



REPUBLIC OF SERBIA

Ministry of Justice

**LAW ON THE STATE  
PROSECUTORIAL  
COUNCIL**

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# LAW ON THE STATE PROSECUTORIAL COUNCIL

## I BASIC PROVISIONS

### *Scope of the Law*

#### Article 1

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

### 1. STATUS OF STATE COUNCIL

#### *Independence*

#### Article 2

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

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

#### *Funds for the Operation of the State Council*

#### Article 3

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

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

#### *Seat and Symbols of the State Prosecutors Council*

#### Article 4

The seat of the State Council shall be in Belgrade

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

## ***Composition of the State Council***

### Article 5

The State Council shall have 11 members.

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

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

## ***President of the State Council***

### Article 6

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

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

## ***Deputy President***

### Article 7

The State Council has a Deputy President, who is elected from among ranks of prosecutors and deputy public prosecutors - elective members of the State Council by the State Council and dismissed from office by the State Council.

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

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

## ***Relationship with Other Authorities***

### Article 8

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

## **2. STATUS OF MEMBERS**

### ***Immunity***

#### Article 9

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

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

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

### ***Salaries and Fee for the Work***

#### Article 10

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

The State Council members from paragraph 1 of this Article shall be entitled to a salary in the amount determined by multiplying the 6.00 coefficient with the baseline for calculation and payment, in accordance with the Law on Public Prosecution.

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

### ***Incompatibility of Jobs***

#### Article 11

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

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

### ***Term of Office***

#### Article 12

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

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

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

## **II COMPETENCE AND MANNER OF OPERATION OF THE STATE COUNCIL**

### ***Competence***

#### Article 13

The State Council:

- establishes a list of candidates for the election of the Republican Public Prosecutor and public prosecutors, which it submits to the Government;
- nominates to the National Assembly deputy public prosecutor candidates for the first election;
- elects deputy public prosecutors to permanent office of deputy public prosecutor;

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

### ***Manner of Operation***

#### Article 14

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

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

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

### ***Permanent Working Bodies***

#### Article 15

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

### ***Ad Hoc Working Bodies***

#### Article 16

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

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

### ***Decision Taking***

#### Article 17

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

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

### ***Rules of Procedure***

#### Article 18

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

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

### ***Transparency of Work***

#### Article 19

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

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

## **III PROCEDURE FOR ELECTION OF THE STATE COUNCIL MEMBERS**

### **1. GENERAL REQUIREMENTS**

#### ***Authorized Nominators***

#### Article 20

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

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

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

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

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

### ***Running for Office and Nomination***

#### Article 21

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

The decision referred to in paragraph 1 of this Article shall be published in the "Official Gazette of the Republic of Serbia".

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

Authorized nominators shall submit the names of candidates for elective members of the State Council to the National Assembly of the Republic of Serbia not later than 90 days before the end of term of office of the elected members of the State Council.

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

### **a) General Provisions**

#### *Representation of Public Prosecutor's Offices*

#### Article 22

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

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

### ***Requirements for Candidacy***

#### Article 23

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

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

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



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

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

### ***Electoral Right***

#### Article 24

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

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

The right to elect candidates for the State Council is vested in all public prosecutors and all deputy public prosecutors with permanent tenure of office.

A public prosecutor and deputy public prosecutor shall vote only for the candidate from the list of candidates of the type that is instance of the public prosecutor's office where s/he exercises its office.

A public prosecutor and/or deputy public prosecutor from the territory of an autonomous province shall also vote for the list of candidates for public prosecutor's offices from the territory of the autonomous province, in addition to the candidacy list referred to in paragraph 4 of this Article.

### ***Electoral Commission***

#### Article 25

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

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

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

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

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

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

### ***Status of the Electoral Commission***

#### Article 26

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

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

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

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

## ***Electoral Activities***

### Article 27

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

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

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

### **a) Procedure**

#### ***Candidacy Application***

### Article 28

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

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

#### ***Procedure following the Application***

### Article 29

The Electoral Commission shall examine if the application is timely and complete.

The Commission shall reject any untimely application form by a ruling.

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

#### ***Final List of Candidates***

### Article 30

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

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

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

#### ***Time of Election and Polling Stations***

### Article 31

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

Public prosecutors shall send seven days before the election a public notification to deputy public prosecutors about the date and time of the election.

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

### ***Polling Boards and Voting Material***

#### Article 32

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

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

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

### ***Manner of Voting***

#### Article 33

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

Every public prosecutor and deputy public prosecutor shall vote in person.

Ballot is secret.

Only stamped ballots are used for voting.

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

### ***Establishing of Results***

#### Article 34

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

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

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

#### Article 35

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

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

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

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

## b) Nomination of Candidates from among Attorneys

### Article 36

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

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

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

## c) Nomination of Candidates from among Professors

### Article 37

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

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

## 4. ELECTION AND TAKING UP OFFICE

### *Election of Members*

#### Article 38

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

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

If the elected State Council member fails to take up office within 30 days from the day of election in the National Assembly with no justifiable reason, s/he shall be deemed as if not elected.

Reasons for the failure to take up office referred to in paragraph 3 of this Article are established by a decision of the State Council which shall notify the National Assembly thereabout.

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

## IV TERMINATION OF OFFICE OF THE STATE COUNCIL MEMBERS

### *Reasons for Termination*

#### Article 39

The term of Office of the State Council members by virtue of office shall be terminated when their office that gives grounds for their membership in the State Council is terminated.

The term of Office of elected members of the State Council shall be terminated due to permanent loss of the work ability to perform duties of the State Council member, with resignation from the State Council membership, expiry of term of office and due to dismissal.

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

The term of Office of an elected member of the State Council from among attorneys shall also be terminated in the State Council after the deletion from the Bar Association Register.

The term of Office of an elected member of the State Council from among professors shall be terminated in the State Council with the termination of capacity of a Faculty of Law professor.

### ***Early Termination of the term of Office***

#### Article 40

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

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

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

## V PROCEDURE FOR DISMISSAL

### ***Reasons***

#### Article 41

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

### ***Initiative***

#### Article 42

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

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

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

### ***Assessment of Admissibility of Initiative***

#### Article 43

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

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

### ***Statement***

#### Article 44

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

### ***Instituting the Proceedings***

#### Article 45

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

The decision to initiate the proceedings may include the measure of suspension until the conclusion of the dismissal proceedings.

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

### ***Dismissal***

#### Article 46

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

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

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

After the proposal referred to in paragraph 1 of this Article is submitted, the State Council member concerned shall be suspended until the decision of the National Assembly is passed.

## VI ADMINISTRATIVE OFFICE

### ***Tasks and Organization of Work***

#### Article 47

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

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

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

### ***State Council Secretary***

#### Article 48

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

The secretary is appointed by the State Council.

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

The secretary shall have the status of an appointee.

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

### ***Assignment of Deputy Public Prosecutor***

#### Article 49

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

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

The assignment may not last longer than three years.

## VII TRANSITIONAL AND FINAL PROVISIONS

### ***First Election of State Council Members***

#### Article 50

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

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

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

### ***Elective Members of the First Composition of the State Council from the Ranks of Public Prosecutors and Deputy Public Prosecutors***

#### Article 51

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

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

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

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

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

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

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

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

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

### ***Elective Members of the First Composition of the State Council from among Attorneys and Faculty of Law professors***

#### Article 52

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

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

### ***Constitutive Session of the State Council***

#### Article 53

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

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

### ***Termination of Term of Office of Elective Members of the First State Council Composition***

#### Article 54

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

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

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

### ***Resumption of Office of Public Prosecutors and Deputy Public Prosecutors - Elective Members of the First State Council Composition***

#### Article 55

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



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

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

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

#### Article 56

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

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

#### Article 57

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

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

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

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

### **Bylaws**

#### Article 58

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

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

### ***Assumption of Competences of the High Judiciary Council***

#### Article 59

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

### ***Termination of Force of the Law on High Judiciary Council***

#### Article 60

Law on High Judiciary Council shall cease to be in force on the day of the constitution of the State Council ("Official Gazette of the Republic of Serbia", Nos. 63/01, 42/02, 39/03, 41/03 -

correction, 44/04 and 61/05), in the part referring to public prosecutors and deputy public prosecutors.

***Entry into Force of the Law***

Article 61

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

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

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

Article 7

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

Article 8

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