE REPUBLIC OF MOLDOVA****LAW  
on the Public Prosecution Service**

The Parliament passes this organic law.

**Title I.  
ORGANIZATION OF THE PUBLIC PROSECUTION SERVICE****Chapter I.  
General Provisions****Article 1. The Public Prosecution Service**

The Public Prosecution Service is a public institution within the judicial authority, which, in criminal proceedings or in other proceedings as provided by law, contributes to the observance of the rule of law, act of justice, protection of rights and legitimate interests of individuals and society .

**Article 2. The prosecutor**

The prosecutor is a public official who exercises the duties of the Public Prosecution Service envisaged in the Constitution, this law and the international treaties to which the Republic of Moldova is a party and is appointed in this position in the manner prescribed by this law.

**Article 3. Organisational and operational principles of the Public Prosecution Service and prosecutors**

(1) The Public Prosecution Service is carrying out its activities in accordance with the law.

(2) Organization and activity of the Public Prosecution Service is transparent and is built upon the presumption of guaranteeing the access of the society and mass-media to the information related to this activity, with exceptions provided by law and ensuring compliance with the personal data regime.

(3) The Public Prosecution Service is independent from the legislative, executive and judicial powers, any political party or social-political organization, as well as from any other institutions, organizations or individuals. Any interference in the work of the Public Prosecution Service is prohibited. The Prosecutor shall cooperate with other authorities to carry out the functions indicated in this law.

(4) The prosecutor shall conduct his/her activity based on the principle of legality, impartiality, reasonability, integrity and procedural independence, which give the opportunity to make independently and unipersonal decisions on the cases he/she manages.

(5) The procedural independence of the prosecutor is secured by guarantees excluding any political, financial, administrative or any other influence over the prosecutor in connection with the performance of his/her duties.

(6) According to the provisions of Article 13 of this law and the Code of criminal procedure, the activity of the public prosecutor may be subject to control by the hierarchically superior prosecutor and the Court.

(7) The prosecutor shall through his/her activity ensure the supremacy of the law, to respect human rights and freedoms, their equality before the law, ensure the legal treatment without discrimination of all the participants of judicial proceedings regardless of their quality, comply with the Ethics code of prosecutors and to participate at the continuous professional training.

**Article 4. The legal framework of activity of the Public Prosecution Service**

The activity of the Public Prosecution Service is governed by the Constitution of the Republic of Moldova, by the present law, by other legislative acts, as well as by international treaties to which the Republic of Moldova is a party.

## **Chapter II. THE AREAS OF ACTIVITY AND COMPETENCE**

### **Article 5. The functions of the Public Prosecution Service**

Under the law, the Public Prosecution Service carries out the following functions:

- a) conducts and carries out the criminal investigation and represents the accusation in the courts;
- b) organizes, conducts and controls the activities of criminal investigation bodies in criminal process;
- c) carries out, including ex officio, the control of the compliance with the legislation on special investigation activity;
- d) carries out, including ex officio, the control of compliance with the legislation relating to the registration of notifications about committed or planned crimes;
- e) initiates, examines and participates in court trials on cases of contraventional offences;
- f) ensures international legal assistance in criminal matters and international cooperation in its field of activity;
- g) participates in the implementation of national and international policy of the state in criminal matter;
- h) submits proposals for improving the legislation and participates in the drafting of regulatory acts in its field of activity;
- i) applies measures to protect witnesses, victims of crime and other participants in criminal process;
- j) in case when the criminal investigation is not initiated or terminated, under the law, initiates civil actions and participates in their examination;
- k) exercises control over the observance of laws in implementing the measures of protection of witnesses, victims of crime and other participants in criminal process;
- l) examines the requests and petitions, according to its competency.

### **Article 6. Rights and obligations of the prosecutor**

(1) In order to perform the functions of the Public Prosecution Service, the prosecutor shall perform his/her duties throughout the entire territory of the Republic of Moldova, in all courts and, under the law, has the following rights:

- a) in criminal or contraventional proceedings, to have free access to the premises of public institutions, businesses, and other legal entities.
- b) to initiate disciplinary proceedings for breaches of law, failure to fulfil or inadequate fulfilment of its obligations in criminal proceedings by the criminal investigation officers, employees of the facts-finding bodies, special investigation bodies, as well as those responsible for registering notifications;
- c) other rights under the laws in force.

(2) Other rights of the Prosecutor:

- a) to associate in professional organizations or other organizations aiming at representing and protecting the professional interests ;
- b) to have free access to his/her personal file and personal data from other acts held within the Public Prosecution Service;
- c) to be informed about all decisions of the Public Prosecution Service and self-governing bodies of the prosecutors, where they are mentioned.

(3) the Prosecutor is obliged to:

- a) fulfil the work obligations according to the Constitution, the legislation of the Republic of Moldova and international treaties to which the Republic of Moldova is a party;
- b) comply with the provisions of the regulatory acts adopted within the Public Prosecution Service;
- c) ensure the respect for rights and fundamental freedoms in exercising his/her duties;
- d) follow the rules of conduct of prosecutors and to refrain from any acts that could discredit the image of the Public Prosecution Service or would affect the prestige of the prosecutor profession;
- e) enhance continuously his/her professional skills;

f) submit an annual affidavit showing that he/she is not an investigating officer, including undercover officer or informer or employee of the body conducting the special investigative activity;

g) submit, in compliance with the law, the declaration of income and property and the declaration of personal interests;

h) inform the hierarchically superior prosecutor about any indications or requests made in violation of the law, as well as about the existence of any conflict of interest, or one that may occur;

i) declare any acts of corruption, facts of corruptive behaviour and any actions related to the acts of corruption, which have become known;

j) undertake measures with a view to denouncement and registration of all violations of laws, which became known while exercising his/her duties or outside it;

k) to abide by the state secrecy rules, as well as other information with restricted access that have become known while carrying out his/her duties.

### **Chapter III.**

#### **The Structure of the Public Prosecution Service**

##### **Article 7. The system of the Public Prosecution Service**

(1) The Public Prosecution Service is an integrated system, which includes:

a) the General Prosecutor's Office;

b) specialized prosecutor's offices;

c) territorial prosecutor's offices.

(2) The total number of prosecutors within the Public Prosecution Service shall be set by the Parliament, at the proposal of the Prosecutor General with the endorsement of the Superior Council of Prosecutors. The number of prosecutors within each prosecutor's office is set by the Superior Council of Prosecutors, at the suggestion of the Prosecutor General.

(3) The structure of the General Prosecutor's Office, territorial and specialized prosecutor's offices, as well as their locations shall be established and amended by the Prosecutor General, with the written consent of the Superior Council of Prosecutors.

(4) The Public Prosecution Service shall be headed by the Prosecutor General and his/her deputies, according to their areas of competence established by the Prosecutor General.

##### **Article 8. General Prosecutor's Office**

(1) The General Prosecutor's Office shall be headed by the Prosecutor General and his/her deputies, according to their areas of competence, is a legal entity, has a Treasury account, and a stamp with the state coat of arms. The premises of the General Prosecutor's Office shall be based in Chisinau.

(2) The General Prosecutor's Office has subdivisions headed by the chief-prosecutors or civil servants and, if appropriate, by their deputies.

(3) the powers of the General Prosecutor's Office:

a) leads, controls, organizes and coordinates the activity of the territorial and specialized prosecutor's offices;

(b) upon the decision of the Prosecutor General, conducts and carries out the criminal investigation, represents the accusation in courts, in cases of great importance;

c) represents the accusation in the Supreme Court of Justice;

d) performs and coordinates the control of the bodies carrying out special investigative activity related to the legality of the performance of the special investigation measures;

e) generalizes and contributes to the unification of the practice in the field of performing and leading the criminal investigation, and representation of accusations in the court;

f) ensures the international legal assistance in criminal matters and international collaboration in its field of activity;

g) takes part in the implementation of national and international policy of the state in criminal matter;

h) within the limits of its competency, examines the applications and petitions received;

- i) participates in the drafting of regulatory acts in the field of activity of the Public Prosecution Service;
- j) manages the budget of the Public Prosecution Service;
- k) collects, analyses and manages the data concerning the activity of the Public Prosecution Service;
- l) performs other functions determined by law and the international treaties to which the Republic of Moldova is a party.

#### **Article 9. Specialized Prosecutor's Offices**

(1) The specialized prosecutor's offices operate in certain special areas and have their competency throughout the territory of the Republic of Moldova. The Public Prosecution Service system includes the Anticorruption Prosecution Office and the Prosecution Office for Combating Organised Crime and for Special Causes. In case of necessity, by law, other specialized prosecutor's offices can be also established.

(2) The duties, competence, organization and functioning of specialized prosecutor's offices are regulated by special laws, criminal procedure legislation and their own regulations of activity.

(3) The specialized prosecutor's office is headed by the chief-prosecutor, who is assimilated to the General Prosecutor, who is helped by a deputy or where appropriate, by deputies, assimilated to the chief-prosecutor of the subdivision of the General Prosecutor's Office. Within the specialized prosecutor's office may be established subdivisions and these may have regional offices or representatives in the territory.

(4) The Anti-corruption prosecutor's office shall be specialized in combating corruption crimes, corruption related actions, and has the following specific duties:

- a) performs the criminal investigation in cases under its jurisdiction, according to the criminal procedural legislation;
- b) leads the criminal investigation in the cases investigated by the National Anti-corruption Center;
- c) represents the accusation in the courts of first instance, courts of appeal, and courts of cassation in the cases mentioned in paragraphs a) and b).

(5) The Prosecutor's Office for Combating Organised Crime and for Special Causes specializes in fighting organized crime, as well as terrorism and torture and has the following special duties:

- a) performs the criminal investigation in cases relating to torture, terrorism offences and offences committed by a criminal organization, as well as in other cases given in its competence by the law ;
- b) leads the criminal investigation in cases relating to offences, where the criminal investigation is performed by the criminal investigation bodies of the central specialised bodies;
- c) exercises or leads the criminal investigation in cases submitted to it for further handling by the Prosecutor General;
- d) represents the accusation in the court of first instance, courts of appeal, courts of cassation, in cases mentioned in paragraphs a), b), and c).

(6) Within the specialized prosecutor's offices operate constantly criminal investigation officers, investigative officers and specialists subordinated functionally to the chief-prosecutor of the specialized prosecutor's office. The criminal investigation officers and investigative officers are selected on individual basis by the chief-prosecutor of the specialized prosecutor's office and are seconded from other institutions for a period of up to 5 years, which can be renewed for the same period of time. The detachment is done by an order of the Prosecutor General with the approval of the chief of the institution, where the seconded person is working. The remuneration of the seconded criminal investigation officers, investigative officers and specialists is made from the budget of the Public Prosecution Service, according to the special legislation.

#### **Article 10. Territorial Prosecutor's Offices**

(1) The territorial prosecutor's offices operate within the court's jurisdiction, according to the territorial competence established in the Regulation of the Public Prosecution Service.

(2) The prosecutor's office of the Administrative Territorial Unity of Gagauzia (hereinafter the Prosecutor's Office of ATU Gagauzia) is a territorial prosecutor's office which exercises its attributions in the territory of the respective administrative territorial unit .

(3) The territorial prosecutor's office is headed by the chief-prosecutor and his/her deputy, if applicable, his/her deputies, in conformity with the competency established by the chief-prosecutor. In the territorial prosecutor's office can be created subdivisions led by the deputy (deputies) chief-prosecutor of the territorial prosecutor's office.

#### **Article 11. Duties of the Prosecutor General**

(1) The Prosecutor General has the following duties:

- a) represents the Public Prosecution Service in relations with other public authorities and with any legal or natural persons, from the country and from abroad;
- b) appoints the prosecutors, at the proposal of the Superior Council of Prosecutors;
- c) exercises the control over the activity of prosecutors;
- d) establishes the area of competency (duties) for his/her deputies;
- e) approves the Regulation on the Public Service, which shall be published in the Official Gazette of the Republic of Moldova;
- f) issues in writing orders and provisions, approves regulations and methodological recommendations;
- g) establishes, with the written agreement of the Superior Council of Prosecutors, the internal structure of the prosecutor's offices;
- h) requires the approval to start up or, where appropriate, starts the criminal investigation in cases stipulated by law;
- i) notifies the Constitutional Court in compliance with the legislation;
- j) organizes and implements the system of financial management and internal control and bears managerial responsibility for the administration of the budget of the institution and of the managed public patrimony ;
- k) performs other duties as prescribed by the law.

(2) Within 3 months since his/her appointment, the Prosecutor General shall appoint his deputies, divide their areas of competence, and establish the order of his/her substitution by his deputies, in case of absence or inability to perform his/her functions. If the Prosecutor General has not defined the order of his/her substitution by his/her deputies, the duties of the Prosecutor General shall be performed by his/her deputy with the greatest seniority as prosecutor.

(3) The Prosecutor General presents to the Parliament, annually, until 31 March of the respective year, a report on the activity of the Public Prosecution Service for the previous year. The report shall be heard in the Parliamentary plenum, shall be made public and shall be placed on the official website of the General Prosecutor's Office.

#### **Article 12. Administrative hierarchy in the Public Prosecution Service**

(1) The Prosecutor General and his/her deputies, according to established competency, are managers of the Public Prosecution Service. The heads of the General Prosecutor's Office subdivisions shall organize and conduct the activity of the subdivisions they lead, pursuant to powers laid down. The chief-prosecutor of the specialized prosecutor's office or territorial prosecutor's office shall organize and coordinate the activity of the prosecutor's office he/she lead.

(2) The orders, provisions and indications with regard to the organization and coordination of the work of the Public Prosecution Service and methodological and regulatory instructions of the prosecutors mentioned in paragraph (1) are mandatory for the subordinated prosecutors.

(3) The detailed rules regarding the administrative hierarchy in the Public Prosecution Service shall be laid down in the Regulation on the Public Prosecution Service.

#### **Article 13. Procedural hierarchy of prosecutors**

(1) From the procedural point of view, the hierarchically superior prosecutor is:

- a) for the prosecutors in the territorial prosecutor's office – chief-prosecutor of the territorial prosecutor's office or his/her deputy, according to the competency;

b) for the prosecutors within the specialized prosecutor's office – chief-prosecutor of the specialized prosecutor's office or the deputy chief-prosecutor of the specialized prosecutor's office, in accordance with the established competency;

c) for the chief-prosecutors of the territorial prosecutor's offices, including the chief prosecutor of the ATU Gagauzia Prosecutor's Office– chief-prosecutors of subdivisions within the General Prosecutor's Office, in accordance with the established competency;

d) for the chief-prosecutors of the specialized prosecutor's offices – General Prosecutor, as appropriate, the deputy Prosecutor General, in accordance with the established competency;

e) for the prosecutors within the subdivisions of the General Prosecutor's Office – chief-prosecutors of subdivisions within the General Prosecutor's Office;

f) for the deputy chief-prosecutors of the subdivisions within the General Prosecutor's Office – chief-prosecutors of subdivisions within the General Prosecutor's Office;

g) for chief-prosecutors of subdivisions within the General Prosecutor's Office - Prosecutor General or his/her deputies, in accordance with the established competency;

h) for the deputies of the General Prosecutor – Prosecutor General;

i) for all prosecutors within the Public Prosecution System - Prosecutor General.

(2) The hierarchically superior prosecutor directly performs the following tasks:

a) requires the bodies which have the legal powers to discover and investigate criminal offences, as well as the pursuit of special investigation activity, the designation of specialized people in the field to carry out, under the direct guidance and under the supervision of prosecutors, the procedural acts provided by law;

b) revoke, suspend or cancel the documents issued by the hierarchically subordinated prosecutor that are contrary to law;

c) gives guidance on the procedural actions to be carried out, which, however, cannot refer to the solution on the question;

d) performs other duties provided by the criminal procedure law.

(3) The indications of the hierarchically superior prosecutor shall be formulated in writing and in accordance with the law and shall be binding for the hierarchically subordinated prosecutors. The hierarchically subordinated prosecutor may require reasoning of the indications of the hierarchically superior prosecutor.

(4) The prosecutor has the right to refuse to perform an indication, which is manifestly illegal and is obliged to contest it to the prosecutor hierarchically superior to the prosecutor who issued it.

## **Title II.**

### **THE STATUS OF PROSECUTOR**

#### **Chapter IV.**

#### **Incompatibilities and Prohibitions**

##### **Article 14. Incompatibilities**

(1) The position of prosecutor shall be incompatible with any other public or private position, as well as with any remunerated or non-remunerated activities.

(2) By derogation from the provisions of paragraph (1), the prosecutor may carry out teaching and scientific activities. The rules on the cumulation of these activities shall be determined by the Superior Council of Prosecutors.

##### **Article 15. Prohibitions**

(1) The prosecutor is required to avoid, and if it occurs, to declare any conflict of interest while performing his/her duties.

(2) The prosecutor does not have the right to:

a) be a member of any political party or force, to perform or participate in political activities, and, in the exercise of its authority, to express or manifest his/her political beliefs in any way;

b) participate in strikes;

c) participate in the investigation or examination of cases where he might be subject to objection;

d) publicly express his/her opinion with regard to case-files that are not handled by him/her or with regard to cases in his/her administration, if this might infringe the presumption of innocence, the right to privacy of any person or may affect the criminal investigation;

e) be an investigation officer, including undercover, informer or employee of the body carrying out the special investigation activity;

f) carry out, either directly or through intermediaries, entrepreneurial or commercial activity;

g) be the umpire in arbitration courts;

h) provide advice, either written or verbal, on litigious matters, even if the respective matters are examined by another body of the Public Prosecution Service than the one where the prosecutor works, except for advising his/her spouse, children and parents, and the prosecutor cannot conduct any other activity, which, according to the law, is performed by a lawyer;

i) be an associate or a member of a managerial, administrative or control body of any commercial society, including banks or other credit institutions.

j) have and perform the functions of prosecutor in direct subordination to the husband (wife), related persons by blood or adoption (parents, children, brothers, sisters, grandparents, grandchildren, uncles, aunts) and persons related by affinity (brother-in-law, sister-in-law, mother-in-law, father-in-law, son-in-law, daughter-in-law).

#### **Article 16. Dress Code**

(1) During the court meetings, the prosecutor is obliged to wear the robe.

(2) The state shall provide free-of-charge clothing outfit to the prosecutors.

(3) The model of robe and distinguishing marks shall be laid down in the regulation endorsed by the Superior Council of Prosecutors.

### **Chapter V.**

#### **Prosecutor Selection and Career**

##### **Section 1.**

#### **The appointment of the prosecutor**

#### **Article 17. The appointment of the Prosecutor General (old version)**

(1) To the position of the Prosecutor General there can be appointed a person who meets the following conditions:

a) 10 years of professional experience in the legal field, out of which 5 years in the position of prosecutor;

b) compliance with the requirements provided in Article 22, paragraph a), b), c), d), f), g) and h);

c) organizational abilities;

d) in the last 3 years before the announcement of the contest, was not member of any political party and/or did not conduct any political activity as part of a political party or socio-political organization;

e) in the last 6 months wasn't a member of the Superior Council of Prosecutors .

(2) The candidate to the position of Prosecutor General is selected based on a public competition organized by the Superior Council of Prosecutors, which comprises the following stages:

a) selection of the candidates on the basis of applications submitted;

b) interview in front of the Superior Council of Prosecutors.

(3) The organization and conduct of the contest shall be determined by the regulation approved by the Superior Council of Prosecutors. The interview phase shall be transmitted online in real time. The Superior Council of Prosecutors ensures the access to media representatives at the meeting in which the interview takes place.

(4) The process for the selection of the candidate to the position of Prosecutor General shall be carried out according to some objective criteria, based on merit, taking into account his/her professional training, integrity and capabilities.



(5) The information relating to the launch and conduct of the competition shall be published on the official websites of the General Prosecutor's Office and Superior Council of Prosecutors, at least one month before the closing date for the submission of applications.

(6) The application file for the competition, including documents specified in article 22, paragraph (2), sub-paragraphs a), b) c), e), f) and g), the letter of motivation and the concept of management and institutional development, shall be submitted to the Superior Council of Prosecutors and registered as provided by law. The incomplete applications or the application submitted after the deadline shall not be examined.

(7) At the moment of submitting the set of documents, the candidates for the position of Prosecutor General shall be informed about the initiation of the verification in accordance with Law no. 271-XVI of 18 December 2008 concerning the examination of the holders and candidates to the public positions and shall sign the statement of verification, according to Law no. 269-XVI of 12 December 2008 on the application of the test on the simulated behaviour detector (polygraph). The applicant shall sign the statement of verification and shall submit the written agreement to be subject to the polygraph test.

(8) Within 20 working days from the deadline for the submission of applications, the Superior Council of Prosecutors shall draw up the list of candidates who satisfy the conditions for participation in the contest and to post it on its official website, by indicating the date when the interviews will take place.

(9) Interviewing of the candidates shall take place in a public meeting.

(10) The candidates shall be assessed by each member of the Superior Council of Prosecutors on the basis of the criteria approved by the Superior Council of Prosecutors. The final score shall be the average score given by all members of the Superior Council of Prosecutors. The candidate receiving the highest score shall be proposed by the Superior Council of Prosecutors to the President of the Republic of Moldova for appointment to the position of Prosecutor General.

(11) The President of the Republic of Moldova can reject only once the candidacy proposed by the Superior Council of Prosecutors for appointment to the position of Prosecutor General, if he/she finds compelling evidence of incompatibility of the candidate to the position in question, breach by the applicant of the legislation or violation of legal procedures for his/her selection. The refusal to appoint shall be reasoned and shall be made within 15 working days from the date of receipt of the proposal.

(12) In case of repeated proposal of the same candidacy, made based on a vote of 2/3 of the members of the Superior Council of Prosecutors, the President of the Republic of Moldova shall issue, within 5 working days, a decree on the appointment of the candidate to the position of Prosecutor General.

(13) The Prosecutor General shall be appointed in office for a term of 7 years, without the right to be re-appointed in this position.

(14) After the termination of the mandate, the Prosecutor General may continue his/her activity in any vacant position of prosecutor chosen by him/her, being appointed in this position without any competition.

#### **Article 18. The Appointment of the Deputies Prosecutor General**

(1) The candidate to the position of Deputy Prosecutor General shall be proposed by the Prosecutor General.

(2) As Deputy Prosecutor General may be appointed a person who has experience as a prosecutor for at least 7 years, and in the last 3 years has been working as prosecutor and has organizational abilities.

(3) The deputies of the Prosecutor General shall be appointed without any competition, by the order of the Prosecutor General, with the consent of the Superior Council of Prosecutors.

(4) The mandate of the Deputy Prosecutor General shall finish with the mandate of the Prosecutor General, but they shall continue to exercise their duties until the appointment of the deputies of the new Prosecutor General.

(5) The deputies of the former Prosecutor General may be appointed as deputies of the new Prosecutor General.

(6) After the termination of the mandate, the deputies of the Prosecutor General may proceed in any vacant position of prosecutor chosen by him/her, being appointed without any competition.

**Article 19. Selection of candidates for the position of prosecutor and prosecutor's career**

(1) The selection of the candidates to the office of the prosecutor and the prosecutors' career shall be made by means of a competition and aims at ensuring an objective, impartial and transparent selection process to guarantee the selection of the best candidates for the respective position.

(2) The prosecutor's career requires the appointment of a prosecutor from a position to another.

**Article 20. Requirements for applying to the position of prosecutor and chief-prosecutor (old version)**

(1) To the position of prosecutor can be appointed the person who shall meet the following requirements:

a) citizenship of the Republic of Moldova;

b) know the state language;

c) full legal capacity;

d) Diploma in the field of law, Bachelor and Master Degree Diploma or other document of studies in the field of law equivalent to them, recognized by the structure empowered for recognition and equivalence of studies and qualifications;

e) be a graduate of the initial training of prosecutors of the National Institute of Justice, or, for a person who has the length of service which is necessary for the appointment to the respective position, passed the examination in front of the Graduation Commission of the National Institute of Justice;

f) enjoy a irreproachable reputation;

g) was not previously found guilty in committing a crime;

h) be capable from the medical point of view of exercising the prosecutor's duties;

i) have been subject to verification and testing at the simulated behaviour detector (polygraph).

(2) The person cannot be regarded as having an irreproachable reputation under paragraph (1) and may not run for the position of prosecutor in case of any of the following circumstances:

a) was dismissed from the positions specified in paragraph (3) for violation of professional activity within the last 5 years;

b) abusive consumption of alcohol or psychotropic, toxic substances, or drugs;

(3) A person who has not attained the initial training courses for prosecutors at the National Institute of Justice can run for the office of the prosecutor if he/she has a seniority of at least 5 years as prosecutor or judge in national or international courts, criminal investigation officer, lawyer, Ombudsperson, prosecutor's adviser, judicial assistant in the courts, specialized legal positions within the apparatus of the Constitutional Court, Superior Council of Prosecutors, Superior Council of Magistracy, Ministry of Justice, Ministry of Internal Affairs, the National Anticorruption Center, Customs Service, Professor of Law in accredited higher education institutions.

(4) For the position of the prosecutor at the specialized prosecutor's offices or General Prosecutor's Office, as well as for the positions provided in Article 25, paragraph (4), there may apply a prosecutor who:

a) has a length of employment as a prosecutor for at least 5 years;

b) within the framework of performance evaluation, has been graded as "good", "very good" or "excellent".

(5) At the position of chief prosecutor of the ATU Gagauzia Prosecutor's Office can candidate the person who meets the requirements of current law, for a prosecutor, as well who;

a) has experience in the last 10 years continuously in the area of law, of which 5 years as prosecutor or judge;

b) in the last 3 years before the announcement of the competition was not a member and/or did not performed political activities in a political party or socio-political organization;

d) knows the Gagauz language.

(6) At the position of deputy chief prosecutor of the ATU Gagauzia Prosecutor's Office can candidate the prosecutor who meets the requirements provided by parag. (4) and knows Gagauz language.

(7) The prosecutor who has disciplinary sanctions in force may not participate in the competitions mentioned in parag. (4) - (6).

#### **Article 21. Checking the health status of candidates for the position of prosecutor and acting prosecutors**

(1) The health condition of candidates for the position of prosecutor and acting prosecutors, who want to participate in the contest, shall be checked before the entry in the Register of candidates to fill vacant functions.

(2) Checking the health status of the acting prosecutors shall be held once every five years.

(3) Checking the health status also includes the psychological and psychiatric assessment of candidates to the position of prosecutor and acting prosecutors.

(4) The requirements and procedure for determining the health status of the candidates to the position of prosecutor and acting prosecutors, including the list of diseases, which do not allow for the exercise of the prosecutor's duties, shall be approved by order of the Minister of Health, after coordination with the Superior Council of Prosecutors.

(5) The health status of the candidates for the prosecutor position and acting prosecutors must be checked by a specialized commission of the Ministry of Health, which issues a medical certificate on the health condition and the conclusions regarding the compliance of the candidates and acting prosecutors with the requirements to pursuit this position, which shall be submitted to the Superior Council of Prosecutors subsequently.

#### **Article 22. Registry of candidates to fill vacant positions**

(1) In order to be appointed as prosecutor, the candidates meeting the conditions laid down in Article 20, are entered in the Registry of candidates to fill vacant functions (hereinafter - the Registry) based on the application submitted and regardless of the existence of vacancies at the time of registration.

(2) In order to be entered into the Registry, the candidate for the prosecutor position shall submit the following documents:

a) the application for participation in the contest;

b) a curriculum vitae;

c) a copy of education diploma;

d) the certificate of graduation of the National Institute of Justice or certificate confirming the graduation exam in front of the Graduation Commission of the National Institute of Justice;

e) a copy of the employment record book, in case of candidates who have employment record books;

f) criminal record certificate;

g) the medical certificate concerning the state of health;

h) the declaration on income and property;

i) the declaration of personal interests;

j) reference letters from the last place of work or study;

k) certificate confirming the test at the simulated behaviour detector (polygraph).

(3) At the moment of submitting the documents, the person shall be informed of the initiation of procedures provided in Article 17, paragraph (6) of this law.

(4) The acting prosecutor willing to be transferred or promoted may be entered in the Registry, if he/she has undergone a performance evaluation during the last two years before submitting the application for entry into the Registry. Prosecutor seeking appointment to the position of chief - prosecutor or deputy chief-prosecutor may be entered in the registry if he/she has undergone a performance evaluation during the last year before submitting the application for entry into the Registry.

(5) The Registry shall be kept by the Secretariat of the Superior Council of Prosecutors and shall compose the following compartments:

- a) list of candidates to the vacant position of prosecutor;
- b) list of prosecutors seeking the transfer to another Prosecutor's Office;
- c) list of prosecutors seeking appointment to the position of chief - prosecutor or deputy chief-prosecutor.

(6) The procedure for inclusion of the candidates in the Registry shall be approved by the Superior Council of Prosecutors.

(7) The Registry shall be placed on the website of the Superior Council of Prosecutors.

### **Article 23. Criteria for prosecutor selection and career**

(1) The College for Prosecutors Selection and Career under the Superior Council of Prosecutors shall assess the candidates registered in the Registry referred to in Article 22 on the basis of the criteria laid down in this law and according to the Regulation approved by the Superior Council of Prosecutors.

(2) Within the contest, the College for Prosecutors Selection and Career considers the applicants on the basis of the following criteria:

- a) the level of professional knowledge and skills;
- b) the ability in practical application of knowledge;
- c) length of service as a prosecutor or other positions laid down in Article 20;
- d) quality and effectiveness in office of public prosecutor;
- e) compliance with the rules of professional ethics;
- f) scientific and educational activity.

(3) The procedure and criteria for the selection of candidates for the post of prosecutor and prosecutor career shall be established in details in the regulation referred to in paragraph (1), to be published on its website.

(4) When assessing the candidate to the position of prosecutor, the total score obtained in the contest shall be as follows: at least 50% of the score obtained at the examination before the Graduation Commission at the National Institute of Justice and maximum 50% of the score given by the College for Prosecutors Selection and Career. In case of prosecutors' career, at least 50% shall be the result of professional assessment and maximum 50% shall be provided by the College for Prosecutors Selection and Career.

(5) As a result of the competition, each member of the College for Prosecutors Selection and Career shall provide a score for each candidate on the basis of the regulation referred to in paragraph (1). The score accumulated by a candidate means the average score given by the College's members.

### **Article 24. The contest for prosecutor selection and career and filing in vacancies**

(1) The Superior Council of Prosecutors periodically shall announce vacancies or positions that will become vacant in the next 3 months by placing information on its official website. All the announced vacancies are filed at the next contest.

(2) College for Prosecutors Selection and Career shall assess all candidates entered on the Registry. In case of an unreasoned no-show in front of the College for Prosecutors Selection and Career or refusal of the candidate to be assessed, he/she is removed from the Registry.

(3) The results of the candidates' assessment shall be published on the official website of the Superior Council of Prosecutors within 2 working days.

(4) The candidates who disagree with the results of appraisal may lodge appeals with the Superior Council of Prosecutors within 5 working days from the publication of the results. The appeal shall be settled at the first meeting of the Council, but not later than 20 working days after it was lodged. The decision of the Superior Council of Prosecutors may be appealed in the Supreme Court of Justice just in what refers to the adoption procedure.

(5) The candidates shall choose the positions participating in the contest in descending order of score obtained from the College for Prosecutors Selection and Career. In case of equal score, first shall be chosen the candidate who has obtained the best results at the National Institute of Justice or the performance evaluation. The result of the contest shall be published on the official website of the Superior Council of Prosecutors within 2 working days after its completion.

(6) At the following meeting, the Superior Council of Prosecutors shall propose to the Prosecutor General the appointment of candidates nominated as a result of the contest. The Superior Council of Prosecutors may refuse the proposal for appointment if it finds that the candidate is incompatible with the office of the prosecutor.

#### **Article 25. The appointment of prosecutors**

(1) The appointment of the prosecutor, chief-prosecutor of the prosecutor's office or deputy chief-prosecutor of the prosecutor's office, chief-prosecutor of the subdivision of the General Prosecutor's Office or deputy chief-prosecutor of the General Prosecutor's Office subdivisions shall be done by an order of the Prosecutor General, on a proposal from the Superior Council of Prosecutors.

(2) Within 5 working days of receipt of the proposal, the Prosecutor General is required to adopt a decision. The Prosecutor General may reject in a motivated way the candidature submitted for the appointment. The Superior Council of Prosecutors may propose the same candidacy repeatedly with a vote of 2/3 of its members. This proposal is mandatory for the Prosecutor General.

(3) Candidates to the office of the prosecutor of the ATU of Gagauzia shall be proposed by the People's Assembly with at least 3 months prior to the occurrence of vacation, if it occurs before the mandate expires, in a period of 2 months from the occurrence of vacation.

(4) The mandate of the chief-prosecutor of prosecutor's office, deputy chief-prosecutor of the prosecutor's office, chief-prosecutor of the General Prosecutor's Office subdivisions, and deputy chief-prosecutor of the General Prosecutor's Office subdivisions is of 5 years. Staying in the same position may not exceed 2 consecutive mandates. At the end of the mandate, he/she shall be proposed the appointment, without competition, in one of the vacant position of prosecutor, with the exception of the chief-prosecutor.

#### **Article 26 The procedure of selecting the candidate for the position of chief prosecutor of the ATU of Gagauzia Prosecutor's Office**

(1) The candidate for the position of chief prosecutor of the ATU Gagauzia Prosecutor's Office is selected by the People's Assembly of Gagauzia under the conditions and criteria established by the Law on Public Prosecution Service and the regulation approved by the Superior Council of Prosecutors. The candidate shall be selected following a public competition organized and carried out in accordance with the procedure established by the local law of the People's Assembly of Gagauzia.

(2) When assessing the participants in the competition for the position of chief prosecutor of the ATU Gagauzia Prosecutor's Office, the People's Assembly of Gagauzia applies the score in accordance with Regulation approved by the Superior Council of Prosecutors.

(3) The People's Assembly of Gagauzia proposes the selected candidate for verification to the Superior Council of Prosecutors.

4) Based on the materials submitted by the People's Assembly of Gagauzia, the Superior Council of Prosecutors, within a month, verifies the compliance of the procedure and the candidate suitability to the conditions and criteria provided by the Law on Public Prosecution Service and the Regulation approved by the Superior Council of Prosecutors and proposes the candidature for appointment to the Prosecutor General.

5) If the Superior Council of Prosecutors identifies violations of procedure for selecting the candidate or he/she does not correspond to the conditions or criteria, the Superior Council of Prosecutors rejects with arguments the candidacy proposed by the People's Assembly of Gagauzia.

6) The People's Assembly of Gagauzia can propose repeatedly the same candidate with the vote of 2/3 of its members. If the Superior Council of Prosecutors repeatedly establishes the procedure's violation or noncompliance to the conditions or criteria, it rejects with arguments the candidacy. The same candidature rejected the second time due to the nonconformity to the conditions or criteria, cannot be proposed once more for the position of chief prosecutor of the ATU Gagauzia Prosecutor's Office, therewith a new competition will be organised.

**Article 27. The prosecutor's oath**

(1) After the appointment, the General Prosecutor and the prosecutor shall take the following oath:

"I swear to strictly abide by the Constitution, and by the laws of the Republic of Moldova, human rights and freedoms and to conscientiously fulfill my duties".

(2) Refusal to take the oath shall result *de jure* in the nullification of the appointment.

(3) The Prosecutor General shall take the oath on the date of appointment in front of the President of the Republic of Moldova and members of the Superior Council of Prosecutors.

(4) The prosecutors shall take the oath in front of the Prosecutor General and members of the Superior Council of Prosecutors.

(5) The taking of the oath shall be recorded in a declaration, which shall be signed by the person who has taken the oath, the Prosecutor General and the President of the Superior Council of Prosecutors .

**Section 2.****Prosecutor's performance assessment****Article 28. The purpose of assessing the prosecutors' performance**

The prosecutors ' performance shall be assessed by the Prosecutors performance evaluation College subordinated to the Superior Council of Prosecutors, with the aim of assessing the activity, the level of professional knowledge and skills of prosecutors, their compliance with the position held, as well as for improvement of professional skills and enhancing the effectiveness of the work of prosecutors.

**Article 29. Forms of the prosecutors ' performance assessment**

(1) The assessment of the prosecutors' performance shall be carried out in two forms:

- a) periodically assessment;
- b) extraordinary assessment.

(2) The prosecutor shall be subject to periodic performance assessment every 4 years. The first appraisal of the prosecutor shall be carried out 2 years after the appointment.

(3) The prosecutor shall be subject to the extraordinary performance assessment:

- a) at his/her request, but not more often than once in a year;
- b) in case of participation in the contest to occupy the position of chief-prosecutor;
- c) in case of obtaining the qualification - "insufficient".

**Article 30. The prosecutors' performance assessment procedure**

(1) The detailed procedure and criteria for the prosecutors' performance assessment shall be determined in a regulation, approved by the Superior Council of Prosecutors and to be posted on its official website.

(2) Regulation referred to in paragraph (1) envisages:

- a) the limits for extending the process of the prosecutors' performance assessment;
- b) the methodology, procedure and duration of the prosecutors' performance assessment;
- c) the evaluation criteria and performance indicators of the prosecutors' activity;
- d) the sources of information and the means of collecting the information necessary to assess the performance of prosecutors.

**Article 31. Decision on performance assessment**

(1) As a result of the prosecutor's performance assessment, the Prosecutors performance evaluation College shall approve one of the following decisions:

- a) decision on passing successfully the performance assessment by granting the rating – "good", "very good" or "excellent";
- b) decision on obtaining the rating – "insufficient";
- c) decision on failure to pass the performance assessment.

(2) The decision on the performance assessment shall indicate the appropriate rating and score obtained, as well as recommendations for improving the activity.

(3) In the cases referred to in paragraph (1), sub-paragraph b), the prosecutor shall be subject to an extraordinary assessment, not earlier than 6 months but not later than one year after the previous evaluation.

(4) In case of "insufficient" rating during two consecutive assessments or in case of failure to pass the performance assessment, the prosecutor shall be dismissed from the office.

(5) In case any appearances of misconduct are found, the Prosecutors performance evaluation College shall inform the Inspection of Prosecutors about the matter.

### **Section 3. Continuous Professional Training of Prosecutors**

#### **Article 32. Continuous Professional Training of the Prosecutors**

(1) During the continuous training there should be taken into account the dynamics of the legislative process. This training should include, in particular, the deepening of the knowledge of national legislation, of the European and international acts, to which the Republic of Moldova is a party, of the case-law of the national and foreign courts of law.

(2) The responsibility for the continuous training of prosecutors shall lie with the National Institute of Justice, with heads of the prosecutor's offices where prosecutors shall conduct their activity, as well as with each prosecutor through the individual training.

(3) Prosecutors shall participate at least 40 hours per year in the programmes of continuous training organized by the National Institute of Justice, in the programmes organized by other higher education institutions from the country or from abroad, or in other activities of vocational training.

(4) The continuous training of prosecutors shall be carried out with due account to the necessity of the prosecutors' specialization.

(5) Within each body of the Public Prosecution Service there shall be periodically organized activities of continuous training.

(6) When drafting the curricula and topics on the continuous training of prosecutors there should be taken into consideration the suggestions and individual needs of prosecutors and prosecutors should be offered possibilities to choose the field they wish to improve in.

### **Chapter VI. GUARANTEEING THE PROSECUTOR'S INDEPENDENCE**

#### **Article 33. Ensuring of the prosecutor's independence**

(1) The prosecutor's independence shall be guaranteed by:

- a) a strict determination by the law of the prosecutor's status, the delimitation of the functions of the Public Prosecution Service, and of the prosecutor's competences and attributions in the course of the exercise of the functions of the Public Prosecution Service;
- b) the procedure of the prosecutor's appointment, suspension, and dismissal;
- c) his/her inviolability;
- d) discretion in decision-making granted by the law to the prosecutor exercising his/her functions;
- e) establishment by the law of prohibitions as to interferences of other persons or authorities with the activity of the prosecutor;
- f) allocation of adequate resources necessary for the functioning of the Public Prosecution Service, the creation of organizational and technical conditions that are favourable for the activity of these bodies;
- g) material and social ensurance of the prosecutor;
- h) other measures stipulated by the law.

(2) During the decision-making process the prosecutor shall be independent in the conditions provided by the law.

(3) If he decisions adopted by the prosecutor are illegal, these can be annulled on grounded reasons by the hierarchically superior prosecutor.

(4) The person, whose legitimate rights and interests were affected by the actions, inactions or acts of the prosecutor, may appeal these to the hierarchically superior prosecutor.

The decision of the hierarchically superior prosecutor to settle the claim may be appealed in the Court.

**Article 34. The inviolability of the prosecutor**

(1) The inviolability of the prosecutor shall provide him/her with guarantees of protection against any influences upon or interferences with his/her activity.

(2) The entering in the prosecutor's dwelling place or office, in his/her the personal or service vehicle, in the execution of controls, searches or seizure of assets, the interception of telephone communications, body search, control and seizure of correspondence, objects or documents which belong to the prosecutor shall be authorized only under the conditions provided by the legislation.

(3) The prosecutor cannot be brought to legal liability for statements made by observing the professional ethics.

(4) The criminal investigation against the prosecutor can be initiated only by the Prosecutor General. Along with launching the criminal investigation, the Prosecutor General shall inform the Superior Council of Prosecutors about the matter for the commencement of disciplinary proceedings.

(5) The criminal investigation against the Prosecutor General can be initiated only by a prosecutor appointed by the Superior Council of Prosecutors.

**Chapter VII.**

**Incentive measures. The Disciplinary and Patrimonial Liability of the Prosecutor**

**Section 1.**

**Incentive measures**

**Article 35. Incentives**

(1) For the exemplary fulfilment of the service duties, actions with the spirit of sacrifice or for outstanding successes in work, the prosecutors can be encouraged by:

- a) expression of gratitude;
- b) awarding of a symbolic gift;
- c) granting a bonus;

d) awarding ranks of the Public Prosecution Service , approved by the Superior Council of Prosecutors.

(2) The incentives provided in para (1) shall be applied based on the criteria established by the regulation approved by the Superior Council of Prosecutors. This shall be applied by an order of the Prosecutor General, at the proposal of the Superior Council of Prosecutors.

(3) For special merits in performance of the service duties the prosecutors can be put forward for decoration with state awards. The proposals regarding the decoration with state awards shall be advanced by the Superior Council of Prosecutors.

(4) The incentives provided in para (1) and (3) cannot be applied to the prosecutors in respect of whom a disciplinary proceeding was initiated or have an unquenched disciplinary sanction.

**Section 2.**

**Disciplinary Liability**

**Article 36. Disciplinary Liability**

(1) The disciplinary procedure shall be applicable to the acting prosecutors and prosecutors who have ceased employment service.

(2) The prosecutors shall be sanctioned disciplinary for committing irregularities of conduct referred to in Article 38.

**Article 37. Principles of disciplinary procedure relating to prosecutors**

The disciplinary procedure relating to prosecutors shall be based on the following principles:



- a) legality;
- b) respect for the decision-making independence of the prosecutor;
- c) equity;
- d) proportionality of the sanction of the disciplinary violation committed;
- e) transparency.

### **Article 38. Disciplinary Violations**

The following shall constitute a disciplinary violation:

- a) inappropriate fulfilment of the service duties;
- b) incorrect or biased application of the legislation, if this action is not justified by the change of the practice of application of legal norms established in the current law-enforcement;
- c) illegal interference in the activity of other prosecutor or any other interventions with the authorities, institutions or officials for the purpose of solving of any issue;
- d) intentional hindrance, by any means, of the activity of the Prosecutors inspection;
- e) severe violation of the legislation;
- f) undignified attitude or manifestations affecting the honor, professional untrustworthiness, prestige of the Public Prosecution Service or that violate the Code of ethics for the prosecutor.

### **Article 39. Disciplinary Sanctions**

(1) In the conditions of the law and depending upon the gravity of the committed violations, the following disciplinary sanctions shall be applied to the prosecutor by the decision of the College of discipline and ethics subordinated to the Superior Council of Prosecutors, the following disciplinary sanctions:

- a) warning;
- b) reprimand;
- c) demotion in position;
- d) decrease in salary;
- e) dismissal from the prosecutor position.

(2) The warning is to warn in writing the prosecutor about the disciplinary offence committed and the recommendation for him/her to comply with the statutory provisions in the future.

(3) The reprimand is critique, expressed in written form, on the actions committed by the prosecutor.

(4) The reduction of salary is a reduction of monthly salary by 15% - 30% for a period of 3 months up to 1 year and shall be applied starting the calendar month following the date when the decision on disciplinary cause was left irrevocable.

(5) The demotion in position represents the transfer from the position of chief-prosecutor in a position of prosecutor or the transfer of a prosecutor from the General Prosecutor's Office or from a specialized prosecutor's office into a territorial prosecutor's office. The demotion is based on the decision to sanction, by order of the Prosecutor General.

(5) The dismissal from the office of the prosecutor, under paragraph (1), represents the termination of powers of the prosecutor, as a result of committing a disciplinary violation. The dismissal from the position of prosecutor based on the sanctioning decision shall be made by order of the Prosecutor General.

(6) Pursuant to the decision on sanctioning by dismissal, immediately after its delivery, the Prosecutor shall be de jure released from performing any service duties.

### **Article 40. Disciplinary Procedure timeframe**

(1) The prosecutor may be disciplinary held liable within 1 year from the date when the disciplinary offence was committed.

(2) Notwithstanding the provisions of paragraph (1), in case a disciplinary offence was committed in the work process, the period of time for the disciplinary responsibility is of 3 years from the date the disciplinary offence was committed.

(3) The disciplinary procedure must be carried out, as a rule, within 6 months since the date of referral in respect of facts which may constitute a disciplinary violation. The term of 6 months does not represent the period of limitation for bringing to the disciplinary responsibility.

(4) The disciplinary procedure initiated pursuant to Article 33, paragraph (4) shall be carried out within 30 days from starting the criminal investigation, this not being a term of limitation period for bringing to disciplinary responsibility.

(5) If at the time of application for resignation, against the prosecutor:

a) there are disciplinary proceedings; these shall be completed within a period of up to 30 days after the filing of the application for resignation;

b) a notification was filed before the resignation; the disciplinary procedure shall be concluded within 30 days of submitting the notification.

(6) Before issuing a decision on the issue related to the disciplinary cause referred to in paragraph (5), the application for resignation shall not be examined, and if the order on the resignation was delivered, it shall be suspended.

(7) Within the period indicated in paragraph (3), (4) and (5), the period related to the annual leave or sick leave of the person in respect of whom the disciplinary proceedings are conducted shall not be included.

#### **Article 41. The conditions and consequences of the application of disciplinary sanctions**

(1) Disciplinary sanctions shall be applied to the acting prosecutors.

(2) Disciplinary sanctions shall be applied proportionally to the seriousness of the disciplinary offence committed by the prosecutor and his/her personal circumstances. The seriousness of the disciplinary violation shall be determined by the nature of the offence committed and its consequences. The consequences are evaluated taking into account both the effects on the people involved in the activities in which the offence was committed, as well as effects on the image and prestige of the Prosecutor's Office.

(3) The term of action of disciplinary sanction is of one year from the date of its commission.

(4) Committing a disciplinary violation during the previous disciplinary sanction, regardless of the type of disciplinary offence committed, constitutes an aggravating circumstance and shall be taken into account when establishing the sanction for the following disciplinary violation committed.

(5) Within one year from the date of disciplinary sanction commencement, the prosecutor may not be promoted and may not benefit of any incentives.

#### **Article 42. Disciplinary proceedings**

The disciplinary proceedings start at the time of notification and include the following stages:

a) the submission of notification concerning the facts, which may constitute a disciplinary violation;

b) verification of the notification by the Inspection of prosecutors;

c) examination of the case by the College of discipline and ethics under the subordination of the Superior Council of Prosecutors;

(d) adoption of a decision on the disciplinary cause.

#### **Article 43. Notification concerning the facts which may constitute disciplinary violation**

(1) Notification concerning the facts that may constitute a disciplinary violation committed by prosecutors may be filed by:

a) any interested person;

b) members of the Superior Council of Prosecutors;

c) Prosecutors performance evaluation College under the conditions provided for in Article 31, paragraph (5);

d) Inspection of prosecutors, following the checks carried out.

(2) The persons, as provided for in paragraph (1), may submit notifications concerning the facts which have become known to them in the exercise of rights or performance of the service duties, or on the basis of the information circulated by the mass-media.

(3) In case there are several notifications concerning the same act and the same prosecutor, the notifications shall be compiled.

(4) Revocation of notification shall not affect the disciplinary proceedings.

#### **Article 44. Conditions of form and content of notification**

(1) The notification regarding any disciplinary deviation shall be filed in writing. The procedure for the submission and the content of notifications shall be regulated based on the regulation approved by the Superior Council of Prosecutors.

(2) The anonymous notifications shall not be considered.

(3) It is considered manifestly unfounded any notification alleging the facts that do not refer to disciplinary violations, the limitation period provided for in Article 40, paragraph (1) or (2) has expired, as well as the notification is repeatedly submitted without bringing new evidence.

#### **Article 45. Registration and distribution of notifications**

(1) The notification concerning the facts that may constitute a disciplinary violation shall be submitted to the Secretariat of the Superior Council of Prosecutors. The notification shall be registered and shall be forwarded to the Inspection of prosecutors not later than 3 working days from its receipt.

(2) If the notification does not comply with the conditions of form and content, the inspector shall, within five working days after the day when he/she was allocated for preliminary verification of the notification, return it to the author stating the shortcomings established by a decision that cannot be subject to appeal, with an explanation of the right to lodge a new notification.

#### **Article 46. Verification of notifications**

(1) Verification of notifications concerning the facts that may constitute disciplinary violations is the stage at which there shall be established the facts imputed to the prosecutor and their consequences, the circumstances in which these were committed, as well as any other relevant information in order to infer the existence or nonexistence of the disciplinary offence elements.

(2) The Inspector who has been assigned with the notification shall:

a) undertake all necessary measures to check the facts invoked by the author of the notification and determine the existence or nonexistence of the elements of the offence that could constitute a disciplinary violation;

b) require, by informing the chief - prosecutor of the prosecutor referred to in the notification, his/her written opinion with regard to the circumstances invoked;

c) draw up the disciplinary cause case, which includes the notification concerning the facts which may constitute a disciplinary violation, all materials and other information obtained as a result of the verification.

(3) During the process of the notification verification, the inspector has the right to:

a) make copies of the relevant documents, including the examination of the case files related to the acts described in the notification;

b) require further information necessary from the head of the prosecutor mentioned in the notification, as well as from other public authorities, people with responsible functions or private persons;

c) request, if necessary, the person who filed the notification to provide written and verbal explanations, as well as other additional information in relation to the facts alleged in the notification;

d) undertake other necessary measures for the purpose of notification verification.

#### **Article 47. Deadlines for verifying the notifications**

(1) Verification of the notification concerning the facts that may constitute a disciplinary violation shall be carried out within a period of up to 30 days from the date of receipt of the notification by the Inspection of prosecutors.

(2) The inspector may order the prolongation by maximum 10 working days, if there are reasonable grounds justifying the extension, by informing the author of the notification about this.

(3) In the cases referred to the Article 40, paragraphs (4) and (5), verification of the notification shall be made within 10 days.

**Article 48. The rights and obligations of the prosecutor against whom the notification was lodged at the verification stage**

(1) At the stage of verification of notification, the prosecutor against whom the notification was lodged is entitled to:

- a) know the contents of the notification;
- b) present oral and written explanations;
- c) submit evidence that demonstrates or deny certain facts alleged in the notification or relevant to the notification;
- d) be assisted by a lawyer or a representative;
- e) participate in the examination of the disciplinary cause.

(2) At the stage of the verification of notification, the prosecutor against whom the complaint was lodged is required to:

- a) not impede in any way the verification undertaken by the inspector;
- b) not contact personally or through a representative the author of the notification, except when in presence of the inspector.

**Article 49. Results of the notification verification with regard to the facts that may constitute a disciplinary violation**

(1) After the verification is completed, the inspector shall issue one of the following justified decisions on:

- a) termination of the disciplinary proceedings, if he/she does not identify any grounds for bringing to the disciplinary responsibility;
- b) transmission of materials to the College of discipline and ethics, if he/she identified a reason for bringing to disciplinary action.

(2) In the case referred to in paragraph (1), sub-paragraph b), the decision of the inspector, together with the report drawn up on the basis of the verification and the disciplinary case file, within three working days from the date of issue, shall be submitted to the College of discipline and ethics for consideration and shall inform the author of the notification in writing or, on request, in electronic format.

(3) The model of the report on the results of the notification verification on the facts that may constitute a disciplinary misconduct by an inspector shall be approved by the Superior Council of Prosecutors, at the proposal of the College of discipline and ethics.

(4) The decision on termination of the disciplinary proceeding may be appealed by the author of the notification at the College of discipline and ethics, within 10 working days since receiving it.

**Article 50. Examination of the disciplinary cause by the College of discipline and ethics**

(1) The disciplinary cause shall be examined by summoning the prosecutor referred to in the notification concerning the facts that may constitute a disciplinary misconduct, the representative of the Inspection of the prosecutors and person who has filed the notification.

(2) When examining the disciplinary cause, the prosecutor and the person who submitted the notification may be represented or assisted by a lawyer or other person, chosen by them as a representative.

(3) Failure to show up without reasonable grounds of the prosecutor or the person who submitted the notification or their representatives at the meeting of the College of discipline and ethics does not prevent the examination of the disciplinary cause.

(4) The inspection of prosecutors is represented by the inspector who carried out the verification of the notification or another inspector designated by the head of the Inspection of prosecutors. The presence of a representative of the Inspection of prosecutors is mandatory.

(5) When examining the disciplinary cause, the hearing of witnesses or other persons relevant to the examination of the case may be necessary.

(6) The College of discipline and ethics usually shall adopt a decision on the disciplinary case within 2 months from receipt of materials from the inspection of prosecutors.

(7) The examination procedure of the disciplinary case within the College of discipline and ethics shall be governed by the regulation approved by the Superior Council of Prosecutors.

(8) The member of the College of discipline and ethics who submitted the notification or against whom the notification has been lodged shall not be entitled to participate in the examination of the disciplinary case.

#### **Article 51. Decision on the disciplinary case**

(1) After examination of the disciplinary case, the College of discipline and ethics shall adopt one of the following decisions with regard to:

- a) finding the disciplinary violation and application of a disciplinary sanction;
- b) finding the disciplinary violation and suspension of the disciplinary proceedings, when the time limits for bringing the disciplinary action have expired;
- c) finding the disciplinary violation and suspension of the disciplinary proceedings, when the prosecutor has ceased his/her service relations before the issuance of the decision regarding the disciplinary cause;
- d) termination of the disciplinary proceedings, when no disciplinary violation has been committed.

(2) If the disciplinary proceedings were initiated pursuant to Article 40, paragraph (4), the decision on the disciplinary case shall envisage also the proposal to apply or not any temporary suspension from office.

(3) If a member of the College of discipline and ethics has dissented against the decision adopted, he/she shall expose in writing the reasons, the opinion being attached to the file.

(4) The decisions shall be signed by the chairperson and members of the College of discipline and ethics who participated in the case examination. Within 3 working days from the date of issuing the opinion, the decisions of the College of discipline and ethics shall post it on the official website of the Superior Council of Prosecutors.

(5) A copy of the decision shall be sent to the participants in the disciplinary case and shall be attached to the personal file of the prosecutor concerned.

(6) After examination of the disciplinary case, the College of discipline and ethics may come with an additional recommendation to the Superior Council of Prosecutors for an extraordinary assessment of the prosecutor's performance, if the case circumstances and materials demonstrate the need to assess his/her performance.

(7) The decision on sanctioning via relegation in office and decision on sanctioning via dismissal from prosecutor position shall be sent to the Superior Council of Prosecutors to forward the appropriate proposal to the Prosecutor General. The proposal shall be submitted after the expiry of the appeal period.

(8) The decision on the disciplinary case shall consist of the introductory statement, presentation of the facts, reasoning and enacting part. The form and content of the decision shall be approved through a Regulation by the Superior Council of Prosecutors.

#### **Article 52. Inspection of prosecutors**

(1) Inspection of prosecutors is a subdivision of the General Prosecutor's Office, where the inspectors with the status of civil servants with special status operate.

(2) The inspectors are appointed based on a public contest and shall meet the following conditions:

- a) a law degree diploma or equivalent;
- b) working experience in legal field for at least 7 years;
- c) not being previously found guilty of committing a crime;
- d) an excellent reputation in terms of Article 20, paragraph (2) of this law.

(3) The competition for the selection of inspectors shall be organized by the General Prosecutor's Office.

(4) The acting prosecutors cannot be appointed as inspectors.

(5) The inspection of prosecutors is headed by a chief - inspector and reports directly to the Prosecutor General. The structure and duties of the Inspection of prosecutors shall be established by a regulation approved by the Prosecutor General and published on the official website of the General Prosecutor's Office.

(6) The Inspection of prosecutors has the following duties:

- a) carry out the verification of the organizational work of prosecutors and prosecutor's offices;

- b) investigate the notifications on the facts that may constitute a disciplinary violation;
  - c) keep statistical records of all notifications and verification results thereof;
  - d) prepare information for prosecutors' performance assessment and their promotion to another office;
  - e) prepare the annual activity report on its activity;
  - f) other duties provided by legislation or regulations on activity.
- 7) Chief-Inspector and the inspector from the Prosecutors Inspection are paid with a salary equivalent with the salary of the chief-prosecutor of the territorial prosecutor's office, respectively with the salary of the prosecutor of the territorial prosecutor's office, taking into account the corresponding seniority.

### **Section 3. The Patrimonial Liability**

#### **Article 53. The patrimonial liability**

- (1) The state shall bear patrimonial liability for damages caused by errors made by prosecutors in the course of performance of their duties, under Law no. 1545 of 25 February 1998 on compensation for damage caused by unlawful actions of the criminal investigation bodies, prosecutor's office and courts.
- (2) For the reparation of damages the person shall be entitled to lodge an action only against the state which is represented by the Ministry of Justice.
- (3) Prosecutor shall bear patrimonial responsibility only if the court ruled that he/she is guilty for illegal actions qualified as crimes.
- (4) The period of prescription for the right to action in cases provided by the given Article shall constitute 3 years since this right appeared, unless other period is provided by the law.

### **Chapter VIII.**

#### **Transfer, Delegation, Secondment, Suspension and Dismissal of the Prosecutor**

#### **Article 54. Transfer, delegation and secondment**

- (1) The transfer of the prosecutor to another position shall be made via competition, under the conditions envisaged in this law.
- (2) In case when a prosecutor's office cannot work because of the temporary absence of some prosecutors, existence of vacancies, as well as in other cases, the Prosecutor General can, at the proposal of the head of this prosecutor's office, delegate prosecutors, without their consent, from other prosecutor's offices for a period of up to one month during one year, and this delegation can be prolonged up to 6 months with the written consent of the prosecutor.
- (3) In order to investigate a particular case, the prosecutor nominated as member of the criminal investigation group can be delegated to another prosecutor's office for a period of up to 6 months without his/her consent.
- (4) The prosecutor can be seconded from his/her position, with his/her consent, for a position at the Superior Council of Prosecutors, National Institute of Justice, as Government Agent in international institutions, European Union, other countries or while performing duties in projects funded by these institutions for a period of up to 4 years. During the period of the secondment of the prosecutor, his/her status shall be preserved. Prosecutor expenditures related to the secondment pursuant to this paragraph shall be compensated. If the office where the prosecutor is seconded involves remuneration and compensation of expenses related to the secondment, the basic salary and compensation for expenses shall not be paid.
- (5) If the salary established for the position to which the prosecutor shall be delegated or seconded shall be lower than the one received in the previous position, then there shall be preserved the salary of the main position.
- (6) The period of secondment to other institutions shall be included in the length of service in the position of prosecutor.
- (7) At the expiry of the period of secondment, the prosecutor shall be offered another vacant position of prosecutor, except for the position of chief-prosecutor.
- (8) Decisions on the secondment shall be made by the General Prosecutor with the consent of the Superior Council of Prosecutors.

**Article 55. Suspension from office**

(1) Prosecutor in relation to whom criminal investigations are initiated may be provisionally suspended from office by the General Prosecutor, with the consent of the Superior Council of Prosecutors. In extraordinary situations that cannot be postponed, the General Prosecutor may suspend the prosecutor from office without the consent of the Superior Council of Prosecutors, until the next meeting of the Superior Council of Prosecutors.

(2) The prosecutor shall be suspended from office by order of the General Prosecutor, without the involvement of the Superior Council of Prosecutors, when a maternity leave and leave for taking care of a child of the age of up to 6 years is granted. In other cases provided by the law, the prosecutor shall be suspended by an order of the General Prosecutor, at the proposal of the Superior Council of Prosecutors.

(3) The dismissal of the prosecutor in the cases listed in paragraph (2) does not imply the cancellation of social guarantees.

(4) In cases provided for under paragraph (1), if the prosecutor's guilt has not been proven or he was acquitted or a decision to terminate the criminal proceedings on the grounds of rehabilitation, suspension from office shall be cancelled and the prosecutor shall be restored in all previous rights.

(5) In cases provided for under paragraph (2), at the expiry of the suspension from office, the public prosecutor is given the function that he/she held before suspension or, with his consent, is assigned to another equivalent position.

(6) The prosecutor can appeal the decision on his/her suspension from office in court, under the law.

**Article 56. The conditions for termination of service of the prosecutor**

The service of the prosecutor shall lapse in the following cases:

- a) in the circumstances that do not depend on the will of the parties;
- b) release from Office.

**Article 57. Termination of service in circumstances that do not depend on the will of the parties**

(1) The service stops right in circumstances beyond the control of the parties, in the following cases:

- a) loss of the citizenship of the Republic of Moldova;
- b) attaining the age of 65;
- c) expiration of the period for which he/she was appointed, in case of refusal to be appointed to another position of prosecutor;
- d) the decision finding guilt in committing a crime becomes irrevocable;
- e) deprivation of the right to occupy certain positions or to perform certain activities, such as basic punishment or additional penalty under the final court ruling ordering that penalty;
- f) declaration by a final court judgment as disappeared;
- g) death or declaration by final court judgment about the death of the prosecutor;
- h) there is a final judicial decision on the restriction or deprivation of legal capacity;
- i) the finding, after the appointment, of at least one reason why a person could not be appointed as prosecutor.

(2) Termination of service in the circumstances that do not depend on the will of the parties shall be done by order of the Prosecutor General within 5 working days of the date or bringing the case to the attention of General Prosecutor.

(3) Termination of office of the Prosecutor General on the grounds provided in paragraph (1) shall be determined by decree of the President of the Republic of Moldova.

**Article 58. Dismissal**

(1) The prosecutor, chief-prosecutor and deputy chief-prosecutors shall be dismissed in the event of:

- a) submission of a request of resignation on one's own initiative;
- b) refusal to be transferred to other body of the Public Prosecutor's Office, if the body where the prosecutor has worked is subject to liquidation or re-organization;

- c) refusal to comply with the disciplinary sanction of relegation in office;
- d) applying the disciplinary sanction of the prosecutor dismissal, when it became final;
- e) the qualifier "insufficient" in two consecutive evaluations or failure to pass the performance assessment;
- f) failure to show-up, groundless, twice consecutively for performance assessment;
- g) registration as a candidate campaigning for a public authority or local public administration authority;
- h) an irrevocable act, which found the incompatibility or violation of the prohibitions;
- i) considering unfit medically for the performance of the duties;
- j) refusal to be subjected to verification under the Law no. 271-XVI from 18 December 2008 on verification of occupants and candidates to public office;
- k) appointment to an office incompatible with the office of the prosecutor.

(2) In cases provided under paragraph (1), sub-paragraphs a), b) and c), the dismissal shall take place by order of the General Prosecutor under the application or, respectively, refusal, submitted in writing.

(3) Dismissal of the prosecutor, chief-prosecutor or deputy General Prosecutor on the grounds provided in paragraph (1), subparagraphs b), c), d), e), f), g), h), i), j) and k) shall be made within 5 days from the date of interference or bringing the case to the attention of the General Prosecutor, by order of the General Prosecutor, who shall notify the prosecutor concerned about the issue within 5 working days, but prior to release from office.

(4) The order of the Prosecutor General regarding the dismissal may be challenged in court as prescribed by the law.

(5) In case of quashing the dismissal, the prosecutor will be restored to all rights, paying him/her, according to the law, the financial means he/she was deprived of.

(6) The General Prosecutor may be dismissed before term by the President of the Republic of Moldova, in cases provided for under paragraph (1), sub-paragraphs a), d), g), h), i) and j). In cases under paragraph (1), sub-paragraph h), the dismissal of the Prosecutor General shall be done as per the final court judgment or decision of the Superior Council of Prosecutors.

## **Chapter IX.**

### **The state protection of the prosecutor. Material and social ensurance of the prosecutor**

#### **Article 59. The state protection of the prosecutor and of his/her family members**

(1) The prosecutor, members of his/her family and property shall be protected by the state. Upon the prosecutor's grounded request, invoking the threat for life and health of himself/herself or of his/her family, as well as for the integrity of his/her property, the internal affairs authorities shall be obliged to take necessary measures in order to ensure the safety of the prosecutor and of members of his/her family, and the integrity of his/her property.

(2) The attempt on the prosecutor's life and health, the destruction and deterioration of assets, threat with murder, violence or with the deterioration of assets, defamation or insult addressed to the prosecutor as well as the attempt on life and health of his/her close relatives (parents, spouse, children), linked to the exercise of his/her duties, shall entail criminal responsibility.

(3) The prosecutor shall be entitled to compensation of all expenses incurred by him/her in the interest of the service.

#### **Article 60. Remuneration**

(1) Prosecutor's salary shall be determined depending on the judge's salary. The prosecutor's salary shall be determined according to the operation level of the prosecutor's office and the length of service of a prosecutor.

(2) The prosecutor's salary represents 90% of:

a) salary of the judge at the Supreme Court of Justice, for the prosecutor at the General Prosecutor's Office and specialized Prosecutor's office with the appropriate length of service;

b) the salary of the district court judge, for the prosecutors at the territorial Prosecutor's office and prosecutor's office of ATU Gagauzia, with the appropriate length of service.

(3) In order to perform the prosecutor's leading duties, the prosecutor receives the next increase calculated in percentage ratio compared to his/her salary:



- a) 20% - for exercising the duties of Prosecutor General;
  - b) 15% - for exercising the duties of the Deputy Prosecutor General and Chief -Prosecutor of the Specialized Prosecutor's Office;
  - c) 12% - for exercising the duties of the chief - prosecutor of the General Prosecutor's Office subdivision and deputy prosecutor of the specialized prosecutor's office;
  - d) 9% - for exercising the duties of head of department at the General Prosecutor's Office and for exercising the duties of the chief – prosecutor at the territorial prosecutor's office;
  - e) 7% - for exercising the duties of deputy chief - prosecutor at the territorial prosecutor's office.
- (4) Prosecutors' remuneration conditions and manner of payment shall be determined by Law no. 328 of 23.12.2013 on remuneration of judges and prosecutors.

#### **Article 61. Annual leave and days off**

- (1) The prosecutor shall be entitled to a paid annual leave of 35 calendar days.
- (2) Where seniority in office of public prosecutor exceeds 5, 10 and 15 years, the annual paid leave shall be increased with 3, 5 and 7 calendar days.
- (3) The prosecutor shall be granted a leave by an order of the Prosecutor General in conformity with the schedule of prosecutors' annual leave approved by the General Prosecutor.
- (4) The work carried out during the non-working days, based on the indication of the chief prosecutor, shall be compensated to the prosecutor proportionately with maximum 14 calendar days off annually. The manner for granting additional days-off shall be laid down in the Regulation on the Prosecutor's Office. The Prosecutor shall not be paid additionally for the work performed during the non-working days.
- (5) The non-granting of annual leave to the prosecutor shall be prohibited.

#### **Article 62. Other social guarantees**

- (1) When conducting their duties, prosecutors shall receive health care under Law no. 1585-XIII of 27 February 1998 on the mandatory health insurance.
- (2) At the termination of service of a prosecutor with more than ten years length of service in the position of prosecutor, in accordance with Article 57, paragraph (1), sub-paragraphs b) and c) or Article 58, paragraph (1), sub-paragraphs a) and b), if the circumstances that causes termination of employment do not affect the prestige of the Prosecutor's Office and reputation of the prosecutors, he/she shall receive a single severance pay equal to 50% of the product of the multiplication of the last monthly salary by the number of complete years of service as prosecutor. When calculating the single severance pay for the prosecutor returned in office, the period of work as a prosecutor after the expiry date of the last dismissal shall be taken into account.
- (3) The prosecutor's life and property shall be subject to mandatory state insurance from the state budget part of the Prosecutor's Office budget.
- (4) The insurance sum shall be paid in the event of:
- a) death of the prosecutor during the exercise of his/her service duties, if the decease occurred as a consequence of bodily injuries or other violent injuries to health to the prosecutor's heirs as a lump-sum allowance equal to the product of multiplication of annual average salary of the deceased with the number of full years of work, which he/she has not survive till the reach of age limit, but not less than 15 annual average salaries;
  - b) mutilation of prosecutor or other violent injuries to his/her health during the exercise of his/her service duties, excluding, thus, the possibility to continue the professional activity, in the form of a monthly compensation equal to the salary received in the position of prosecutor;
  - c) violent death or death of the prosecutor as a consequence of bodily injuries or other violent injuries to his/her health, to the unemployable family members maintained by him/her, in the form of a monthly indemnity equal to the difference between the part of the salary of the deceased that due to their maintenance and the pension awarded on the occasion of loss of breadwinner, without taking into account the lump-sum indemnity.
- (5) If at the time of resignation, there is an active administrative offence proceeding in respect of the exercise of powers or criminal proceedings against the prosecutor, the payment of the compensation provided for in paragraph (2) shall be suspended until a final settlement of the case. In case of finding guilty the prosecutor in these cases, the allowance provided for in paragraph (2) shall not be granted.

(6) The prosecutor shall receive other social guarantees in accordance with the labor legislation in so far as this does not conflict with this law.

(7) Material damage caused in connection with the prosecutor's official activity by deterioration or destruction of his/her assets, and of the assets of his/her family members or close relatives shall be refunded in full amount from the Prosecutor's Office budget.

#### **Article 63. Retirement income security**

The prosecutors are entitled to retirement pensions in accordance with the Law no 156-XIV of 14 October 1998 on State social insurance pensions.

#### **Article 64. The prosecutor's identity card**

(1) Upon appointment the prosecutor shall receive an identity card of the model approved by the Superior Council of Prosecutors.

(2) The prosecutor's identity card shall be issued by the Prosecutor General and shall serve as a document confirming the identity and position of the prosecutor.

(3) On termination of service, as well as during the period of the suspension of duties pursuant to Article 55, paragraph (1) or dismissal of the prosecutor, the prosecutor identification card shall be withdrawn.

### **Title III.**

#### **Self-Administration Bodies within the Public Prosecution Service**

#### **Article 65. Self-Administration of the Prosecution Service**

(1) The autonomy of the Prosecution Service shall be manifested through its organizational and functional independence and that shall be achieved by self-administration and represents the right and the actual capacity of the Prosecutor's Office to resolve any functional issues independently and responsibly.

(2) The self-administration of the Public Prosecution Service shall be carried out based on the principles of representativeness and eligibility of self-administration bodies of the Public Prosecution Service, as well as on the basis of their responsibility for the proper fulfilment of delegated functions.

(3) The self-administration bodies are the General Assembly of the Prosecutions, Superior Council of Prosecutors and its subordinate colleges – Prosecutors Selection and Career College, Prosecutors performance evaluation College, and College of discipline and ethics.

### **Chapter X.**

#### **GENERAL ASSEMBLY OF PROSECUTORS**

#### **Article 66. General Assembly of Prosecutors**

(1) The General Assembly of Prosecutors consists of prosecutors from Public Prosecution Service of the Republic of Moldova.

(2) The General Assembly of Prosecutors shall be convened annually by the Superior Council of Prosecutors.

(3) The General Assembly of Prosecutors can be convoked also in exceptional cases, at the initiative of the General Prosecutor, the Supreme Council of Prosecutors or one third of the prosecutors, for the purpose of examining issues of major importance for the work of the Public Prosecution Service.

(4) The notification about the date of the ordinary meeting, meeting agenda, materials to be examined during the meeting is placed on the official website of the Public Prosecution Service and the Superior Council of Prosecutors at least one month before the date of the meeting. The proposals for amendments or additions to the agenda of the Assembly shall be also allowed during the meeting.

(5) The meeting of the General Assembly of the Prosecutors shall be opened by the President of the Superior Council of Prosecutors, who transmits the leadership of the meeting to the chairperson elected by the General Assembly of Prosecutors.

(6) The Chairperson and the Secretary of the meeting of the General Assembly of Prosecutors shall be elected upon the proposal of the prosecutors present at the meeting, with an open vote of their simple majority.

(7) The General Assembly of Prosecutors is deliberative if a simple majority of prosecutors in the office are present. The same quorum is necessary also for the conduct of the extraordinary meetings of the General Assembly of Prosecutors.

(8) The decisions of the General Assembly of Prosecutors shall be adopted with a simple majority vote of the prosecutors present and shall be signed by the Chairperson and the Secretary of the meeting. The decisions of the General Assembly of Prosecutors with regard to the election of the members of the Superior Council of Prosecutors, Prosecutor Selection and Career College, Prosecutors performance evaluation College and College of discipline and ethics shall be adopted by a secret ballot. By the decision of the General Assembly of Prosecutors may be adopted by secret ballot other decisions.

(9) In order to organize the procedure for the election of the prosecutors in the Superior Council of Prosecutors and its colleges, the General Assembly of Prosecutors shall appoint, by majority vote, special committees, the composition and activity of which shall be established by a Regulation of the General Assembly of Prosecutors.

(10) The decisions of the General Assembly of Prosecutors shall be published on the official websites of the General Prosecutor's Office and the Superior Council of Prosecutors and are required to be implemented by the administrative bodies of the Public Prosecution Service and the prosecutors.

#### **Article 67. Competence of the General Assembly of Prosecutors**

(1) The General Assembly of Prosecutors convenes for:

a) choosing, among prosecutors, the members of the Superior Council of Prosecutors and its colleges and tales;

b) hearing the report on the Public Prosecution Service activity, presented by the General Prosecutor and report on the activity of the Superior Council of Prosecutors, presented by its president;

c) presentation by the Prosecutor-General and debate on the Public Prosecution Service activity priorities for the upcoming year, after consultation with the Superior Council of Prosecutors;

d) approval of the Code of Ethics of prosecutors and the amendments thereto, which shall be published in the Official Gazette of the Republic of Moldova;

e) adoption and modification of the Regulation on the General Assembly of Prosecutors;

f) examining and deciding on other matters relating to the work of the Public Prosecution Service.

(2) Within 20 working days after the meeting of the General Assembly of Prosecutors, the proposals and questions raised during the meeting shall be examined by the subject to which these have been addressed to make decisions concerning them and to publish them on the official websites of the Superior Council of Prosecutors and General Prosecutor's Office.

(3) The regulations approved by the General Assembly of Prosecutors shall be published on the official websites of the General Prosecutor's Office.

### **Chapter XI The Superior Council of Prosecutors**

#### **Section 1. General provisions**

#### **Article 68. The Superior Council of Prosecutors**

(1) The Superior Council of Prosecutors is an independent body, has the status of a legal entity and is entitled to participate to the establishment, operation and self-management of the Public Prosecution Service system.

(2) The Superior Council of Prosecutors acts as the guarantor of the independence and impartiality of prosecutors.

#### **Article 69. Membership of the Superior Council of Prosecutors**

(1) The Superior Council of Prosecutors consists of 12 members.

(2) The Superior Council of Prosecutors includes by right: the General Prosecutor, the chief prosecutor of the Prosecutor's Office of ATU Gagauzia, the President of the Superior Council of Magistracy and the Minister of Justice.

(3) Five members of the Superior Council of Prosecutors are elected by the General Assembly of Prosecutors from among the active prosecutors by direct, secret and freely expressed vote, as follows:

a) one member from among prosecutors of the General Prosecutor's Office;

b) four members from among the prosecutors of the territorial prosecutor's offices and the specialized ones.

(4) Three members of the Superior Council of Prosecutors are elected through competition from among the civil society, as follows: one by the President of the Republic, one - by the Parliament and one - by the Academy of Sciences of Moldova. The candidates to the position of member of the Superior Council of Prosecutors, from the civil society shall have higher law education and experience in the domain of law of at least 3 years.

(5) Prosecutors who have accumulated the highest number of votes at the General Assembly of Prosecutors are considered elected members of the Superior Council of Prosecutors. The next following prosecutors on the list of candidates, who accumulated the highest number of votes, shall fill in the vacancies in the Council, depending on the number of accumulated votes.

(6) The candidates competing for the membership function in the Superior Council of Prosecutors should have an impeccable reputation and enjoy a recognized authority in their field of activity.

(7) Cannot become members of the Superior Council of Prosecutors, prosecutors, against whom disciplinary sanctions are applied, and persons found guilty of committing a crime..

(8) Prosecutors elected as member of the Superior Council of Prosecutors shall be detached from their main function for the duration of their mandate.

(9) Members of the Superior Council of Prosecutors, except members by right, cannot exercise any other remunerated activity, except didactic, creative, scientific activities, or within a NGO.

#### **Article 70. Authority of the Superior Council of Prosecutors**

(1) The Superior Council of Prosecutors has got the following powers:

a) to approve regulations on its activity, the activity of its Colleges and other relevant regulations;

b) to develop and approve regulations on the selection procedure of prosecutors and their career promotion;

c) to develop the regulation of the General Assembly of Prosecutors and drafts of amendments thereof;

d) to organize bidding for the selection of the candidate for Prosecutor General position, which is then proposed to the President of the Republic of Moldova for approval

e) to organize the bidding and to select and appoint members of the Colleges from among the civil society;

f) to consider appeals against decisions of the Colleges;

g) to make proposals to the General Prosecutor regarding the appointment, promotion, detachment, suspension under the Criminal Procedure Code and this Law and regarding dismissal of prosecutors.

h) to attend the oath-taking by prosecutors and the General Prosecutor ;

i) to set the number of due prosecutors in each Prosecutor's Office ;

j) to appoint prosecutors members of the Council of the National Institute of Justice;

k) to approve the strategy of the primary and continuous training of prosecutors and to submit an approval on the action plan of the strategy implementation;

l) to consider and submit an opinion regarding the rules of the bidding for the admission to the National Institute of Justice, as well as the teaching programs and curricula for the primary and continuous training at the National Institute of Justice, the rules of the bidding for the teaching vacancies and the membership of the entrance exams and graduation committees of the National Institute of Justice;

- m) to establish the number of places to be proposed for the entrance exams for primary training of prosecutors at the National Institute of Justice;
- n) to consider the citizens' and the prosecutors' appeals regarding issues within its authority;
- o) to develop the draft Code of Ethics for prosecutors and to propose amendments thereto and to submit them to the General Assembly for approval;
- p) to approve its draft budget and to further submit it to the Ministry of Finance;
- q) approve the structure of the Superior Council of Prosecutors apparatus.
- r) to participate to the development of the draft budget of the Public Prosecution Service;
- s) to participate to the development of the strategic development plans of the Public Prosecution Service;
- t) to approve the draft annual priorities of the Public Prosecution Service activity, developed by the General Prosecutor.

(2) The regulations approved by the Superior Council of Prosecutors shall be published on the official website of the General Prosecution Service.

#### **Article 71. President of the Superior Council of Prosecutors**

(1) The President of the Superior Council of Prosecutors is elected from among members-prosecutors elected by secret ballot by a majority vote for a four years term.

(2) In the absence of the President, these powers are exercised by a member appointed by the Superior Council of Prosecutors.

(3) The President of the Council shall be entitled to a salary amounting to 80% of the General Prosecutor's salary or to his previous salary as a prosecutor, received up to his detachment, if it is higher.

#### **Article 72. Powers of the President of the Superior Council of Prosecutors**

The President of the Superior Council of Prosecutors has the following duties:

- a) represent the Superior Council of Prosecutors during the internal and international relations and coordinate its activity;
- b) chair the meetings of the Superior Council of Prosecutors
- c) sign the documents issued by the Superior Council of Prosecutors;
- d) present to the General Assembly of Prosecutors the annual activity report of the Superior Council of Prosecutors;
- e) appoint, promote, transfer and dismiss employees of the apparatus, apply to these incentive measures and disciplinary sanctions:
- f) exercise other powers as provided by the Law.

### **Section 2.**

#### **Membership Status of the Superior Council of Prosecutors**

#### **Article 73. The duration of the membership mandate of the Superior Council of Prosecutors**

(1) The mandate of the elected members of the Superior Council of Prosecutors shall be for 4 years. The same person cannot hold the membership mandate of the Superior Council of Prosecutors for two consecutive terms.

(2) The elected members of the Superior Council of Prosecutors hold office until the election of new members.

(3) The period of activity as a member of the Superior Council of Prosecutors shall be considered party of the prosecutor's professional experience.

#### **Article 74. The rights of members of the Superior Council of Prosecutors**

(1) Members of the Superior Council of Prosecutors are entitled:

- a) to make themselves familiar with and to contribute to the examination of the materials submitted to the Superior Council of Prosecutors for consideration;
- b) to submit requests, to put forward arguments and to submit additional materials;
- c) to propose issues falling within the competence of the Superior Council of Prosecutors for consideration in the plenary sessions;

d) to participate by voting to the decision making process and to express, as appropriate, a separate opinion;

e) to perform other actions within the Law.

(2) The Members of the Superior Council of Prosecutors, elected from among the prosecutors, receive a salary amounting to 75% of the General Prosecutor's salary or maintain their salary as prosecutors before the detachment, if it is higher.

(3) Members of the Superior Council of Prosecutors, representatives of the civil society, receive a monthly allowance equal to 50% of the salary of members of the Superior Council of Prosecutors elected from among the prosecutors.

#### **Article 75. Obligations and restrictions of members of the Superior Council of Prosecutors**

(1) Members of the Superior Council of Prosecutors shall:

a) to ensure the protection of rights and freedoms of prosecutors and of the prosecutors' honour and dignity within the law;

b) to contribute to the promotion of the prosecutor's independence principle;

c) to observe the personal data regime and other limited access information that they have become aware of in exercising their mandate;

d) to vote in favour or against the adoption of decisions.

(2) During the mandate, as well as in the period of 6 months after its termination, the elected members of the Superior Council of Prosecutors shall not participate to the competitions for appointment or promotion to a prosecutor's position, including for the position of General Prosecutor.

#### **Article 76. Termination of the membership of the Superior Council of Prosecutors**

(1) The membership of the Superior Council of Prosecutors shall terminate, in case of:

a) the application for renunciation the membership of the Council;

b) termination of the membership mandate of the Council;

c) assignment of membership to a College subordinated to the Superior Council of Prosecutors;

d) suspension or dismissal from the prosecutor's function;

e) a final statement of incompatibility;

f) a final act establishing the adoption of a decision in breach of legal provisions regarding the conflict of interests;

g) a final decision establishing guiltiness of committing a crime;

h) impossibility of exercising duties during a period exceeding four months, as determined by the Superior Council of Prosecutors;

i) one of the circumstances impeding his/her election or appointment as a member of the Superior Council of Prosecutors;

j) death.

(2) Members of the Superior Council of Prosecutors shall not be removed. In case of circumstances listed in the above par. (1) the mandate shall terminate by law.

### **Section 3 a. Organizing the activity of the Superior Council of Prosecutors**

#### **Article 77. Meetings of the Superior Council of Prosecutors**

(1) The Superior Council of Prosecutors meets as the need may be, but no less than once a month.

(2) The first meeting of the Superior Council of Prosecutors is convened by the General Prosecutor within 10 days from the date of the General Assembly of the Prosecutors.

(3) The meetings of the Superior Council of Prosecutors are public, except when, in order to comply with the information regime specified in Article. 75 para. (1) c) the Council decides via a resolution to hold a closed-door meeting or any part thereof.

(4) The meeting of the Superior Council of Prosecutors is deliberative provided that at least 2/3 of the members attend it.

(5) The agenda of the meeting is placed on the official website of the Superior Council of Prosecutors no later than 2 working days before the meeting date.

(6) The decisions are adopted in public session by open vote, expressed by the majority of present members of the Superior Council of Prosecutors.

(7) The decisions of the Superior Council of Prosecutors shall be reasoned and signed by all members present at the meeting and subsequently shall be published, within 10 working days since the date of their issue, on the website of the Superior Council of Prosecutors. The decisions of the Superior Council of Prosecutors shall be signed by hand or, where appropriate, by the electronic signature.

(8) The meetings of the Superior Council of Prosecutors shall be recorded by use of video / audio devices. The records of the session shall be attached to the minutes. The minutes shall be developed within 3 working days since the date of the meeting, shall be signed by the chairperson and the secretary and placed on the official website of the Superior Council of Prosecutors.

#### **Article 78. Recusal and abstention**

(1) A member of the Superior Council of Prosecutors shall not participate to the examination of an agenda issue if circumstances exist excluding his/her participation to the examination or raising doubts regarding his/her objectivity. Where such circumstances exist, the member of the Council of Prosecutors shall be obliged to declare his abstention.

(2) A member of the Council of Prosecutors can be recused based on reasons stated in par. (1).

(3) The recusal application and the abstention declaration shall be reasoned.

(4) A member whose recusal or abstention was invoked shall not participate to the examination of his/her recusal application or abstention declaration.

#### **Article 79. Appealing against the decisions of the Superior Council of Prosecutors**

(1) Any individual whose right was affected can appeal to the Supreme Court of Justice against the decisions of the Superior Council of Prosecutors, within 10 working days since the date of communication.

(2) Appeals against decisions of the Superior Council of Prosecutors shall be examined by the panel examining appeals against decisions of the Superior Council of Magistracy.

#### **Article 80. Budget of the Superior Council of Prosecutors**

(1) The Superior Council of Prosecutors is funded by the state budget within the budgetary allocations approved by the Annual Budget Law.

(2) The budget of the Superior Council of Prosecutors is drafted, approved and managed in accordance with the principles, rules and procedures established by the Law on public finance and budgetary and fiscal responsibility.

(3) The President of the Superior Council of Prosecutors shall organize and implement the financial management and the internal control system and shall bear responsibility for budget management and for management of public assets belonging to the Superior Council of Prosecutors.

(4) The remuneration of members of the Superior Council of Prosecutors, detached from the prosecutor's function, and of the President of the Council, as well as payment of the monthly allowance to the Council members-representatives of the civil society, shall be done with proceeds from the budget of the Superior Council of Prosecutors.

#### **Article 81. The apparatus of the Superior Council of Prosecutors**

(1) The Superior Council of Prosecutors shall have an apparatus responsible for organising the activity of the Council and its Colleges.

(2) The Office of the Superior Council of Prosecutors shall be composed of civil servants and technical staff. The civil servants employed in the Office of the Superior Council of Prosecutors shall be subject to provisions of Law no. 158-XVI of 4 July 2008 on the public functions and the civil servant status and shall be remunerated under the Law. The technical staff is subject to the provisions of labour legislation and shall be remunerated under the Law.

(3) The apparatus structure, its staffing and activity shall be governed by Regulations approved by the Superior Council of Prosecutors.

**Section 4 - a.**  
**Bodies subordinated to the Superior Council of Prosecutors**

**Article 82. The bodies subordinated to the Superior Council of Prosecutors**

The bodies subordinated to the Superior Council of Prosecutors include:

- a) The College for prosecutors' selection and career;
- b) The College for prosecutors' performance evaluation;
- c) The College of discipline and ethics;

**Article 83. Membership of Colleges**

(1) Colleges subordinated to the Superior Council of Prosecutors shall consist of 7 members, out of which:

- a) 5 shall be elected by the General Assembly from among the prosecutors;
- b) 2 shall be elected by the Superior Council of Prosecutors via public bidding from among the civil society representatives.

(2) The top 5 prosecutors who have accumulated the biggest number of votes at the General Assembly of Prosecutors shall be considered elected members of the College. The next following prosecutors from the list of candidates who accumulated the biggest number of votes shall fill in the vacancies, depending on the number of accumulated votes.

(3) The Superior Council of Prosecutors shall appoint an alternate representative of the civil society in conformity with the procedure for the election of representatives of the civil society.

(4) Persons meeting the conditions listed under art. 69 para. (6) and (7) shall be able to run for the member of the College.

(5) Members of the Superior Council of Prosecutors and members of another College shall not be elected as members of one of the Colleges.

(6) Members of the College shall be elected for a period of 4 years.

(7) The membership of the College ceases under provisions of Art. 76. In the event of termination of a College membership mandate before the expiration of four years term, an alternate member shall continue exercising the mandate.

(8) The College chairperson is elected by secret ballot from among the College members during the first meeting of the College.

(9) Abstention and recusal of a College member shall take place under provisions of Art. 78.

(10) Whenever the College examines an issue concerning one of its members, this particular member shall not participate to the examination of the issue.

(11) Members of the College-representatives of the civil society receive a monthly allowance worth 50% of the salary of the members of the Superior Council of Prosecutors elected from among the prosecutors. Members of the College elected from among the prosecutors shall have a reduced workload during their mandate.

(12) The powers, organization and operation of Colleges are established by this Law and the regulations approved by the Superior Council of Prosecutors.

(13) In exercising their powers the Colleges have the right to request all documents and information they need from prosecutors, public authorities and the public legal entities.

(14) The prosecutors, public authorities and the public legal entities shall be obliged to submit to Colleges, within the set terms, the requested documents and information. Colleges shall be obliged to observe under the Law the regime regarding the limited access to information, they have become aware of.

(15) Each College shall submit annually to the Superior Council of Prosecutors a report on its activity during the reference year, which shall be published on the official website of the Superior Council of Prosecutors.



**Article 84. Meetings of Colleges**

- (1) Each College shall hold meetings whenever necessary.
- (2) The first meeting of the College is convened and chaired by the President of the Superior Council of Prosecutors.
- (3) The time and place of the College meeting is set by College President after consulting the members of the college.
- (4) The College meetings are chaired by the President of the College. In the absence of the President of the College, the meeting shall be chaired by a College member elected from among the members attending the meeting.
- (5) The College meeting is deliberative provided that at least five members of the college are present.
- (6) Meetings of the College shall be recorded by the use of video / audio devices. The recorded session shall be attached to the minutes. The minutes shall be developed within 3 working days, and shall be signed by the chairperson and the secretary and placed on the official website of the Superior Council of Prosecutors.

**Article 85. Decisions of Colleges**

- (1) The College decisions shall be in a written form, reasoned and, within the provisions established by this Law, shall be signed by the President of the College and, where appropriate, by other persons and subsequently published on the official website of the Superior Council of Prosecutors. Decisions regarding a prosecutor's evaluation shall not be published, but the evaluation results are being made public. The decisions are signed by hand or, where appropriate, by application the electronic signature.
- (2) The College decisions shall be adopted by open vote of the majority of the elected College members, except of cases when this law provides another way of adoption of decisions.
- (3) The College decisions can be appealed to the Superior Council of Prosecutors, through colleges, within 5 working days since the date of their issue. The appeal may be filed by the person, against whom the judgement was made, while in case of a disciplinary procedure, also by the person who filed the complaint and by the prosecutors' Inspection.
- (4) The College decisions shall be submitted to the Superior Council of Prosecutors on the next day after the expiry of the appeal.

**Article 86. Examination of appeals against judgments of Colleges**

- (1) Appeals against decisions taken by Colleagues shall be examined at the most within one month since the date of registration at the Superior Council of Prosecutors.
- (2) The date, time and place of the complaint examination shall be communicated, at least 3 working days before the set date of the session, to the prosecutor referred to in the appealed decision, the candidate for the prosecutor's position, who filed the complaint, the inspector and other persons shall, under this law.
- (3) Following the result of the appeal the Superior Council of Prosecutors shall decide:
  - a) to maintain the appealed decision;
  - b) to quash the decision appealed against and to adopt a new decision to solve the case.

**Article 87. Powers of the College for prosecutors' selection and career**

- (1) The College for prosecutors' selection and career shall:
  - a) examine the files of candidates for prosecutor's function, the documents submitted by the candidates and the ones referring to the candidates;
  - b) examine the files and documents submitted by prosecutors seeking transfer to, or promotion to a higher position;
  - c) organize and conduct interviews with participants to the bidding;
  - d) carry out scoring of the participants to the bidding;
  - e) adopt reasoned decisions regarding the results of the bidding;
  - f) fulfil other duties provided by law or regulations approved by the Superior Council of Prosecutors.
- (2) The College for prosecutors' selection and career shall, within 3 months at most, examine the materials submitted by the Secretariat of the Superior Council of Prosecutors.

**Article 88. The powers of the College for prosecutors' performance evaluation**

The College for prosecutors' performance evaluation shall:

- a) establish the schedule of the prosecutors' activity evaluation;
- b) examine the files of prosecutors subject to evaluation, the submitted documents hereto and the documents referring to them;
- c) organize and conduct interviews with prosecutors subject to evaluation;
- d) adopt decisions regarding prosecutors subject to evaluation.

**Article 89. Powers of the College of discipline and ethics**

College of discipline and ethics shall:

- a) examine the disciplinary cases regarding prosecutors, as received from the prosecutors Inspection, and apply, as the case may be, disciplinary sanctions;
- b) adopt recommendations on the prevention of discipline violations within the Prosecutor's Office and on the compliance with the ethics of prosecutors.

**TITLE IV****STAFF of the PUBLIC PROSECUTION SERVICE. BUDGET of the PUBLIC PROSECUTION SERVICE****Chapter XII****Staff of the Public Prosecution Service****Article 90. Staff of the Public Prosecution Service**

(1) The Staff of the Public Prosecution Service is composed of:

- a) prosecutors;
- b) civil servants;
- c) civil servants with special status;
- c) technical staff.

(2) The civil servants staff employed in the Public Prosecution Service subdivisions consists of: prosecutor's advisers, main specialists, coordinator-specialists and simple specialists. The status of civil servants employed in the Public Prosecution Service is regulated by Law no. 158 of 4 July 2008 on the public function and the status of the civil servant.

(3) The status of the prosecutor's adviser is regulated by Law no. 158 of 4 July 2008 on the public function and the status of civil servant, and his duties are regulated by the Criminal Procedure Code of the Republic of Moldova.

(4) In regard to the inspector of the Inspection of prosecutors will be applied the provisions of the Law no. 158-XVI from 4 July 2008 on the public function and statute of civil servant, concerning the provisions not covered by the current law or other special laws.

(5) The technical personnel perform the technical support of the prosecutor's office and its status is regulated by labour legislation.

(6) The organization and operation of subdivisions of the Public Prosecution Service consisting of special status officials, of civil servants and of the technical supporting staff, as well as the job description for the personnel employed in these subdivisions shall be established by regulations approved by the General Prosecutor.

**Chapter XIII****Budget of the Public Prosecution Service.****Organizational and technical – material assurance of the Public Prosecution Service****Article 91. Budget of the Public Prosecution Service**

(1) The Public Prosecution Service shall be financed with proceeds from the state budget within the budgetary allocations approved by the Annual Budget Law.

(2) The budget of the Public Prosecution Service is unique and is managed by the General Prosecutor's Office. The budgets of the specialized prosecutor's offices are reflected separately in the budget of the Public Prosecution Service.

(3) The draft budget of the Public Prosecution Service is developed by the General Prosecutor's Office, and is approved by the Superior Council of Prosecutors.

(4) The development, approval and management of the budget of the Public Prosecution Service is carried out in accordance with the principles, rules and procedures established by the legislation on public finances and budgetary-fiscal responsibility.

#### **Article 92. Assurance of the Public Prosecution Service activity**

(1) The central and local public administration authorities shall be obliged to provide premises for the Prosecutor's Offices.

(2) The General Prosecutor's Office shall have the duty to provide the prosecutor's offices, by use of proceeds from the state budget, with forensic technical equipment, telecommunication equipment and computers, public service vehicles, adequate working conditions, able to protect the prosecutor's health and the physical and mental integrity.

(3) The economic and financial activities, as well as the administrative, secretarial and archive activities shall be provided by the respective divisions of the General Prosecutor's Office, the powers of which are established by regulations approved by the General Prosecutor.

#### **Article 93. Statistical information**

The General Prosecutor's Office shall ensure, by use of information technologies, the collection, processing, systematization and analysis of the statistical information regarding the criminality status and the work of the Public Prosecution Service and shall ensure its periodical publication.

#### **Article 94. International relations.**

The Public Prosecution Service may develop direct international relations, conclude contracts and agreements with similar foreign institutions, within the provisions set by Law.

#### **Article 95. Seal**

The Prosecutor's Offices have a seal with the State Emblem and with their name.

#### **Article 96. Security**

(1) The security of the Public Prosecution Service headquarters and of other assets, the safety of its employees along with safeguarding of the public order inside the Prosecutor's Offices headquarters and the control of persons' entry and exit from premises of the Prosecutor's Offices shall ensured by the state budget.

(3) State body-guarding of the General Prosecutor shall be ensured under the Law.

### **TITLE V**

#### **FINAL AND TRANSITIONAL PROVISIONS**

#### **Article 97.**

The provisions of this Law shall be supplemented with provisions of the labour legislation, with regulations of the civil common law, contraventional or criminal Law, as appropriate, to the extent that it does not contradict the special legislation governing the status and activity of prosecutors.

#### **Article 98.**

(1) This Law shall enter into force on 1 August 2016, except of:

- the provisions of art. 17 para. (10) - (12) referring to the appointment of the General Prosecutor by the President of the Republic of Moldova, which will enter into force after the amendment of the Constitution of the Republic of Moldova. Till the date of enter into force of the Constitution amendments, it will be applied the provisions of the art. 40 parag. (1) from the Law nr. 294-XVI from 25 December 2008 on Public Prosecution Service, in regard of the body who appoints the General Prosecutor, also the provisions of the art. 70 parag.(1) letter d) of the this law, which will be applied correspondingly.

- the provisions of art. 16 will be implemented after 1 January 2017.

(2) The provisions of art. 5 letter d) shall be in force until the establishment of the electronic Register of complaints - R1.

(3) The General Prosecutor holding office on the date of entry into force of this Law shall continue exercising his/her mandate up to the end of the term for which he was appointed.

(4) The first mandate of the first Deputy General Prosecutor and of the Deputies of the General Prosecutor holding office on the day of entry into force of this Law shall not cease on the appointment of a new General Prosecutor.

(5) The prohibitions with respect to the mandates established by this Law shall cover also the mandates exercised under the previous legislation.

(6) Prosecutors mentioned in art. 25 para. (4) who on the day of entry into force of this Law are appointed for an indefinite period of time and who have exercised a mandate:

a) of up to 5 years shall continue exercising their mandate to 5 years within the first term;

b) of up to 5 or more years shall terminate their mandate at the entry into force of this Law, this period being considered the first term and the function shall be proposed for a new bidding.

(7) Prosecutors indicated in para. (5), b) shall continue exercising the powers of the Chief Prosecutor up to the appointment of the new chief prosecutor.

(8) Examination of the pending disciplinary procedures, at the date of entry into force of this Law, shall continue under this Law. Actions undertaken and documents concluded in accordance with Law no. 294-XVI from 25 December 2008 on Public Prosecution Service shall be considered valid. The provisions of this law shall be applied with respect to the part of legislation referring to disciplinary liability for acts committed before the entry into force of this Law.

(9) Until the entry into force of this Law, the General Prosecutor shall ensure the creation within the General Prosecutor's Office of the Inspection of prosecutors, along with the employment of inspectors following the criteria established in art. 52 para. (2) and the approval of the Regulations of the Inspection of prosecutors;

(10) Within 6 months since the date of publication of this Law, the General Prosecutor shall approve the necessary regulations supporting the implementation of this Law and shall ensure their publication on the official website of the General Prosecutor.

(11) The Superior Council of Prosecutors shall:

a) continue its activity in the composition as of the day of the entry into force of this Law, until the expiration of the current mandate of its members;

b) pursuing the implementation of this law, the Superior Council of Prosecutors shall adopt the secondary legislation as stipulated by this Law, shall bring its legislation in line with this Law and shall ensure its publication on the official website of the General Prosecutor;

c) ensure the creation, before the entry into force of this Law, of the College for prosecutors' selection and career, the College for prosecutors' performance evaluation and the College of discipline and ethics.

(12) The Qualification College shall terminate its activity and be dissolved by Law as of the day of the creation of the College for prosecutors' selection and career and the College for prosecutors' performance evaluation. The Disciplinary College shall terminate its activity and be dissolved by Law as of the day of the creation of the College of discipline and ethics.

#### **Article 99**

(1) The Prosecutor's Offices at the level of Court of Appeal, the Military Prosecutor's Office and the Transport Prosecutor's Office shall terminate their activity at the date of entry into force of the current law.

(2) After the Prosecutor's Offices indicated in para. (1) will terminate their activity, to the prosecutors and chief prosecutors of these prosecutor's offices will be proposed the transfer with their consent, to a vacant position, except for the position of chief prosecutor, in the other regional or specialized prosecutor's offices.

(3) The movable and immovable property of the prosecutor's offices indicated in para. (1) shall be transmitted to the General Prosecutor's Office.

(4) The servants and other staff of the prosecutor's offices indicated in para. (1) will be transferred to the same position to other prosecutor's offices, according to the Staff

Employment plan, under the provisions of the Law no. 158-XVI of 4 July 2008 on the public position and statute of civil servant, as well as under the labour legislation;

(5) The files and other documents from the archive of the prosecutor's offices indicated in para. (1) shall be transmitted to the General Prosecutor's archive;

(6) Within 10 working days from entry into force of the Law on Public Prosecution Service, regardless of the procedural stage reached in the investigation file, criminal, civil and contraventional cases and other documents managed by the prosecutor's offices indicated in para. (1) shall be submitted to the General Prosecutor or his/her Deputy designated by the Order of the General Prosecutor, who, in a period of 10 working days after reception, will distribute according to territoriality principle and competence, for continuing the proceedings according to the legislation in force;

(7) The Prosecutor's Office for Combating Organised Crime and for Special cases is created, which will begin functioning from the entry into force of this law.

(8) The Anticorruption Prosecutor's Office, after the entry into force of this law continues its activity according to Art. 9 of the current law.

(9) The prosecutors from Anticorruption Prosecutor's Office and from the General Prosecutor's Office, may be reappointed or transferred according to the competence, to the position of prosecutor to specialized prosecutor's offices or General Prosecutor's Office, without competition, except of reappointment or transfer to a position of the chief prosecutor;

(10) The prosecutor's offices of the Administrative Territorial Unit of Gagauzia, Ceadir-Lunga, Vulcanesti, Comrat merging into a single prosecutor's office – the Prosecutor's Office of ATU Gagauzia. The movable and immovable property, archive of the mentioned prosecutor's offices, files, materials and as well as other documents managed by these shall be sent to the Prosecutor's Office of ATU Gagauzia. The prosecutors from the mentioned prosecutor's offices will continue, without competition, their activity in the Prosecutor's Office of ATU Gagauzia. The chief prosecutors of the merged prosecutor's offices will continue their activity as deputies of the chief prosecutor of Prosecutor's Office of ATU Gagauzia till the expiry of their mandates.

(11) At 1 January 2017, the Prosecutor's Offices of the sectors Buiucani, Ciocana, Center, Botanica and Riscani and the Prosecutor's Office of Chisinau municipality merging in one prosecutor's office - the Prosecutor's Office of Chisinau municipality. The movable and immovable property, archive of the mentioned prosecutor's offices, files, materials and well as other documents managed by these shall be sent to the Prosecutor's Office of Chisinau municipality. The prosecutors from the mentioned prosecutor's offices will continue, without competition, their activity in the Prosecutor's Office of Chisinau municipality. The chief prosecutors of the merged prosecutor's offices will continue their activity as deputies of the chief prosecutor of Prosecutor's Office of Chisinau municipality till the expiry of their mandates.

(12) The chief prosecutors of which position is removed as a result of the reorganization performed under the current Law, may choose to remain in a vacant position of prosecutor, without competition, as follows:

- 1) The chief prosecutors from the General Prosecutor's Office - to the position of prosecutor in the General Prosecutor's Office, in a specialized prosecutor's Office or in a territorial prosecutor's offices;
- 2) The chief prosecutors from the Anticorruption Prosecutor's Office - to the position of prosecutor in the Anticorruption Prosecutor's Office, General Prosecutor's Office or in the territorial prosecutor's offices.
- 3) The chief prosecutors from the prosecutor's offices at the level of Court of Appeal, Military Prosecutor's Office, Transport Prosecutor's Office, as well as the chief prosecutors from territorial prosecutor's offices – to the position of prosecutor in territorial prosecutor's offices.

13) In forming the new structure of the Public Prosecution Service under the current law, the position of chief prosecutors and their deputies are occupied only through competition.

14) Until the entry into force of the Law on the Public Prosecution Service, are developed and approved the structure of prosecutor's offices and their districts of activity and staff register for each prosecutor's offices.

**Article 100**

- 1) Within 3 months from the date of publication of the current Law the Government will:
  - a) submit to Parliament proposals for bringing the legislation in force into conformity with the current Law, except of the drafts of special laws referring to the functioning of the specialised prosecutor's offices, which will be submitted to the Parliament till 1 May 2016;
  - b) bring its normative acts in conformity with the current Law.
- 2) Upon entry into force of the current Law, the Law no. 294-XVI of 25 December 2008 on the Public Prosecution Service will be abrogated, except of provisions provided in para. (1) of the current Article.
- 3) Until harmonizing the legislation with the current Law, the legislative acts in force and other normative acts shall be applied insofar as they do not contradict the current Law.

**PRESIDENT OF THE PARLIAMENT**

**ANDRIAN CANDU**

**Chisinau, 25 February 2016**