

LAW ON THE PUBLIC PROSECUTOR'S OFFICE

The Parliament hereby adopts the present organic law.

TITLE I ORGANISATION OF THE PUBLIC PROSECUTOR'S OFFICE

Chapter I GENERAL PROVISIONS

Article 1. The Public Prosecutor's Office

The Public Prosecutor's Office is an autonomous institution within the system of judicial authorities which, within the limits of its authority and competence, protects the general interests of the society, the legal order and the rights and freedoms of citizens, conducts and exercises criminal prosecution, represents the prosecution in the courts of law, in accordance with the provisions of the law.

Article 2. Principles of organisation of activity of the Public Prosecutor's Office

(1) The Public Prosecutor's Office shall conduct its activity on the basis of the principle of legality.

(2) The activity of the Public Prosecutor's Office is transparent and is based upon the presumption of guaranteeing the access of the society and mass-media to the information related to this activity, save for the restrictions provided by the law.

(3) The principle of independence shall exclude the possibility of subordination of the Public Prosecutor's Office to the authority of the legislative and the executive powers, as well as the possibility of influence or interference from the behalf of other bodies and state authorities in the activity of the Public Prosecutor's Office.

(4) The prosecutor shall organise and conduct his/her activity on the basis of the principle of autonomy, which is ensured by the procedural independence and judicial control and offers to him/her the possibility to independently take decisions in the examined cases and matters.

(5) In the activity of the Public Prosecutor's Office the internal hierarchical control and the judicial control shall be the principles that ensure the exercise by the hierarchically superior prosecutor of the right to verify the legality of decisions issued by the hierarchically inferior prosecutor, as well as the possibility of appeal in a court of law of decisions and procedural actions of the prosecutor.

Article 3. The legal framework of activities of the Public Prosecutor's Office

The activity of the Public Prosecutor's Office shall be governed by the Constitution of the Republic of Moldova, by the present law, by other legislative acts, as well as by international agreements to which the Republic of Moldova is a party.

Article 4. The prosecutor

The prosecutor is an office holder by whose virtue the Public Prosecutor's Office shall exercise its competences.

Chapter II THE SCOPE OF ACTIVITIES AND COMPETENCE OF THE PUBLIC PROSECUTOR'S OFFICE

Section 1. Authority and competences

Article 5. Authority of the Public Prosecutor's Office

The Public Prosecutor's Office shall:

- a) in the name of the society and of public interest, ensure the enforcement of the law, protect the legal order and the rights and freedoms of citizens when the violation thereof entails the application of criminal sanctions;

- b) conduct and exercise the criminal prosecution;
- c) represent the prosecution in the courts of law;
- d) participate, under the law, in trials on civil cases, including administrative cases, and on cases of administrative offence, where the court proceedings have been commenced on its initiative;
- e) ensure the legal assistance and the international cooperation in its field of activity;
- f) implement the national criminal policy;
- g) secure efficient protection of witnesses, victims of crimes and of other parties to a trial;
- h) initiate a civil action in cases provided by the law;
- i) exercise control over the observance of laws in the preliminary detention facilities and in the penitentiaries ;
- j) exercise control over the law and order in the Armed Forces;
- k) exercise control over the enforcement of court decisions in criminal matters.

Article 6. Competences of the prosecutor

In order to exercise the authority of the Public Prosecutor's Office, the prosecutor, in accordance to the law, shall be entitled to:

- a) demand submission of documents, materials, statistical data, and other information from legal entities and natural persons;
- b) give orders to competent authorities to conduct checks, inspections as to the activity carried out by economic agents and by other legal entities; involve experts for the clarification of separate issues that arises during the exercise of his/her powers; give orders on the carrying out of an expert examination, on the check of case materials, of information and messages received by the prosecution bodies, and demand submission of the obtained results;
- c) summon any person and demand oral or written explanations in the course of criminal prosecution or with regard to infringements of human rights and fundamental freedoms, as well as in the case of violation of the legal order;
- d) have free access to the premises of state institutions, of economic agents, and of other legal entities, as well as to their documents and materials.

Section 2. The conduct and the exercise of criminal investigation

Article 7. The prosecutor's responsibilities in the course of investigation aimed at detecting actions which are subject to criminal sanctioning

In the course of examination of applications, petitions and materials submitted to the prosecutor's office by natural persons and legal entities, as well as in case of self-notification within the course of *ex officio* investigations, the prosecutor, within the limits of his/her competence, shall investigate the case in order to reveal the existence or non-existence of a breach of law which entails criminal accountability, identification of the guilty persons and, depending upon the results of investigation, he/she shall decide upon the commencement of criminal prosecution or on taking other measures of response to revealed law infringements.

Article 8. The prosecutor's competences in the exercise of criminal investigation

The prosecutor shall exercise criminal investigation in the name of the state, on offences which fall within his/her competence, and if necessary, the prosecutor can exercise or take over criminal investigation for any category of offence in the conditions of the Criminal Procedure Code.

Article 9. The prosecutor's competences in the conduct of criminal investigation

(1) To ensure a proper application of the criminal laws by the criminal investigation bodies, by the fact-finding bodies and operational-investigative agencies, the prosecutor shall conduct criminal investigation and check the compliance of the procedural actions of said bodies with the provisions of the Criminal Procedure Code and of other normative acts, as well as of the international documents.

- (2) To exercise the functions mentioned in para (1) the prosecutor shall be entitled to:
- a) exercise the competences provided by the Criminal Procedure Code;

- b) initiate the sanctioning of criminal investigation officers, of the staff of the fact-finding bodies and of the operational-investigative agencies for the committed law infringements, non-fulfilment or inappropriate fulfilment of their professional duties;
- (3) The Prosecutor General and the hierarchically inferior prosecutors shall coordinate the anti-crime activity developed by the criminal investigation bodies, by the fact-finding bodies and by the operational-investigative agencies.
- (4) To ensure the coordination of activities of the agencies mentioned in para (3), the prosecutor shall:
 - a) plan joint activities for the purpose of fulfilling the responsibilities of these agencies;
 - b) convoke coordination meetings;
 - c) create working groups;
 - d) set criteria of assessment of the activity developed by the criminal investigation bodies, and the procedure of recording and movement of criminal cases, require statistical data and other needed information;
 - e) issue methodological and regulatory instructions, which are mandatory for the criminal investigation bodies, for the fact-finding bodies and for the operational-investigative agencies on the issues of application of laws and of efficiency of the anti-crime and crime prevention activities.

Article 10. The application of alternative measures to criminal prosecution

In the course of criminal investigation and in accordance with the Criminal Code and the Criminal Procedure Code the prosecutor can take a decision to exempt from criminal liability the person who has committed an action that includes elements essential to the offence. .

Article 11. The implementation of the national criminal policy

For the purposes of the uniform implementation of the national criminal policy, the prosecutor shall act with regard to crime prevention and combating, shall study circumstances that generate or encourage crimes, shall draft and submit proposals as to their elimination, as well as with regard to the improvement of the existing laws in this field.

Article 12. The protection of witnesses and of other participants during criminal proceedings

In order to ensure the effective protection of witnesses and of other participants in the criminal proceedings, the prosecutor shall:

- a) take measures, provided by the law, in order to restore the persons' rights that were infringed by illegal actions of the criminal investigation bodies;
- b) demand from the criminal investigation bodies that they should take measures for the protection of life and safety of witnesses, of the injured parties and of members of their families, as well as of other persons, assisting in the criminal procedure, or that they should make sure that such measures have been taken.

Section 3. The participation of the prosecutor in the administration of justice

Article 13. The prosecutor's competences in the administration of justice in criminal cases

Within the limits of his/her competence, the prosecutor shall send criminal cases to the courts for examination, shall represent the prosecution on behalf of the state in all criminal cases based on the principle of adversarial proceedings, and shall lodge appeals against court decisions, in accordance with the provisions of the law.

Article 14. The prosecutor's competences in the administration of justice in civil cases

The prosecutor shall participate, in accordance with the law, in the examination of civil and administrative offence cases, as a participants in the trial proceedings, where the proceedings have been launched on the initiative of the Public Prosecutor's Office or in which the participation of the prosecutor is provided by the law.

Article 15. Control over the observance of laws in the detention facilities

(1) In accordance with the procedure established by the law, the prosecutor shall exercise control over the law and order of confinement of persons in detention facilities, and in

institutions applying coercive measures, including hospitals in the event of providing psychiatric treatment without the person's free consent.

(2) Should the prosecutor reveal the fact of detention of a person with no grounds provided by the law, that could prove the legal detention of the person in the facilities mentioned in para (1), this person shall be immediately released on the basis of the prosecutor's ordinance which shall be enforced unconditionally and immediately.

Article 16. Control over the enforcement of court decisions

The prosecutor shall exercise, in accordance with the procedure established by the law, control over the observance of laws in the course of enforcement of court decisions issued in criminal cases, as well as in civil and administrative offence cases initiated by him/her.

Section 4. The acts of the prosecutor

Article 17. The acts of the prosecutor

In the course of investigation aimed at detecting law infringements, which shall be subjected to criminal sanctioning, when exercising and conducting criminal investigation, when applying alternative measures to criminal prosecution, when implementing the national criminal policy and ensuring the protection of witnesses and of other participants in the criminal proceedings, as well as when participating in the administration of justice, the prosecutor shall have the right, within the limits of his/her competence, to adopt acts provided by the laws on criminal procedure, on civil procedure, by the law on administrative offences and by other laws, to advance notifications and protests against an administrative act.

Article 18. The notification of the prosecutor

(1) During the exercise of his/her duties, in cases when the prosecutor considers that the illegal act could entail other measures or sanctions than those provided by criminal laws, he/she shall submit to the competent authority or official a notification on the necessity of:

- a) elimination of law infringements, removal of causes and conditions which have favoured them;
- b) sanctioning the criminal investigation officers, employees of the fact-finding bodies and of the operational-investigative agencies for the committed infringements, non-fulfilment or inappropriate fulfilment of their professional duties in the course of criminal investigation;
- c) withdrawal of immunity from certain persons and holding them liable in accordance with the procedure provided by the law.

(2) The prosecutor shall advance a notification on elimination of law infringements to the appropriate institution or to the responsible official person for immediate examination.

(3) The respective institution or the responsible official person shall take concrete measures with regard to elimination of law infringements stated in the notification, removal of causes and conditions which have favoured them, application of sanctions provided by the law, which fact shall be communicated in written to the prosecutor within one month from the receipt of the notification.

Article 19. Protest filed against an administrative act

(1) If, within during the exercise of his/her duties, he/she detects illegal administrative acts of normative or individual nature, which were issued by an authority or a responsible official and violate the rights and freedoms of the citizen, the prosecutor shall be entitled to file a protest against these.

(2) The protest shall be examined by the appropriate authority or a responsible official within 10 days from the date of its receipt, or, in case of its examination by a collegial body, at its first meeting. The results of the examination of the appeal shall be immediately communicated in written to the prosecutor.

(3) In case of groundless rejection or of the non-examination of the protest the prosecutor shall be entitled to seize the competent court for the administrative act to be declared null.

Article 20. Appeal of court decisions

In the course of examination in the court of criminal cases as well as of civil cases, including administrative cases, and administrative offence cases, in which the proceedings have been launched by the prosecutor or in which the his/her participation is provided by the law, the prosecutor shall be entitled to use, if and when necessary, ordinary and extraordinary ways of appeal of judgements which he/she finds illegal or ungrounded.

Article 21. Application to the Constitutional Court

The Prosecutor General shall be entitled to apply to the Constitutional Court to deliver its decision on the constitutionality of the laws, on decrees of the President of the Republic of Moldova, and on the decisions and ordinances of the Government.

Chapter III

THE STRUCTURE AND PERSONNEL OF THE PROSECUTOR'S OFFICES

Article 22. The system of prosecution bodies

(1) The Public Prosecutor's Office is an integrated centralised and hierarchic system, which includes:

- a) the General Prosecutor's Office;
- b) territorial prosecutor's offices;
- c) specialised prosecutor's offices.

(2) The number of prosecutor's offices, their personnel, the localities and scope of activity shall be approved and modified by the Parliament, at the proposal of the Prosecutor General.

Article 23. The General Prosecutor's Office

(1) The General Prosecutor's Office shall be headed by the Prosecutor General and shall be hierarchically superior to all prosecutor's offices. The General Prosecutor's Office shall organise and coordinate the activity of its subordinate prosecutor's offices, and it shall manage the budget of the Public Prosecutor's Office.

(2) The subdivisions of the General Prosecutor's Office shall be headed by chief-prosecutors, who can be assisted by their deputies. The economic and administrative services shall be headed by the persons with the status of civil servant.

Article 24. Territorial prosecutor's offices

(1) The category of territorial prosecutor's offices shall include the prosecutor's offices of the Administrative Territorial Unit Gagauzia (hereinafter referred to as "the ATU of Gagauzia"), of the Chisinau municipality, of rayons, municipalities, towns and districts.

(2) The prosecutor's office of the ATU of Gagauzia shall exercise the authority of the prosecutor's office in the appropriate territory and shall be hierarchically superior to the territorial prosecutor's offices of the ATU of Gagauzia.

(3) The prosecutor's office of the Chisinau municipality shall exercise the competences of the prosecutor's office in the appropriate territory and shall be hierarchically superior to the district prosecutor's offices of the municipality.

Article 25. Specialised prosecutor's offices

(1) The category of specialised prosecutor's offices shall include the prosecutor's offices which activate in special fields.

(2) The anti-corruption prosecutor's office shall be specialised in combating corruption crimes and shall exercise its competences on the entire territory of the state.

(3) The military prosecutor's offices, through military prosecutors shall:

- a) exercise criminal investigations on criminal cases which fall within the competence of military courts;
- b) represent the prosecution in the military court;
- c) exercise functions of the Public Prosecutor's Office in the Armed Forces.

(4) The transport prosecutor's office shall exercise the competences of the Public Prosecutor's Office in the sphere of the railroad, air and marine transportation on the entire territory of the state.

(5) The prosecutor's office at the level of the courts of appeal shall exercise the competences set forth in Article 26.

(6) By the law there can be created also other specialised prosecutor's offices, which competencies shall be established by the Prosecutor General in the conditions of the law.

Article 26. The prosecutor's office at the level of the courts of appeal

The prosecutor's offices at the level of the courts of appeal shall be founded to ensure the well-functioning of justice in criminal cases, which trial on its merits shall fall within the competence of the courts of appeal and contribute to the administration of justice in these judicial instances in accordance with the law. The status of the prosecutor's offices at the level of the courts of appeal shall be stipulated in a regulation approved by the Prosecutor General.

Article 27. The Prosecutor General

(1) The Prosecutor General shall head the Public Prosecutor's Office.

(2) The Prosecutor General shall:

- a) represent the Public Prosecutor's Office in relations with other public authorities, with national and foreign legal entities and natural persons;
- b) appoint hierarchically inferior prosecutors, and exercise, either directly or through his/her deputies or subordinate prosecutors, control over the activity of prosecutors;
- c) issue written orders, ordinances and methodological and regulatory instructions which are mandatory for enforcement, approve regulations;
- d) withdraw, suspend or cancel acts issued by prosecutors, should these run counter to the law;
- e) establish, in accordance with the structure approved by the Parliament, the internal organisation of the prosecution bodies,, distribute means for their functioning;
- f) request from the bodies with legal competence in detecting and investigating offences, as well as in exercising operational-investigative activities to delegate specialists in the field to fulfil, under the direct management and direct control of prosecutors, procedural acts conferred by the law;
- g) notify the Constitutional Court on the matter of the constitutionality of the laws, of decrees of the President of the Republic of Moldova as well as of decisions and ordinances of the Government;
- h) award prosecutors the class ranks and special military ranks in accordance with the law;
- i) decide upon the competences and duties of his/her First Deputy and deputies, as well as of other subordinate prosecutors;
- j) convoke the assembly of hierarchically inferior prosecutors annually or whenever necessary;
- k) be the manager of financial resources and dispose of the assets of the Public Prosecutor's Office;

(3) The Prosecutor General shall present yearly before the Parliament the report on the state of legality and of the legal order in the country, as well as on the measures which have been undertaken for its strengthening. The Report of the Prosecutor General shall be made in public and shall be posted on the official website of the General Prosecutor's Office.

Article 28. The First Deputy and the Deputies of the Prosecutor General

(1) The First Deputy and the two deputies of the Prosecutor General shall:

- a) organise and conduct the main activities of the prosecutor's offices in accordance with their competence;
- b) exercise other functions by the decision of the Prosecutor General.

(2) In the absence of the Prosecutor General or in case of his/her impossibility to exercise his/her functions, the latter shall be exercised by the First Deputy, and in his/her absence, by one deputy on the basis of an order issued by the Prosecutor General.

Article 29. Chief-prosecutors of subdivisions of the Public Prosecutor's Office

(1) The subdivisions of the Public Prosecutor's Office shall be headed by chief-prosecutors assisted by deputies.

(2) Chief-prosecutors of the subdivisions of the Public Prosecutor's Office shall:

- a) organise and coordinate the activity of subordinate prosecutors and auxiliary personnel and decide upon their competences and duties;

- b) exercise other functions, following the instruction of the hierarchically superior prosecutor and of his/her deputies.

Article 30. Territorial prosecutors and specialist prosecutors

Territorial and specialist prosecutors shall represent the Public Prosecutor's Office in the corresponding territory and field, shall exercise functions provided by the law and shall be assisted by deputies.

Article 31. The hierarchy of prosecutor's positions

(1) The hierarchy of prosecutors, depending upon the position held within the system of prosecutor's offices, shall be established in the following order:

- a) the Prosecutor General;
- b) the First Deputy and deputies of the Prosecutor General;
- c) chief-prosecutors of the subdivisions of the General Prosecutor's Office and their deputies;
- d) territorial prosecutors and specialist prosecutors, and their deputies.

(2) The prosecutor of the ATU of Gagauzia, the prosecutor of the Chisinau municipality and their deputies shall be hierarchically superior to prosecutors from the corresponding territory.

(3) Chief-prosecutors of the subdivisions of the Public Prosecutor's Office, territorial prosecutors and specialist prosecutors and their deputies shall be hierarchically superior to prosecutors subordinated to them.

(4) Prosecutors listed in descending order shall be hierarchically superior to the prosecutors indicated after them.

(5) The hierarchically superior prosecutor can exercise any function of subordinate prosecutors.

(6) The hierarchy consists in the subordination of the hierarchically inferior prosecutors to the hierarchically superior prosecutors, as well as in the prosecutors' obligation to enforce and observe orders, ordinances, indications and methodological and regulatory instructions which receive from the hierarchically superior prosecutors.

Article 32. The personnel of the prosecutor's office

(1) Within a prosecutor's office there shall work prosecutors, the auxiliary and the technical personnel.

(2) The status of prosecutors shall be regulated by the law.

(3) The auxiliary personnel shall work in the subdivisions of the General Prosecutor's Office, of the territorial and specialised prosecutor's offices, and shall contribute to the exercise of the competences of the prosecutor's office.

(4) The technical personnel shall provide technical maintenance to the prosecutor's offices.

TITLE II THE STATUS OF THE PROSECUTOR

Chapter IV INCOMPATIBILITIES AND PROHIBITIONS

Article 33. The status of the prosecutor

(1) In the exercise of his/her duties the prosecutor shall be autonomous, impartial and shall abide by the law only.

(2) The promotion, delegation, secondment and transfer of the prosecutor shall be made only with his/her consent, unless otherwise provided by the law..

(3) The prosecutor can be sanctioned, suspended and dismissed only on the grounds and in the conditions established by the law.

Article 34. Incompatibilities

(1) The position of prosecutor shall be incompatible with any other public or private position, except for teaching and scientific activities.

Article 35. Prohibitions

(1) The prosecutor shall be obliged to refrain from any activity related to the exercise of his/her duties in cases when the prosecutor assumes that there is a conflict between his/her interests, on the one hand, and the public interest, of justice or the protection of the general interests of the society, on the other hand, except for cases when the conflict of interests is communicated in written to the head of the prosecutor's office in which the prosecutor works and it is decided that the existence of the conflict of interests will not affect the impartial exercise of the prosecutor's professional duties.

(2) The prosecutor shall be subjected to a regime of prohibitions according to which he/she shall not have the right to:

- a) participate in trial proceedings, if he/she is in a marital relation, kinship relationship or is relatives up to the 2nd degree with the judge, the lawyer or any other participant in the trial;
- b) be a member of any political party or organisation, carry out or take part in political activities, and during the exercise of his/her professional duties to express or to manifest in any way his/her political beliefs;
- c) work as operative agent, including under cover, or as informer or officer of the agency which conducts the operational investigative activity;
- d) publicly express his/her opinion with regard to case-files, trial proceedings, cases under investigation, or with regard to cases, other than the ones in his/her administration, on which the prosecutor may have information by virtue of his/her position;
- e) carry out, either directly or through intermediaries, entrepreneurial or commercial activity;
- f) conduct arbitration activities on civil, commercial or other disputes;
- g) provide advise, either written or verbal, on litigious matters, even if the respective matters are examined by another body of the Public Prosecutor's Office 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;
- h) be an associate or a member of a managerial, administrative or control body of any commercial society, including banks or other credit institutions, insurance companies or financial societies, national companies, or national societies or national societies or autonomous societies.

Chapter V

THE APPOINTMENT TO THE POSITION OF PROSECUTOR

Article 36. Requirements for the appointment to the position of prosecutor

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

- a) citizenship of the Republic of Moldova and reside on its territory;
- b) full legal capacity
- c) hold a licentiate degree in law;
- d) the length of service which is necessary for the appointment to the respective position, and enjoy a good reputation or be a graduate of the initial training of prosecutors of the National Institute of Justice;
- e) no criminal record;
- f) know the state language;
- g) be capable from the medical point of view of exercising the duties ;

(2) To the position of the Prosecutor General there can be appointed a person whose professional qualification and the length of service within the prosecution bodies for the past 15 years correspond to the tasks implemented by the Public Prosecutor's Office, and to the position of Deputy Prosecutor General there can be appointed a person who has worked as prosecutor for **at least 10 years**.

(3) To the position of territorial prosecutor or of the specialist prosecutor, of the chief-prosecutor of a subdivision of the Public Prosecutor's Office there can be appointed **prosecutors**

with the length of service in the position of prosecutor of at least 5 years; and to the position of their deputies there can be appointed persons with the length of service of at least 4 years.

Article 37. Candidate for the position of prosecutor

(1) The position of prosecutor can be sought by a candidate who graduated from the initial training of prosecutors at the National Institute of Justice.

(2) By deviation from the provisions of para (1), the position of prosecutor can also be sought by a candidate who has worked as prosecutor or, for the past 5 years, as judge, investigator, criminal investigation officer, lawyer, ombudsman, notary, legal counsellor, court consultant (counsel), in the legal positions within the apparatus of the Constitutional Court, of the Superior Council of Magistrates, and of public authorities. The length of service in a legal position shall also include the periods when a person, who is a licentiate in law, exercised the mandate of deputy, worked as member of the Courts of Accounts, as titular professor of law in higher education institutions, as bailiff and as court clerk.

Article 38. The contest for filling the position of prosecutor

(1) The contest for filling the positions of prosecutor shall be organised annually or when necessary on the date and at the venue set by the Superior Council of Prosecutors. The information about the date, venue and manner of conducting the admission contest, and the number of vacancies subject to the contest shall be published in official publications and posted on the official website of the General Prosecutor's Office and of the National Institute of Justice at least 30 days before the date of the contest.

(2) The Superior Council of Prosecutors shall establish annually the number of candidates for the position of prosecutor, depending upon the number of vacancies as well as upon the number of newly founded positions.

(3) The contest for filling the position of prosecutor shall include the stage of capacity examination to be passed by the candidate before the Qualification Board, and the stage of assessment of the results of capacity examination, followed by the acceptance of candidates to be appointed to the position of prosecutor.

(4) Graduates of the National Institute of Justice shall participate in the contest on the basis of certificate of graduation, without taking capacity examination.

(5) Persons who have exercised the position of prosecutor, defence attorney, investigative officer (investigator) and/or judge for at least 10 years and who ended up their activity for faultless reasons can be appointed to the position of prosecutor without taking capacity examination, should the period during which they have not worked in the said positions not exceed 5 years.

(6) The results of the contest shall be validated by the Qualification Board and shall be posted within 24 hours in a visible place within the premises of the General Prosecutor's Office as well as on its official website.

(7) The candidates who shall disagree with the results of the contest may lodge appeals with the Superior Council of Prosecutors within 7 calendar days after the announcement of the results. The appeal shall be resolved within 15 calendar days. The decision of the Superior Council of Prosecutors can be appealed in an administrative court, in accordance with the procedure established by the law.

(8) The number of vacancies offered to the candidates from among those enumerated in Article 37 para (2) cannot exceed 20 per cent of the total number of vacancies that have been proposed within the contest for the past 3 years.

(9) The manner of organisation and conduct of the contest for filling the position of prosecutor shall be established in the regulations approved by the Superior Council of Prosecutors.

Article 39. The registration for the contest for filling the position of prosecutor

(1) To participate in the contest for filling the position of prosecutor, the candidate shall lodge, within 30 days after the publication of the announcement, a written application to the Superior Council of Prosecutors, which shall then register him/her as a participant in the contest.

(2) To participate in the contest, the candidate shall submit the following documents:

- a) a curriculum vitae;
- b) a copy of the diploma of higher education;

- c) the certificate of graduation from the National Institute of Justice (in the case of candidates from among graduates of the initial training of prosecutors);
 - d) a copy of the service record (should candidates have any);
 - e) a criminal record;
 - f) a health certificate of the established form;
 - g) declaration on income and property;
 - h) a reference letter from the last place of work or of studies.
- (3) The manner of registration of candidates for the contest for filling the position of prosecutor shall be established by the Superior Council of Prosecutors.

Article 40. The appointment of prosecutors

(1) The Prosecutor General shall be appointed by the Parliament, at the proposal of the Speaker of the Parliament, for a mandate of 5 years.

(2) After the appointment the Prosecutor General shall take the following oath before the Parliament:

“In the exercise of duties of the Prosecutor General, I swear to strictly abide by the Constitution, and by the laws of the Republic of Moldova, to protect the legal order, human rights and freedoms, and the general interests of society”.

(3) The First Deputy and deputies of the Prosecutor General shall be appointed by the Prosecutor General, at the proposal of the Superior Council of Prosecutors, for a mandate of 5 years.

(4) The hierarchically inferior prosecutors shall be appointed by the Prosecutor General, at the proposal of the Superior Council of Prosecutors.

(5) The prosecutor of the ATU of Gagauzia shall be appointed by the Prosecutor General, at the proposal of the People’s Assembly of Gagauzia.

(6) The mandate of a territorial prosecutor and of a specialist prosecutor shall be of 5 years. The holding of the said positions in the same prosecutor’s office cannot exceed two consecutive mandates.

(7) The Prosecutor General, the First Deputy and deputies of the Prosecutor General, cannot hold the same position for more than 2 consecutive mandates

(8) The age limit for the holding of the position of prosecutor shall be 65 years of age.

Article 41. The prosecutor’s oath

(1) After the appointment the prosecutor shall take the following oath:

“I swear to strictly abide by the Constitution, and by the laws of the Republic of Moldova, to protect the legal order, human rights and freedoms, the general interests of society, and to conscientiously fulfil my duties”.

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

(3) The oath shall be taken in a solemn meeting before the Superior Council of Prosecutors.

(4) The taking of the oath shall be recorded in the minutes of the meeting, which shall be signed by the members of the Superior Council of Prosecutors and by the person who has taken the oath.

(5) The taking of the oath shall not be necessary in the case of the prosecutor’s transfer or promotion to another position.

Article 42. The appraisal of the prosecutor

(1) In order to check the responsibility and to assess the compliance with the criteria of professional competence and performance, the prosecutor shall pass appraisal every 5 years.

(2) The prosecutor shall pass appraisal:

- a) at the expiry of the period of 5 years for which he/she was certified;
- b) at the promotion to a hierarchically superior position following the application of disciplinary sanctions in the form of downgrade. .

(3) The first appraisal of the prosecutor shall be carried out 2 years after the appointment.

(4) The prosecutor shall be certified by the Qualification Board.

(5) The prosecutor may appeal against the results of the appraisal with the Superior Court of Prosecutors within 3 days from the communication of the results.

(6) The following persons shall not be subjected to appraisal: the Prosecutor General and his/her deputies, prosecutors who are members of the Superior Council of Prosecutors, of the Qualification Board and of the Disciplinary Board, during the period of the exercise of their mandates.

(7) By regulations at the institutional level there can be established also other ways of intermediary evaluation of the results of the prosecutors' activity during the period of 3 years in between the ordinary appraisals, the outcomes of which shall form the basis of the decision on appraisal. By the decision of the Superior Council of Prosecutors the prosecutors subjected to disciplinary sanctioning can undergo appraisal before the term.

(8) The period of appraisal shall include also the period of suspension of one's activity, during which the salary has been maintained.

Article 43. The continuous training of the prosecutor

(1) The continuous training of the prosecutor shall be the guarantee of his/her independence and impartiality during the exercise of his/her professional duties.

(2) 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.

(3) 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.

(4) Prosecutors shall participate at least once per year in the programmes of continuous training organised by the National Institute of Justice, as well as in the programmes organised by other higher education institutions from the country or from abroad, or in other activities of vocational training.

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

(6) Within each body of the Public Prosecutor's Office there shall be periodically organised activities of the continuous training, consisting in seminars, sessions, consultations, debates or roundtables, including with the involvement of the teaching staff of the National Institute of Justice.

(7) 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 should be offered possibilities so that prosecutors could choose the field they wish to improve in.

Chapter VI
THE CLASS RANKS
AND SPECIAL MILITARY RANKS FOR PROSECUTORS

Article 44. The class ranks and special military ranks

(1) There shall be established the following class ranks for prosecutors:

- a) for the supreme legal body:
 - state legal counsellor of I rank
 - state legal counsellor of II rank
 - state legal counsellor of III rank.
- b) for the superior legal body:
 - legal counsellor of I rank
 - legal counsellor of II rank
 - legal counsellor of III rank.
- c) for the inferior legal body:
 - jurist of I rank
 - jurist of II rank
 - jurist of III rank.

(2) There shall be established the following special military ranks for prosecutors from the military prosecutor's offices and from the structural subdivision of the General Prosecutor's Office which exercises its competences in the Armed Forces:

- a) for the superior legal body:

- colonel of justice
 - lieutenant-colonel of justice
 - major of justice.
- b) for the middle legal body:
- captain of justice
 - lieutenant-major of justice
 - lieutenant of justice.

Article 45. Conditions for the awarding of the class ranks and of special military ranks

(1) The class ranks and special military ranks shall be awarded to prosecutors consecutively at the expiry of the term for holding of the previous rank, in accordance with the position held and the length of service, taking into account the person's professionalism, unless otherwise is provided by the law.

(2) The term of holding of the ranks shall be calculated by taking into account also the period of suspension of the prosecutor's activity and of his/her secondment, during which the salary has been maintained at the prosecutor's office.

Article 46. The terms for the holding of class ranks and of special military ranks

(1) The holding of class ranks and of special military ranks shall be the following:

- a) jurist of III rank, lieutenant of justice – 2 years;
- b) jurist of II rank, lieutenant-major of justice – 3 years;
- c) jurist of I rank, captain of justice – 3 years;
- d) legal counsellor of III rank, major of justice – 4 years;
- e) legal counsellor of II rank, lieutenant-colonel of justice – 5 years.

(2) There shall be established no terms for the holding of the class ranks of the state legal counsellor of I, II and III rank, and of the legal counsellor of the I rank, as well as of the military rank of colonel of justice.

Article 47. The correlation of class ranks and of special military ranks with the prosecutor's positions

The class ranks and special military ranks shall correspond to the positions held by prosecutors in the following manner:

<i>The class rank and special military rank</i>	<i>The position</i>
state legal counsellor of I rank	The Prosecutor General
state legal counsellor of II rank	The deputy of the Prosecutor General
state legal counsellor of III rank	The Head of the Apparatus of the Prosecutor General, the prosecutor of the ATU of Gagauzia, the prosecutor of the Chisinau municipality, members of the Board of the Public Prosecutor's Office
legal counsellor of I rank	Chief-prosecutor of the division of the General Prosecutor's Office, the prosecutor on special missions of the General Prosecutor's Office, chief-prosecutor of a section of the General Prosecutor's Office and his/her deputy, chief-prosecutor of the service of the General Prosecutor's Office, the territorial prosecutor, the specialist prosecutor, the deputy of the prosecutor of the ATU of Gagauzia, the deputy of the prosecutor of the Chisinau municipality, the deputy of the prosecutor of the Anti-corruption prosecutor's office, and the deputy of the prosecutor heading the prosecutor's office at the level of the Court of Appeal
legal counsellor of II rank	The prosecutor of the department, section and service of the General Prosecutor's Office, chief-prosecutor of the section of the Prosecutor's office of the ATU of Gagauzia, chief-prosecutor of the Prosecutor's office of the Chisinau municipality, chief-prosecutor of the Anti-Corruption prosecutor's office and chief-prosecutor of the prosecutor's offices at the level of the Court of Appeal, the deputy of the territorial prosecutor and the deputy of the specialist prosecutor
legal counsellor of III rank	The prosecutor of the section and service of the Prosecutor's office of the ATU of Gagauzia, of the Prosecutor's office of the Chisinau municipality, of the Anti-Corruption prosecutor's office and of the prosecutor's office at the level of the Court of Appeal
jurist of I rank	the prosecutor of the territorial and specialised prosecutor's offices
jurist of II rank	The prosecutor whose terms for the holding of the previous rank has expired

jurist of III rank	The prosecutor who has been appointed for the first time
Colonel of justice	Chief-prosecutor of a subdivision of the General Prosecutor's Office exercising its competences in the Armed Forces, his/her deputy, the prosecutor of the military prosecutor's offices
Lieutenant-colonel of justice	The prosecutor of a subdivision of the General Prosecutor's Office exercising its competences in the Armed Forces, the deputy prosecutor of the military prosecutor's offices
Major of justice	The prosecutor of the military prosecutor's office
Captain of justice, lieutenant-major of justice	The prosecutor of the military prosecutor's office, whose term for the holding of the previous special military rank has expired
Lieutenant of justice	The prosecutor of the military prosecutor's office who has been appointed for the first time.

Article 48. The awarding of the class ranks and of special military ranks

(1) The degree of jurist of III rank and the one of lieutenant of justice shall be awarded to the prosecutor **upon his/her appointment.**

(2) The awarding of the class ranks and of special military ranks shall fall within the competence of the Prosecutor General, save for the degrees of state legal counsellor of I, II and III rank, which shall be awarded by the President of the Republic of Moldova.

(3) The class degrees of state legal counsellor of I, II and III rank shall be awarded upon the appointment of the prosecutor to the respective position provided in Article 47.

Article 49. The correlation of the class ranks and of special military ranks in the field of justice with the ranks in other fields

The persons from among those enumerated in Article 37 para (2), who at the moment of appointment to the position of prosecutor held the class degrees or military ranks, shall be awarded class degrees or military ranks similar to those previously held, taking into account positions to which they are appointed in the prosecutor's offices, the degree of professionalism and the length of service.

Article 50. The awarding of the class ranks or of special military ranks in case of transfer

(1) In case of transfer to the military prosecutor's offices and of transfer to a structural subdivision of the General Prosecutor's Office empowered with attributions in the Armed Forces, the prosecutors who hold class ranks shall be awarded special military ranks taking into consideration the position to which they are appointed, the degrees they hold and the length of service in the respective degrees.

(2) In similar conditions, the class degrees shall be awarded to the prosecutors who have been transferred to other prosecution bodies from the military prosecutor's offices and from the structural subdivision of the General Prosecutor's Office empowered with attributions in the Armed Forces.

Article 51. Supplementary attributions

(1) With regard to the awarding of the class degrees and of special military ranks, the Prosecutor General shall have the right:

- a) for actions full of dedication, for an exemplary discharge of the professional duties and for remarkable successes achieved in the process of consolidation of legality and of combating of crime, to grant ahead of time the successive class rank or a special military rank, or the class degree or special military rank that is of higher level than the one provided for the position of the prosecutor, however, only after there passed at least half of the term of the holding of the previous degree;
- b) upon the promotion to a higher position, to award a class degree without taking into account the order of succession, however, up to two degrees higher than the one held by the prosecutor;
- c) to submit to the President of the Republic of Moldova suggestions regarding the awarding of the class ranks which fall within his/her competence.

(2) The awarding of class degrees and of special military rank provided by para (1) let. a) and b) shall be made only once during the entire length of service of a person in the prosecution bodies.

Article 52. The terms of holding of class degrees and of special military ranks

(1) The class degrees and special military ranks shall be awarded to the employees of the prosecutor's offices for life.

(2) The prosecutor can be demoted only by a decision of the Superior Council of Prosecutors, which can be appealed against in a court of law, for the commission of some acts which undermine the title of the prosecutor or for the commission of some premeditated crimes, as well as for the fact that the prosecutor was awarded a class rank or a special military rank by infringing the present law.

Chapter VII

RIGHTS AND OBLIGATIONS OF THE PROSECUTOR

Article 53. The rights of the prosecutor

(1) The prosecutor shall enjoy the rights and freedoms provided for the citizens of the Republic of Moldova by the Constitution, current legislation and international agreements, to which the Republic of Moldova is a party, with the restrictions conditioned by the peculiarities of the service in the prosecution bodies. .

(2) Within his/her professional activity the prosecutor shall be entitled to:

- a) examine causes and cases related to the exercise of his/her duties and to make decisions within the limits of his/her competence;
- b) be promoted in his/her service in accordance with his/her professional training, qualification and personal achievements;
- c) be remunerated in accordance with the in force legislation;
- d) choose a field of continuous training, which he/she believes necessary for professional improvement;
- e) join professional organisations and other organisations having as goal the representation and protection of professional interests;
- f) have free access to his/her professional file and to personal data included in other documents kept within the Public Prosecutor's Office;
- g) be informed about all the decisions that are of his/her concern;
- h) be ensured with special measures of protection against threats, violence or any other actions exposing the prosecutor, his/her family or his/her property to danger;
- i) be provided, in accordance with the current legislation, with adequate working conditions, which would contribute to his/her health protection and to his/her physical and psychical integrity;
- j) receive compensations in cases when the prosecutor has suffered of a prejudice in relation to the exercise his/her duties;
- k) make effective use of all social guarantees granted by the law;

Article 54. The obligations of the prosecutor

The prosecutor shall be obliged to:

- a) perform his/her duties in strict conformity to the Constitution and the laws of the Republic of Moldova;
- b) comply with the rules of professional conduct of prosecutors, and to abstain from any actions which would undermine the image of the Public Prosecutor's Office or would compromise the title of the prosecutor;
- c) submit, in accordance with the law, declaration on income and property;
- d) observe the regime of restrictions and incompatibilities set for prosecutors and public officials by the law;
- e) implement the provisions of normative acts adopted within the Public Prosecutor's Office;
- f) take measures in order to reveal and register all law infringements which have become known to him/her both in the course of the exercise of his/her position and during the period of time when the prosecutor was outside the exercise of his/her position.

Article 55. The dress code

(1) During the exercise of his/her duties the prosecutor shall be obliged to have the outfit stipulated by the law.

(2) The state shall provide the prosecutor with a uniform free of charge.

(3) The prosecutors from the military prosecutor's offices and from the structural subdivision of the General Prosecutor's Office empowered with attributions in the Armed Forces shall wear the uniform of the model provided for the military men.

(4) The description of the prosecutors' uniform as well as of the distinctive insignia, of the insignia of the prosecutors' class ranks and of special military ranks shall be provided in the regulations approved by the Parliament.

Chapter VIII

THE SAFEGUARD OF THE PROSECUTOR'S AUTONOMY

Article 56. The safeguard of the prosecutor's autonomy

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

- a) a strict determination by the law of the prosecutor's status, the delimitation of the functions of the Public Prosecutor's Office, and of the prosecutor's competences and attributions in the course of the exercise of the functions of the Public Prosecutor's Office;
- b) the procedure of the prosecutor's appointment, suspension, and dismissal;
- c) the declaration of 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 prosecution bodies, the creation of organisational and technical conditions that are favourable for the activity of these bodies;
- g) material and social security of the prosecutor;
- h) other measures stipulated by the law.

(2) On decision-making the prosecutor shall be autonomous in the conditions provided by the law.

(3) The orders of a hierarchically superior prosecutor given in written and in conformity with the law shall be binding for the subordinate prosecutors. The prosecutor may request that an order should be given to him/her in written. The prosecutor shall be entitled to refuse to implement an order which is obviously illegal or which runs counter to the prosecutor's judicial consciousness, and he/she can file a protest against such with the prosecutor hierarchically superior to the one who has given the order.

(4) Should they be found illegal, the decisions made by the prosecutor can be cancelled on grounded reasons by the hierarchically superior prosecutor.

(5) Should the complaint be rejected by hierarchically superior prosecutor, the actions and acts of the prosecutor may be appealed against in the court of law.

Article 57. 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 authorised only after initiation of a criminal prosecution, and in conditions provided by the Criminal Procedure Code.

(3) The prosecutor cannot be brought to disciplinary or patrimonial liability for having expressed his/her opinion during the criminal prosecution and in the process of contribution to the administration of justice nor for the decision he/she has made, if his/her guilt is not established by a final sentence.

(4) The criminal prosecution against the prosecutor can be initiated only by the Prosecutor General.

(5) The criminal prosecution against the Prosecutor General can be initiated only by a prosecutor appointed by the Parliament, at the proposal of the Speaker.

(6) Should the prosecutor be suspected of having committed an administrative offence or a crime, the detained prosecutor should be released immediately after his/her identification, save for cases of commission of a flagrant crime.

Article 58. The promotion in the prosecutor's service

(1) The prosecutor shall be promoted by the hierarchically superior prosecutor in order to fill a vacancy for the appropriate performance of his/her duties, for manifested organisational and decision-making skills.

(2) The proposal on the promotion of the prosecutor shall be advanced by the hierarchically superior prosecutor, by the Prosecutor General, his/her deputies or by the Superior Council of Prosecutors. Candidates for the appointment as the First Deputy or as deputy of the Prosecutor General shall be proposed to the Superior Council of Prosecutors by the Prosecutor General.

(3) The Regulations on the procedure of promotion of prosecutors shall be approved by the Superior Council of Prosecutors.

(4) The promotion of the prosecutor shall be made on the basis of the principle of free consent, transparency, and appraisal of professional and personal achievements.

(5) The evolution in the career of a prosecutor shall be recorded in a professional file, which shall be created and kept at the Superior Council of Prosecutors.

(6) The prosecutor who was subjected to a disciplinary sanction or did not pass the appraisal for the held position, cannot be promoted or elected as member of a collegial body from within the Public Prosecutor's Office for the period of one year from the date of issuance of the respective decision.

**Chapter IX
INCENTIVES**

THE DISCIPLINARY AND PATRIMONIAL LIABILITY OF THE PROSECUTOR

Article 59. Incentives

(1) For the exemplary fulfilment of the service duties, for the initiative, operational efficiency and other relevant professional merits, the prosecutors can be encouraged by:

- a) expression of gratitude;
- b) awarding of a symbolic gift;
- c) granting a bonus;
- d) awarding of a higher class rank or special military rank;
- e) awarding with the "Honorary Diploma of the Public Prosecutor's Office";
- f) conferral of the insignia "Honorary Employee of the Public Prosecutor's Office".
- g) other awards established by the Prosecutor General

(2) The incentives provided in para (1) 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.

Article 60. The disciplinary liability

(1) The prosecutor can be held disciplinary liable for the violation of his/her duties, as well as for the conduct that prejudices interests of the service and undermines the image of the Public Prosecutor's Office.

(2) The disciplinary violations for which the prosecutors shall be held disciplinary liable shall be stipulated by the law in an exhaustive way.

(3) The prosecutors of military prosecutor's offices and of the subdivision of the General Prosecutor's Office empowered with attributions in the Armed Forces shall be held disciplinary liable in the conditions of the present law.

Article 61. The disciplinary violations

The following shall constitute a disciplinary violation:

- a) inappropriate fulfilment of the service duties;
- b) incorrect or biased interpretation or application of the legislation, made either deliberately or due to gross negligence, if this action is not justified by the change of the practice of application of legal norms established in the current law-enforcement or court practice;

- c) interference in the activity of other prosecutor or any other interventions with the authorities, institutions or officials for the purpose of solving - in ways which lie beyond the limits of the current legal provisions –some applications, claiming or accepting the resolution of personal interest or of interests of members of the family;
- d) deliberate violation of law during the performance of duties, if this does not entail criminal, civil or administrative offence liability ;
- e) participation in public activities of political nature;
- f) violation of legal provisions related to the declaration of income and property;
- g) unjustified refusal to perform a service duty;
- h) unmotivated absences, delays or leaves ahead of schedule;
- i) disrespectful attitude towards colleagues, judges, lawyers, experts, witnesses or other participants in a trial proceeding during the performance of duties;
- j) violations of the provisions of the Code of Ethics for Prosecutors;
- k) using the status of the prosecutor for the purpose of obtaining undue benefits and advantages;
- l) public expression of agreement or disagreement with the decision made by other prosecutors aiming at interfering in their activity;
- m) violation of the provisions regarding incompatibilities and prohibitions concerning prosecutors.

Article 62. The 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 Disciplinary Board:

- a) warning;
- b) reprimand;
- c) sharp reprimand;
- d) downgrade;
- e) demotion in the class degree or in special military rank;
- f) withdrawal of the insignia "Honorary Employee of the Public Prosecutor's Office";
- g) dismissal from the prosecution bodies.

Article 63. 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

(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 Finance.

(3) The liability of the state shall not remove the liability of the prosecutor who performed his/her duties in bad faith.

(4) The period of prescription for the right to action in cases provided by the given Article shall constitute one year, unless other period is provided by the law.

Chapter X TRANSFER, DELEGATION, SECONDMENT, SUSPENSION AND DISMISSAL OF THE PROSECUTOR

Article 64. Transfer, delegation and secondment

(1) The transfer of the prosecutor, either for an unlimited term or for a limited term, to the position of another prosecutor who was suspended, transferred or seconded to other position shall be made only in accordance with the provisions of the given law and of labour laws.

(2) In case when a prosecutor's office 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. The delegation can be prolonged over the mentioned period only with the written consent of the prosecutor. The average salary of the delegated prosecutor cannot be lower than the salary paid to him/her in previous position.

(3) The prosecutor can be seconded from his/her position, with his/her consent, for a position at the National Institute of Justice for a period of up to 18 months, which can be

prolonged for at most 18 months. For the purpose of fulfilling the competences of the Public Prosecutor's Office the prosecutor can be seconded also to other institutions. During the period of the secondment of the prosecutor, his/her status shall be preserved. The prosecutor shall enjoy the rights of the seconded staff provided by the law.

(4) 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..

(5) The period of secondment to other institutions shall be included in the length of service in the position of prosecutor.

(6) At the expiry of the period of secondment, the prosecutor shall be offered the position held before the secondment, or, with his/her consent, the prosecutor shall be offered other equivalent position.

(7) Decisions on the transfer, the delegation and the secondment of the prosecutor shall be issued **by the Prosecutor General..**

Article 65. Suspension of the term of office

(1) The prosecutor can be suspended by an order of the Prosecutor General, at the proposal of the Superior Council of Prosecutors, when:

- a) criminal prosecution is initiated against him/her until the issuance of the final decision in the case;
- b) the prosecutor is declared a missing person by a final court decision;
- c) he/she takes part in an electoral campaign as a candidate for office of a public authority or of a local public administration authority and is elected in one of these;
- d) the prosecutor is granted a maternity leave and a childcare leave until the age of **6 years .**

(2) In cases stipulated by para (1) letters a), c) and d) the salary shall be paid to the prosecutor in accordance with the law.

(3) The suspension of the term of office of the prosecutor for reasons enumerated in para (1), except for letter a), shall not entail the cancellation of personal inviolability and of material and social safeguards.

(4) In the case stipulated by para (1) letter a), if the guilt of the prosecutor is not proved or a judgement of acquittal or cessation of criminal procedure is pronounced, the suspension of the term of office shall be cancelled and the prosecutor shall be fully rehabilitated in all his/her previous rights.

(5) In cases stipulated by para (1) letter c) and d), at the expiry of the period for which the prosecutor has been suspended, he/she shall be offered the position of prosecutor held before suspension or, with his/her consent, the prosecutor shall be offered other equivalent position.

(6) The prosecutor can lodge an appeal against the decision on his/her suspension with a court of law, in accordance with the law.

Article 66. Dismissal

(1) The prosecutor shall be dismissed in the event of:

- a) resignation in the conditions of Article 67 para (2);
- b) submission of a request of resignation on one's own initiative;
- c) resignation with regard to reaching the age limit;
- d) expiry of the term of office;
- e) systematic commission of disciplinary violations or of a grave disciplinary violation;
- f) non-compliance with the held position due to insufficient qualification, this fact being established as result of the prosecutor's appraisal;
- g) delivery of a final judgement of conviction;
- h) loss of citizenship of the Republic of Moldova;
- i) 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 reorganisation;
- j) **death of the prosecutor or declaration of his/her death by a final court decision.**

(2) **In the cases mentioned in para. (1) c), g), h) and j) the decision on the dismissal of the prosecutor shall be issued by the Prosecutor General. In other cases provided by law the prosecutor will be dismissed by the General Prosecutor, based on the decision of the**

Superior Council of Prosecutors. The decisions on the dismissal can be appealed against in the court in accordance with the law.

(3) In case of cancellation of the decision on the dismissal of the prosecutor, he/she shall be fully rehabilitated in all rights, with refunding, in accordance with the law, of the monetary benefits, of which the prosecutor was deprived.

(4) The Prosecutor General can be dismissed before the expiry of his/her mandate by the Parliament at the proposal of the Speaker of the Parliament in cases provided by para (1) letters a), b), g) and h).

(5) The First Deputy and deputies of the Prosecutor General can be dismissed on the grounds provided by para (1) letters a), b), c), e), g), h), and i).

Article 67. The resignation of the prosecutor

(1) The prosecutor shall be entitled to resign in case of submission of a resignation request.

(2) As resignation there shall be considered the prosecutor's honourable leave from the office, if during the performance of his/her duties and in the off-duty relations the prosecutor has not committed acts which could undermine the image of the Public Prosecutor's Office or discredit the title of the prosecutor.

(3) Resigned prosecutor shall have the right to a pension based on the length of service or to a monthly life indemnity in the conditions of the law

(4) If the resigned prosecutor has served in the position of prosecutor for the length of at least 20 years, he/she shall benefit from a monthly life indemnity of 80%; of 25 to 30 years - 85%; of 30 to 35 years – 90%; of 35 to 40 years – 95%; 40 years and more –100% as compared to the average salary paid in the position of prosecutor. The monthly life indemnity shall be calculated in function of the amount of the salary of an acting prosecutor.

(5). The resigned prosecutor shall have the right to work in other positions within the prosecution bodies or in the field of justice.

(6) If the resigned prosecutor exercises in other position within the prosecution bodies or in the field of justice, he/she shall be paid both a monthly life indemnity and a salary.

(7) The resigned prosecutor shall be considered such as long as he/she complies with the provisions of Article 34 and Article 35, holds citizenship of the Republic of Moldova and does not commit any acts which could undermine the image of the Public Prosecutor's Office or discredit the title of the prosecutor.

(8) Should the Superior Council of Prosecutors establish that the resigned prosecutor does not meet the requirements provided by the given law, it shall propose to the Prosecutor General to cease the prosecutor's resignation. The prosecutor can lodge an appeal against the decision of cessation in the court of law.

(9) Should the prosecutor demand resignation by dismissal, the Superior Council of Prosecutors can establish a term of at most 30 days, from which the dismissal shall become effective, provided that the presence of the prosecutor in the position is necessary for the closing of unfinished commitments.

(10) The issues on the prosecutors' dismissal shall be examined by the Superior Council of Prosecutors which shall propose solutions to the to the Prosecutor General for him/her to make a decision..

Chapter XI

THE STATE PROTECTION OF THE PROSECUTOR. MATERIAL AND SOCIAL SECURITY OF THE PROSECUTOR

Article 68. 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) In the course of exercise of his/her service duties the prosecutor shall have the right to carry a firearm and other means of self-defence.

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

Article 69. Remuneration

(1) The remuneration of the prosecutor shall be carried out in the manner, conditions and in the amount provided by the legislation.

Article 70. The leave

(1) The prosecutor shall be entitled to paid annual leave of 30 working days.

(2) If the prosecutor's length of service in this position is up to 5 years, his/her leave shall increase by 2 working days, of 5 to 10 years – by 5 working days, of 10 to 15 years – by 10 working days, and over 15 years – by 15 working 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 Superior Council of Prosecutors.

(4) The non-granting of annual leave to the prosecutor shall be prohibited.

Article 71. Housing for the prosecutor

(1) If the prosecutor has no housing, he/she shall be entitled to service housing

Article 72. Other social security guarantees

(1) In the course of exercise of his/her service duties the prosecutor shall be entitled to free medical treatment at the expense of the state budget.

(2) Resigned or retired prosecutors shall enjoy free medical care in accordance with the provision of para (1), unless engaged in any other employment.

(3) The prosecutor who is resigning or meeting the conditions for the assignment of pension shall be paid a lump-sum allowance equal to the product of multiplication of his/her monthly average salary with the number of full years of work as prosecutor. at the same time the prosecutor who has received a lump-sum allowance on conditions specified in the given paragraph and continues to work or is re-employed as prosecutor, shall be granted a lump-sum allowance after winding up work relationships in the amount due and payable for full years of work after the period, for which the previous lump-sum allowance was paid.

(4) The prosecutor's life, health and property shall be subject to mandatory state insurance from the state budget.

(5) The insurance sum shall be paid in the event of:

- a) violent death or 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 the prosecutor or other violent injuries to his/her health which exclude, thus, the possibility to continue his/her professional activity and which caused a total loss of working or earning capacity, as a lump-sum allowance equal to the amount of financial allowance for 10 years;
- c) 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. (On calculation of the sum of compensation there shall be taken into consideration the disability pension or other types of pension established before or after the loss of capacity to continue the professional activity, salary received by the prosecutor after the injury to his/her health and the state compensation insurance);
- d) violent death or death of the prosecutor as a consequence of bodily injuries or other violent injuries s 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.

(6) 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 state budget.

Article 73. Retirement income security

(1) The prosecutor who has reached the age of 50 years and has total length of service of at least 20 years, of which at least 12 years and 6 months of work as prosecutor or as judge, shall be entitled to a long service pension in the amount of 55 percent of the average salary of an acting prosecutor in the exercise of this position, and for each full year of work over the length of 20 years, he/she shall be entitled to an increment of 3 percent, but not more than 80 percent. An average salary shall be determined at the moment of granting a pension, taking into consideration the last position held by the prosecutor.

(2) The Law on Retirement Security of military servants, senior officers and private corps of the internal affairs authorities shall apply to military prosecutors. The length of service of prosecutors transferred to military prosecutor's offices and to the subdivision of the General Prosecutor's Office empowered with authority in the Armed Forces shall be included in the total length of service of a military servant.

(3) The length of service in the position of prosecutor necessary to award a long service pension shall include also the period of service as an investigator in the prosecution agency and as a judge.

(4) The long service pension shall be granted on the date when the prosecutor will meet the conditions of retirement provided by the given law, if an application and necessary documents are submitted within 30 days from this date. Should this term be expired, the pension shall be granted from the date of addressing the social security authority.

(5) The long service pension shall be paid to the acting prosecutor in full.

(6) Retired prosecutor shall be entitled to an employment and to the receipt of his/her pension and salary in full.

(7). In the event of disability the prosecutor shall be granted a disability pension, and in the event of death of the prosecutor who has been the family breadwinner, the members of his/her family shall receive a pension for loss of breadwinner in accordance with the provisions of the Law on State Social Insurance Pensions.

(8) Retired prosecutors shall enjoy a recalculation of the long service pension and of the life allowance in the event of general salary increase for prosecutors. The recalculation of the long service pension shall be made taking into account the position held on the date of retirement. The recalculation shall be made from the first day of the month when the salary increase for an acting prosecutor occurred, regardless of the fact whether the holder of pension works in the prosecution bodies or not.

(9) The pensions shall be granted and paid by the social insurance agencies.

(10) The social insurance agencies shall be entitled to checking the authenticity of acts confirming the length of service and the insured income, which shall be issued by competent authorities.

Article 74. 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) Resigned prosecutors or prosecutors dismissed from this position with a granted pension shall receive an identity card confirming their status.

**TITLE III
THE CONSULTATIVE AND SELF-ADMINISTRATION BODIES
OF THE PUBLIC PROSECUTOR'S OFFICE**

Chapter XII

THE BOARD OF THE PUBLIC PROSECUTOR'S OFFICE

Article 75. The Board of the Public Prosecutor's Office

The Board of the Public Prosecutor's Office is a consultative body in the organisation of activity of the Prosecutor General.

Article 76. The structure of the Board of the Public Prosecutor's Office

(1) The Board of the Public Prosecutor's Office shall be composed of 9 persons.

(2) The composition of the Board of the Public Prosecutor's Office shall include the Prosecutor General, the First Deputy and the two deputies of the Prosecutor General, the prosecutor of the ATU of Gagauzia, and other prosecutors.

(3) The Prosecutor General shall be the chairperson of the Board of the Public Prosecutor's Office.

Article 77. The appointment of members of the Board of the Public Prosecutor's Office

The nominal composition of the Board of the Public Prosecutor's Office, as proposed by the Prosecutor General, shall be certified by the Parliament for the entire period of the Prosecutor General's mandate within one month after his/her appointment..

Article 78. The authority of the Board of the Public Prosecutor's Office

(1) The Board of the Public Prosecutor's Office shall produce recommendations and opinions on problems raised by the Prosecutor General or on general issues referring to management and organisation of the Public Prosecutor's Office, to international legal cooperation to strengthening of the rule of law, and to combating crime etc.

(2) For the purpose of solving some important issues concerning the strengthening of the rule of law and the coordination of work, on protection of human rights and freedoms and on crime combating, there shall be organised joint meetings of the Board of the Public Prosecutor's Office with the collegial bodies of other national public authorities.

(3) Specific authority and the manner of operation of the Board of the Public Prosecutor's Office shall be stipulated in the respective Regulation approved by the Prosecutor General.

Article 79. Decisions of the Board of the Public Prosecutor's Office

(1) The meeting of the Board of the Public Prosecutor's Office shall be deliberative, if at least 2/3 of its members attend it.

(2) The decision of the Board of the Public Prosecutor's Office shall be considered adopted, if it has been voted by the majority of members, attending the meeting.

(3) Decisions of the Board of the Public Prosecutor's Office shall be implemented through normative acts issued by the Prosecutor General.

Chapter XIII THE SUPERIOR COUNCIL OF PROSECUTORS

Section 1. General provisions

Article 80. The Superior Council of Prosecutors

(1) The Superior Council of Prosecutors is the representative and self-administration body of prosecutors.

(2) The Superior Council of Prosecutors shall act as guarantor of independence, objectivity and impartiality of prosecutors.

Article 81. The composition of the Superior Council of Prosecutors

(1) The Superior Council of Prosecutors shall be composed of 12 members.

(2) The Superior Council of Prosecutors shall include by right: the Prosecutor General, the President of the Superior Council of Magistrates and the Minister of Justice.

(3) Five members of the Superior Council of Prosecutors shall be elected by acting prosecutors by secret, direct and free vote, in the following order:

a) two members from among prosecutors of the General Prosecutor's Office;

b) three members from among prosecutors of territorial and specialised prosecutor's offices.

(4) Four members of the superior Council of Prosecutors shall be elected by the Parliament from among titular professors by majority vote of elected members of Parliament, at the proposal of at least 20 members of Parliament.

Article 82. Competence of the Superior Council of Prosecutors

(1) With regard to the professional career of prosecutors the Superior Council of Prosecutors shall have the competence to:

- a) examine the criteria of candidates' compliance to the position of prosecutor ;
- b) request data necessary to solve issues which fall within its competence;
- c) make proposals to the Prosecutor General with regard to appointment, promotion, stimulation, suspension or dismissal of prosecutors;
- d) hear the prosecutors' oath;
- e) organise contests for filling the position of prosecutor and select candidates for vacancies;
- h) appoint the nominal composition of the commission of election of members of the Superior Council of Prosecutors, of the Qualification Board and of the Disciplinary Board.

(2) In the field of initial and continuous training of prosecutors, the Superior Council of Prosecutors shall have the following competence to:

- a) propose to the Prosecutor General the appointment of prosecutors to the Council of the National Institute of Justice;
- b) approve the Strategy on initial and continuous training of prosecutors, produce an opinion on the Action Plan for the implementation thereof;
- c) examine appeals against the decisions of the Qualification Board and of the Disciplinary Board;
- d) decide on the validation of decisions made by the Qualification Board and by the Disciplinary Boards.

(3) In the field of observance of prosecutors' discipline and ethics, the Superior Council of Prosecutors shall have the following competence to:

- a) examine citizens' complaints on issues concerning prosecutors' ethics;
- b) coordinate the schedule of prosecutors' annual leaves.

(4) The Superior Council of Prosecutors shall approve regulations on its activity .

Article 83. The President of the Superior Council of Prosecutors

(1) The President of the Superior Council of Prosecutors shall be elected by secret vote of majority of its members for a period of 4 years.

(2) In the absence of the President his/her functions shall be exercised by a member of the Superior Council of Prosecutors assigned by a decision of the latter.

(3) The position of President of the Superior Council of Prosecutors cannot be held or exercised by persons specified in Article 81 para. (2) of the present law.

Article 84. Main responsibilities of the President of the Superior Council of Prosecutors
The President of the Superior Council of Prosecutors shall have the following responsibilities:

- a) to represent the Superior Council of Prosecutors in domestic and international relations;
- b) to coordinate the activity of the Superior Council of Prosecutors;
- c) to preside the meetings of the Superior Council of Prosecutors;
- d) to propose measures of initiation of the procedure of recall of members of the Superior Council of Prosecutors and of the procedure of filling the vacancies;
- e) to designate members of the Superior Council of Prosecutors who can be consulted with regard to the drafting of some normative acts;
- f) to sign acts issued by the Superior Council of Prosecutors;
- g) to present the annual report on the activity of the Superior Council of Prosecutors, which shall be made public, to the Superior Council of Prosecutors;

Article 85. The notification of the Superior Council of Prosecutors

Any prosecutor may notify the Superior Council of Prosecutors, of inappropriate activity or conduct, violation of professional duties or of disciplinary violations made by a member of the Council, member of the Qualification Board or Disciplinary Board.

Section 2. The status of member of the Superior Council of Prosecutors

Article 86. The duration of mandate

- (1) The mandate of a member of the Superior Council of Prosecutors shall be of 4 years.
- (2) The provision of para (1) of the given Article shall not apply to the members by right of the Superior Council of Prosecutors.

Article 87. The rights of members

Members of the Superior Council of Prosecutors shall have the right to:

- a) learn the materials submitted to the Superior Council of Prosecutors for examination;
- b) participate in their examination;
- c) file requests, present arguments and submit supplementary materials;
- d) propose issues falling within the competence of the Superior Council of Prosecutors for examination at its session;
- e) participate in the adoption of decisions through voting, and to submit, depending upon the case, a separate opinion;
- f) exercise other actions in conditions of the law.

Article 88. The obligations of members

Members of the Superior Council of Prosecutors shall be obliged to:

- a) exercise their functions in accordance with the law;
- b) ensure the protection of prosecutors' rights and freedoms, honour and dignity under the law;
- c) contribute to the promotion of the principle of independence of the Public Prosecutor's Office;
- d) keep the secret of deliberations and the confidentiality of proceedings;
- e) vote during the adoption of decisions.

Article 89. Termination of the membership

- (1) The membership in the Superior Council of Prosecutors shall terminate in the event of:

- a) submission of resignation request;
- b) expiry of the mandate;
- c) suspension or dismissal from the position of prosecutor;
- d) recall;
- e) impossibility to exercise the functions for a period exceeding 4 months;
- f) death.

- (2) The recall of an elected member of the Superior Council of Prosecutors shall be proposed by its President or by one third of its members, if the person no longer meets the legal conditions for being an elected member of the Superior Council of Prosecutors, in case of non-fulfilment or inappropriate fulfilment of his/her duties in the Superior Council of Prosecutors.

Article 90. The secretary of the Superior Council of Prosecutors

- (1) Secretarial functions shall be exercised by the secretary of the Superior Council of Prosecutors who shall be elected by the Council for a period of duration of mandate. The secretary shall be a prosecutor but not a member of the Superior Council of Prosecutors and is seconding according to the art.64, par. (2).

- (2) The secretary of the Superior Council of Prosecutors shall:

- a) ensure the collaboration with territorial and specialised prosecutor's offices, with the National Institute of Justice, and with other institutions and authorities;
- b) ensure the communication of the decisions pronounced by the Superior Council of Prosecutors on disciplinary matters;
- c) ensure the editing and communication of agenda of meetings of the Superior Council of Prosecutors, and the editing of the minutes of the respective meetings;

- d) ensure the keeping of records of works in special registries, as well as the archiving of files.

Section 3. Organisation of activity of the Superior Council of Prosecutors

Article 91. Sessions of the Superior Council of Prosecutors

(1) The sessions of the Superior Council of Prosecutors shall be open, save for cases regarding the decision upon the application of disciplinary sanctions.

(2) The Superior Council of Prosecutors shall hold its sessions whenever necessary, but at least once a month.

(3) Decisions shall be made by majority vote of members of the Superior Council of Prosecutors.

(4) The session of the superior Council of Prosecutors shall be deliberative, if it is attended by at least 2/3 of its members.

Article 92. Withdrawal and self-withdrawal

(1) The member of the Superior Council of Prosecutors cannot participate in the examination of the matter and shall be withdrawn, if there are circumstances which exclude his/her participation or that may raise doubts concerning his/her objectivity. If such circumstances exist, the member of the Superior Council of Prosecutors shall be obliged to declare his/her self-withdrawal.

(2) For the same reasons, withdrawal can be declared by the person whose matter is under examination, as well as by the person who has submitted materials for examination.

(3) A withdrawal should be justified and declared wither in written or verbal request.

(4) The member of the Superior Council of Prosecutors subjected to withdrawal shall not participate in the voting on his/her request of withdrawal.

Article 93. Proposal for appointment

(1) The Superior Council of Prosecutors shall make proposals to the Prosecutor General with regard to the appointment of candidates to the position of prosecutor, chief-prosecutor, territorial prosecutor, specialist prosecutor and of deputy prosecutor thereof.

(2) Selection of candidates for the position of prosecutor, chief-prosecutor, territorial prosecutor, specialist prosecutor and deputy prosecutor thereof shall be made on contest-basis, in accordance with the procedure provided by a Regulation approved by the Superior Council of Prosecutors.

Article 94. Proposals with regard to the career of prosecutors

(1) Proposals of the Superior Council of Prosecutors submitted to the Prosecutor General to make decisions on matters of appointment, promotion, stimulation, suspension or dismissal of prosecutors can be rejected by the latter.

(3) If the Superior Council of Prosecutors proposes repeatedly the candidate rejected by the Prosecutor General, the latter shall appoint this candidate.

Article 95. Adoption of decisions of the Superior Council of Prosecutors

(1) Decisions of the Superior Council of Prosecutors shall be adopted by direct voting, and shall be, depending upon the case, justified.

(2) A decision of the Superior Council of Prosecutors shall be edited and posted on the official website of the General Prosecutor's Office and of the Superior Council of Prosecutors within 20 days from its adoption.

Article 96. Appeal against q decision of the Superior Council of Prosecutors

A decision of the Superior Council of Prosecutors can be appealed against with a court of law, by any interested person, within 10 days from the date of its communication.

Article 97. Seal and headquarters

(1) The Superior Council of Prosecutors shall use the seal of the General Prosecutor's Office.

(2) The Superior Council of Prosecutors shall have its headquarters in Chisinau municipality.

Chapter XIV THE QUALIFICATION BOARD

Section 1. General Provisions

Article 98. The Qualification Board

(1) The Qualification Board shall be created attached to the Superior Council of Prosecutors and shall serve the purpose of promoting the state policy in the field of selection of staff for the prosecution bodies, of assessing the level of professional training and skills of prosecutors, and of their compliance with the held positions, observance of prohibitions and exigencies set for prosecutors.

(2) The mandate of the Qualification Board shall constitute 4 years.

Article 99. Composition of the Qualification Board

(1) The Qualification Board shall consist of 11 members:

- a) three members from among prosecutors of the General Prosecutor's Office;
- b) six members from among prosecutors of territorial and specialised prosecutor's offices;
- c) two titular professors of law assigned by the Superior Council of Prosecutors.

(2) The Chairperson of the Qualification Board shall be elected by secret voting from among its members and at its first session.

Article 100. Information on activity of the Qualification Board

The Qualification Board shall annually submit to the Superior Council of Prosecutors an activity report which shall be posted on the official website of the General Prosecutor's Office and of the Superior Council of Prosecutors.

Section 2. Competence of the Qualification Board. Manner of operation

Article 101. Competence of the Qualification Board

The Qualification Board shall:

- a) organise capacity examination for candidates to the position of prosecutor in accordance with the law;
- b) examine materials submitted during the Board's session, conclusions and recommendations of an hierarchically superior prosecutor or of other persons authorised to introduce the person who is subjected to appraisal as well as his/her opinion;
- c) hear the person subjected to appraisal and, depending upon the case, the hierarchically superior prosecutor or the person authorised to represent the appraisee;
- d) assess the outcomes of activity of the prosecutor subjected to appraisal, make proposals with regard to his/her promotion in career;
- e) adopt decisions and give recommendations;
- f) propose application of measures of encouragement of the prosecutor's professional growth.

Article 102. Competence of the Chairperson of the Qualification Board

(1) The Chairperson shall organise the work of the Qualification Board, head its secretarial work and distribute professional duties among its members.

(2) In event of absence of the Chairperson, his/her functions shall be exercised by a member of the Board in accordance with a decision of the Qualification Board.

Article 103. Manner of operation

(1) The Chairperson of the Qualification Board shall set a time and venue for a session, announcing the prosecutor or the candidate for the position of prosecutor whose case shall be examined.

(2) The Qualification Board shall convoke its sessions whenever necessary.

(3) session of the Qualification Board shall be considered deliberative, if at least 2/3 of its members attend it.

Article 104. Withdrawal and self-withdrawal

(1) A member of the Qualification Board cannot participate in the examination of a matter, if there are circumstances that may raise doubts about his/her objectivity.

(2) Withdrawal or self-withdrawal shall be given arguments and declared in written prior to the examination of the matter.

(3) The decision on the withdrawal or self-withdrawal shall be adopted by the majority votes of members of the Qualification Board attending the session, in the absence of the member whose withdrawal or self-withdrawal is decided upon.

Article 105. Adoption of decisions of the Qualification Board

(1) Decisions of the Qualification Board shall be adopted with the majority vote of attending members. **The voting procedure is determined by a majority vote of present members of the Board.**

(2) A decision of the Qualification Board shall be issued in written and shall be signed by the Chairperson of the meeting and by the members of the Board, attending the session.

(3) A decision of the Qualification Board and the rationale for its proposal shall be submitted to the Superior Council of Prosecutors for validation.

Article 106. Appeal against a decision of the Qualification Board

A decision of the Qualification Board can be appealed against within 10 days after its communication.

Section 3 Capacity examination

Article 107. Lodging a request for capacity examination

(1) A request for capacity examination shall be lodged with the Superior Council of Prosecutors.

(2) The manner of organisation of conduct of capacity examination shall be determined in a regulation approved by the Superior Council of Prosecutors.

Article 108. Capacity examination

(1) Capacity examination shall imply the checking of candidate's theoretical and practical knowledge by means of written and oral tests.

(2) The person who has not passed the capacity examination may re-take the examination 6 months later.

Article 109. Results of capacity examination

(1) After the capacity examination the Qualification Board shall adopt a decision on either passing or failure to pass the examination.

(2) The decision of the Qualification Board on the taking of the examination shall serve as a basis for the participation of this person in the contest for filling the vacancy of prosecutor.

Section 4 Appraisal of prosecutors

Article 110. The goal of appraisal

Appraisal shall have the goal of assessing the professional level, encouraging professional growth, as well as increasing the responsibility of prosecutors during the exercise of their service duties.

Article 111. Appraisal

(1) To make the appraisal of a prosecutor, the prosecutor in whose subordination is the former or a member of the Superior Council of Prosecutors shall fill in the appraisal form, indicating the prosecutor's professional and moral qualities, and professional activity, and shall transmit it to the Qualification Board.

(2) Prosecutor subjected to appraisal familiarise himself/herself with the appraisal form at least 15 days prior to the appraisal.

(3) The appraisal shall be made in the presence of the person subjected to appraisal.

Article 112. Decision on the appraisal

(1) Depending on the level of professional knowledge, on the results outcomes of work and on the organisational skills of the prosecutor subjected to appraisal, the Qualification Board can give recommendation to the Prosecutor General with regard to:

- a) encouragement;
- b) including the prosecutor in the personnel reserve;
- c) awarding him/her a class rank or a special military rank;
- d) repetition of the appraisal procedure within the time period established by the Qualification Board, after the elimination of shortcomings discovered in the person's professional activity;
- e) downgrading;
- f) dismissal in the event of non-compliance with the held position for the reason of insufficient qualification, which fact has been stated during appraisal.

(2) Results of the appraisal shall be brought to the knowledge of the prosecutor immediately after the adoption of the decision of the Qualification Board. The Prosecutor shall be informed about the validation of this decision by the Superior Council of Prosecutors within 3 days.

Chapter XV THE DISCIPLINARY BOARD

Section 1 General Provisions

Article 113. The Disciplinary Board

(1) The Disciplinary Board shall be created attached to the Superior Council of Prosecutors and shall serve the purpose of examining cases on the disciplinary liability of prosecutors.

(2) The mandate of the Disciplinary Board shall constitute 4 years.

Article 114. Composition of the Disciplinary Board

(1) The Disciplinary Board shall consist of 9 members:

- a) three members from among prosecutors of the General Prosecutor's Office elected by its prosecutors;
- b) six members elected by prosecutors from territorial and specialised prosecutor's offices from among the prosecutors thereof.

(2) Members of the Superior Council of Prosecutors and members of the Qualification Board cannot be elected in the composition of the Disciplinary Board.

(3) The Chairperson of the Disciplinary Board shall be elected by secret voting at the first session of the Disciplinary Board, from among its members.

Article 115. Information on activity of the Disciplinary Board

The Disciplinary Board shall annually submit to the Superior Council of Prosecutors semi-annual and annual activity reports which shall be posted on the official website of the General Prosecutor's Office and of the Superior Council of Prosecutors.

Section 2 Competences of the Disciplinary Board. Manner of operation

Article 116. Competences of the Disciplinary Board

The Disciplinary Board shall:

- a) examine cases on disciplinary liability of prosecutors and shall apply, depending upon the case, the disciplinary sanctions;
- b) decide on early termination of disciplinary sanctions.

Article 117. Competences of the Chairperson of the Disciplinary Board

(1) The Chairperson of the Disciplinary Board shall organise the work of the Board, head its secretarial work, and distribute service duties among its members.

(2) In the event of absence of the Chairperson of the Disciplinary Board, his/her functions shall be exercised by one of the Board's members.

Article 118. The right to initiate disciplinary proceedings

(1) The right to initiate disciplinary proceedings against a prosecutor shall be vested with any member of the Superior Council of Prosecutors, chief-prosecutors of subdivisions of the General Prosecutor's Office and with territorial and specialist prosecutors.

(2) Disciplinary proceedings against members of the Superior Council of Prosecutors, members of the Qualification Board and of the Disciplinary Board shall be commenced on an initiative of at least 4 members of the Superior Council of Prosecutors.

Article 119. Timelines for applying disciplinary sanctions

A disciplinary sanction shall be applied within at most 6 months from the finding of a disciplinary violation, without taking into account the time period during which the prosecutor was on sick or vacation leave, but not later than after one year from the date of its commission.

Article 120. Initiation of disciplinary proceedings

(1) When initiating disciplinary proceedings, the section on internal security of the General Prosecutor's Office shall check in advance the grounds for holding the prosecutor liable, and shall demand written explanations from the prosecutor concerned.

(2) Prior to being sent for examination the materials of disciplinary proceedings shall be brought to the knowledge of the person against whom the procedure shall be initiated. The latter shall be entitled to offer explanations, submit evidences and demand the conduct of additional checking.

Article 121. Revocation of disciplinary proceedings

(1) Disciplinary proceedings can be revoked by the person who has initiated it prior to the examination of the case-file by the Disciplinary Board.

(2) The prosecutor with regard to whom the disciplinary proceedings has been revoked shall be entitled to demand the case examination, and the Disciplinary Board or, depending upon the case, the Superior Council of Prosecutors, shall be obliged to resolve it in essence.

Article 122. Deliberation of the Disciplinary Board in the course of disciplinary proceedings

The Disciplinary Board shall examine disciplinary cases in the presence of at least 2/3 of its members.

Article 123. Timelines for examining disciplinary cases

A disciplinary case shall be examined within one month from the date of its delivery to the Disciplinary Board.

Article 124. Participants in disciplinary proceedings

(1) The participation of the prosecutor who is held liable during the examination of a disciplinary case shall be mandatory. Should the prosecutor not attend the session without justification, the Disciplinary Board shall be entitled to make a decision on the examination of case in his/her absence.

(2) The person who has initiated the disciplinary proceedings shall have the right to participate in the case examination. Other prosecutors also shall have the right to attend the respective session..

Article 125. Decisions on disciplinary cases

(1) The Disciplinary Board shall be entitled to:

- a) apply a disciplinary sanction;
- b) reject the proposal to apply a sanction, and to dispose termination of disciplinary proceedings;
- c) render the materials of the disciplinary proceedings to the Superior Council of Prosecutors for initiation of procedure of suspension of prosecutor's competences.

- (2) The Disciplinary Board shall terminate the disciplinary proceedings in the event of:
- a) lack of grounds to hold the prosecutor disciplinary liable;
 - b) expiry of the timeline provided for the application of disciplinary sanctions;
 - c) inexpediency of applying a disciplinary sanction, if it finds it possible to restrict to mere examination of procedural materials in its session.

Article 126. Adoption of decisions of the Disciplinary Board

(1) A decision on a disciplinary case shall be adopted by majority votes of members of the Disciplinary Board, who participate in the examination of the case.

(2) Member of the Disciplinary Board who has initiated the disciplinary proceedings shall not participate in voting.

(3) The decision of the Disciplinary Board shall be issued in written and signed by the Chairperson of the session and by members of the Board participating in the session.

(4) The decision of the Disciplinary Board and the rationale for the application of a disciplinary sanction shall be submitted to the Superior Council of Prosecutors for validation. The prosecutor subjected to sanctioning shall be informed about the validation of this decision within 3 days.

Article 127. Appeal against a decision of the Disciplinary Board

(1) The decision of the Disciplinary Board can be appealed against with the Superior Council of Prosecutors by the prosecutor, to whom a disciplinary sanction has been applied, or by the prosecutor who initiated disciplinary proceedings, or by other person, who considers that his/her rights have been infringed by the said decision.

(2) The decision of the Superior Council of Prosecutors can be appealed against in an administrative court in accordance with the procedure established by the law.

Article 128. Annulment of a disciplinary sanction

(1) If, within one year from the date of application of a disciplinary sanction on the prosecutor, no other disciplinary sanction is applied on him/her, the disciplinary sanction shall be considered annulled.

(2) At the proposal as well as on his/her initiative of the person who initiated the disciplinary proceedings, on expiry of at least 6 months from the date of application of the disciplinary sanction the Disciplinary Board can declare such sanction annulled pre-term, if the sanctioned prosecutor has not committed another disciplinary violation and has proved to have an irreproachable behaviour and conscientious attitude to the exercise of his/her service duties.

(3) In the course of effect of the disciplinary sanction the sanctioned person shall not enjoy any measures of encouragement.

Chapter XVI

Election of members to the Superior Council of Prosecutors, to the Qualification Board and to the Disciplinary Board

Article 129. Method of election

(1) Election of members to the Superior Council of Prosecutors, to the Qualification Board and to the Disciplinary Board shall be held at the general assembly of prosecutors. The prosecutors right to vote shall not be hindered.

(2) The Superior Council of Prosecutors shall create an Election Commission composed of 6 persons which shall examine and validate the results of the vote. Members of the Commission shall elect its Chairperson..

(3) Prosecutors who have accumulated the biggest number of votes shall be considered elected as members of the Superior Council of Prosecutors, of the Qualification Board and of the Disciplinary Board.

(4) Should several candidates accumulate an equal number of votes, repeated elections shall be organised with the participation of the candidates with the same number of votes.

(5) The Superior Council of Prosecutors shall draw and approve the regulation on elections.

Article 130. Filling the vacancies

In case of termination of mandate of a member of the Superior Council of Prosecutors, the election or appointment of a new member shall be made within 30 days from the date of vacancy, in accordance with the procedure established by the law.

Article 131. Ensuring the activity of the Superior Council of Prosecutors, of the Qualification Board and of the Disciplinary Board

Activity of the Superior Council of Prosecutors, of the Qualification Board and of the Disciplinary Board shall be ensured by the subdivision of human resources and the subdivision of internal security of the General Prosecutor's Office.

Article 132 Secretarial works

(1) The agenda of sessions of the Superior Council of Prosecutors, of the Qualification Board and of the Disciplinary Board shall be posted on the official website of the General Prosecutor's Office and of the Superior Council of Prosecutors 6 days in advance. Decisions of the Superior Council of Prosecutors, of the Qualification Board, and of the Disciplinary Board shall be posted on the website of the General Prosecutor's Office and of the Superior Council of Prosecutors.

(2) The course of sessions of the Superior Council of Prosecutors, of the Qualification Board, and of the Disciplinary Board shall be stated in minutes.

(3) The minutes shall be prepared within 6 days, it shall be signed by the Chairperson of the session and countersigned by the secretary.

TITLE IV

AUXILIARY PERSONNEL AND THE BUDGET OF THE PUBLIC PROSECUTOR'S OFFICE

Chapter XVII

Auxiliary and Technical personnel

Article 133. Auxiliary personnel

(1) Within prosecution bodies there work auxiliary personnel specialised in legal, economic and administrative fields. Auxiliary personnel can have the status of public servant in conditions of the Law no 158-XVI of 4 July 2008 On Public Service and the Status of Public Servant.

(2) Auxiliary personnel of prosecution bodies shall consist of consultants of the prosecutor, main specialists, coordinating specialists, and specialists.

(3) In the course of its entire activity auxiliary personnel of prosecution bodies shall be obliged to respect human rights and freedoms, equality of people before the law, to comply with the deontological norms, and to participate in the continuous training.

(4) The organisation and the functioning of the auxiliary departments within prosecution bodies and the responsibilities of the personnel thereof, shall be provided by a regulation approved by the Prosecutor General.

Article 134. Requirements for appointment

To the positions specified in Article 133 para (2) herein there can be appointed persons who meet the following requirements:

- a) have citizenship of the Republic of Moldova, are domiciled on its territory and have full legal capacity;
- b) have no criminal record and enjoy a good reputation;
- c) know the state language;
- d) have ability to exercise the position from the medical point of view;
- e) have higher education or specialised secondary education degree in the corresponding field;
- f) have good computer or typewriting skills.

Article 135. Appointment

(1) Appointment of auxiliary personnel shall be made on basis of contest organised at the level of prosecution bodies.

(2) The method of organisation and conduct of contest shall be stipulated in a regulation approved by the Prosecutor General.

(3) Persons, who have successfully passed the contest, shall be appointed by the Prosecutor General, at the proposal of the chief-prosecutor of the respective prosecutor's office.

Article 136. Rights and obligations of auxiliary personnel

(1) Rights and obligations of auxiliary personnel shall be established with due consideration of their place and role in the work of the prosecution body, of complexity and responsibilities of the position, of incompatibilities and prohibitions provided by the law for the employees of public institutions.

(2) Auxiliary personnel shall have the right to:

- a) adequate remuneration established in relation to the level of the respective prosecutor's office and to the position held, to the length of service and length of employment in a specialty, as well as to other criteria provided by the law;
- b) continuous training in accordance with the regulation approved by the Prosecutor General;
- c) association or accession to trade unions, as well as to local, national or international professional organisations in order to protect his/her professional, social and economic interests;
- d) promotion in correspondence with the professional training and individual skills;
- e) paid annual leave, medical leave, unpaid leave, leave for studies and leaves in other cases, as well as to other rights pursuant to the legislation in force.

(3) Auxiliary personnel shall be obliged to carry out its service duties in a professional and impartial manner and in accordance with the law, and to abstain from any act which might cause damage to natural persons or legal entities, or might discredit the image of the Public Prosecutor's Office.

Article 137. Technical personnel

(1) Technical personnel shall not have the status of public servant. Terms of employment of technical personnel shall be regulated by the labour laws.

(2) The leadership of prosecution bodies shall organise the activity of technical personnel, appoint, promote, transfer and dismiss them, as well as apply disciplinary sanctions and incentives in accordance with the law.

Chapter XVIII

The Budget of the Public Prosecutor's Office. Organisational and technical-material maintenance

Article 138. The budget of the Public Prosecutor's Office

(1) Activity of the Public Prosecutor's Office shall be financed from the state budget.

(2) The budget of the Public Prosecutor's Office shall be approved by the Parliament in the process of approving the state budget for the respective year in accordance with the law on the budgeting process..

Article 139. Technical-material maintenance of prosecution bodies

(1) Authorities of the central and local public administration shall be obliged to provide prosecution bodies with premises.

(2) The General Prosecutor's Office shall provide prosecution bodies with the operative technical and forensic equipment, telecommunications equipment and computers, and with service vehicles from the state budget resources` .

Article 140. Securing the economic, financial and administrative activity, and secretariat and archiving work

The economic, financial and administrative activity and secretariat and archiving work shall be secured by the respective subdivisions of the General Prosecutor's Office, whose responsibilities shall be established by a regulation approved by the Prosecutor General.

Article 141. Statistical data

The General Prosecutor's Office, through its specialised subdivisions, shall ensure:

- a) the collection, processing, systematisation, analysis, distribution and publication of statistical data on the state of affairs in field of criminality and on the work of prosecution bodies;
- b) the coordination of the statistical activity of all prosecutor's offices in accordance with existing statistical standards;
- c) the organisation of statistics management, the elaboration of forecasts, the calculation of current and prospective estimations and the drawing up of proposals;
- d) the drawing up of statistical methodology.

Article 142. International relations

The Public Prosecutor's Office can have direct international relations, conclude contracts and sign agreements with foreign counterparts within the limits established by the law.

Article 143. The seal

The prosecutor's offices shall have a seal with an imprint of the State emblem and the name of the office.

Article 144. Security

(1) The guard of premises and of other assets of the prosecution bodies, the security of the personnel, the public order within the premises of prosecutor's offices, and checking of persons at the entrance to and exit from the premises of the prosecution bodies, including body search, shall be provided free of charge by a police unit formed by the Ministry of Internal Affairs.

(2) The number of personnel of the respective police unit shall be established by the Government at the proposal of Prosecutor General and coordinated with the Minister of Internal Affairs.

(3) State guarding of the premises of the General Prosecutor's Office, its subdivisions and, if necessary, of the Prosecutor General shall be ensured in conditions of the law.

Title IV TRANSITORY AND FINAL PROVISIONS

Article 145. The entry into force of the present law

(1) The present law shall enter into force on the date of its publication, with exception for Article 38 para (4) which shall come into force after the first promotion of graduates of the National Institute of Justice.

(2) Persons who on the date of entry into force of the present law hold the office of the shall not fall within the incidence of provisions of Article 40 regarding the appointment to the position of prosecutor.

(3) Within 4 months from the entry into force of the present law there shall be founded the prosecutors' self-administration bodies. The manner of conducting initial elections in the prosecutors' self-administration bodies shall be established by an Election Commission assigned by the Board of the Public Prosecutor's Office.

Article 146. Pension payment

Until 1 January 2010 the expenditures for the payment of pensions to prosecutors shall be incurred out of the state budget.

Article 147. Bringing the legislation in conformity with the present law

Within 3 months the Government shall:

- a) submit proposals to the Parliament on bringing the current legislation in conformity with the present law;
- b) bring its normative acts in conformity with the present law.

Article 148. Legislative acts to be abrogated

On the date of entry into force of the present Law there shall be abrogated: Law no 118-XV of 14 March 2003 on Public Prosecutor's Office;

Law no 920-XIII of 11 July 1996 on Degrees of Classification and Military Ranks of the Employees of the Public Prosecutor's Office of the Republic of Moldova;

Law no 921-XIII of 11 July 1996 on the Stimulation of Prosecutors and Investigators of the Public Prosecutor's Office and their Disciplinary Liability.

THE SPEAKER OF THE PARLIAMENT

Marian LUPU

No 294-XVI. Chisinau, 25 December 2008.