

PROSECUTION OFFICE, LAW *ZYRA E PROKURORISË, LIGJ*

DISCLAIMER

Please note that the translation provided below is only provisional translation and therefore does NOT represent an official document of Republic of Albania. It confers no rights and imposes no obligations separate from those conferred or imposed by the legislation formally adopted and published in Albanian language.

Unofficial translation of the initial law on the organisation and functioning of the Prosecution Office and the following amending laws:

Initial Law no 8737, dated 12/02/2001¹

Decision of the Constitutional Court no 25, dated 13/02/2002²

Amending law no 9102, dated 10/07/2003³

Amending law no 10 051, dated 29/12/2008⁴

LAW

No. 8737, dated 12/02/2001

ON THE ORGANISATION AND FUNCTIONING OF THE PROSECUTION OFFICE IN THE REPUBLIC OF ALBANIA

In reliance on Articles 81, 83 point 1, 148 and 149 of the Constitution, on the proposal of the Council of Ministers,

¹ This law was promulgated by decree no 2908, dated 27/02/2001, of the President of the Republic and it has been published in the Official Journal no 5, p. 139.

² This decision has been published in the Official Journal no 5, page 107, and it has entered into effect immediately.

³ This law was promulgated by decree no 3905, dated 25/07/2003, of the President of the Republic and it has been published in the Official Journal no 62, p. 2081 and it contains the following temporary Article:
Article 21

This law enters into effect 15 days after its publication in the Official Journal.

⁴ This law was promulgated by decree no 6009, dated 15/01/2009, of the President of the Republic and it has been published in the Official Journal no 205, p. 11054, and it contains the following temporary Article:

Article 34

This law enters into effect 15 days after its publication in the Official Journal.

**THE ASSEMBLY
OF THE REPUBLIC OF ALBANIA**

D E C I D E D:

**CHAPTER I
GENERAL PROVISIONS**

Article 1

Scope of the law

The scope of this law is:

- a) the definition of the rules of organisation and functioning of the Prosecution Office in the Republic of Albania;
- b) the conditions that citizens must fulfil to be appointed prosecutors;
- c) the status of the prosecutor;
- ç) the career and disciplinary proceeding against the prosecutors;
- d) the relations of the Prosecution Office with other state institutions, other public or private entities and with the public.

Article 2

Scope of the activity of the Prosecution Office

1. The Prosecution Office carries out criminal prosecution and represents the accusation in the name of the state before the court, takes measures and oversees the execution of criminal decisions, as well as performing other duties provided for by law.
2. The Prosecution Office carries out its functions through the prosecutors.

Article 3

Structure of the Prosecution Office

The Prosecution Office is organised and functions presided over by the Prosecutor General as a centralised structure, including the office of the Prosecutor General, the Council of the Prosecution Office and the prosecutors' offices attached to the judicial system.

Article 3/a

Organs of the Prosecution Office and its representation

I. The organs of the Prosecution Office are:

- a) Prosecution Office General of the Republic;
- b) Prosecution Office at the Court of Appeal for Serious Crimes;
- c) Prosecution Offices at the courts of appeal;
- ç) Prosecution Office at the court of first instance for serious crimes;
- d) Prosecution Offices at the courts of first instance.

2. Prosecution Office is represented by:
 - a) Prosecutor General;
 - b) heads of the Prosecution Offices at the courts of appeal;
 - c) heads of the Prosecution Offices at the courts of first instance.

Article 3/b

Level of hierarchy in Prosecution Offices

1. The level of hierarchy in Prosecution Offices, according to the levels of organisation and functioning in a centralised direction, from the most senior prosecutor to the most junior prosecutor, is as follows:
 - a) the prosecutors of the Prosecution Office General are more senior prosecutors than the prosecutors of the Prosecution Offices at the courts of appeal and the Prosecution Offices at the courts of first instance;
 - b) the prosecutors of the Prosecution Offices at the courts of appeal, in adjudications of appealed cases that they have in their jurisdiction, are more senior prosecutors than the prosecutors of the Prosecution Offices at the courts of first instance, belonging to that jurisdiction;
 - c) the prosecutors at the courts of first instance are, according to their subject matter and territorial competence, prosecutors of the first level in the Prosecution Office.
2. The prosecutors who are directors of the directorates in the Prosecution Office General, the heads of the Prosecution Offices at the courts of appeal and the heads of the Prosecution Offices at the courts of first instance are more senior prosecutors than the prosecutors in the respective structures where they assume their functions.

Article 3/c

Limitations of the power of the higher prosecutor

1. The prosecutor shall, relying always on law and evidence, refuse to fulfil an order or instruction that is openly in violation of law.
2. The refusal is done by written act, where the prosecutor argues for the causes of his refusal.
3. In case of refusal, the director of the Prosecution Office or the most senior prosecutor, having given the order or instruction, has the right to replace the prosecutor who refuses, proceeding personally or assigning the exercise of criminal prosecution to another prosecutor.
4. Except for cases that are openly in violation of law, the following do not constitute an object of refusal:
 - a) decisions taken hierarchically in implementation of the criminal procedure law;
 - b) orders and instructions issued by the Prosecutor General.

Article 3/ç

Avoidance of conflicts of interest

1. The heads of the Prosecution Offices of the judicial districts, the heads of the Prosecution Offices at the courts of appeal, appeal prosecutors, prosecutors of the Prosecution Office General or the Prosecutor General shall, while encountering a criminal case in the situations provided in Articles 16 and 17, point 1, of the Code of Criminal Procedure, be prohibited to give orders and instructions in writing to the prosecutor of the case or to influence in any other way.

2. In such a case, the director with a conflict of interest notifies the Prosecutor General in writing. The Prosecutor General shall, ex officio or upon a request, decide in writing on the exclusion of the director in a conflict of interest from the procedure of giving orders and instructions. In this decision, the Prosecutor General determines whether and to what extent the actions taken under the orders and instructions previously given by the director in a conflict of interest are valid.

3. In a case the Prosecutor General is asked to issue an order or give an instruction in a proceeding in which he is in a conflict of interest, he declares in writing the situation of the conflict of interest and notifies the prosecutor who has asked for the issuance of the order or the giving of the instruction. In this case, the order or instruction is issued by the most senior prosecutor on duty who is a director within the structure of the Prosecution Office General.

Article 3/d

Management in Prosecution Offices

1. The Prosecutor General manages the organ of the Prosecution Office and he is assisted by the directors of the structures in the Prosecution Office General.

2. The Prosecution Offices at the courts of appeal are managed by the heads of the Prosecution Offices of appeal, assisted by his deputy.

3. The Prosecution Offices at the courts of first instance are managed by the heads of the Prosecution Offices, assisted by the deputies and responsible persons of the sectors, as appropriate.

Article 4

Legality of the activity

1. While assuming their duty, the prosecutors shall be subject to the Constitution and the laws.

2. Prosecutors assume their competences while abiding by the principles of a fair, equal and duly ordered legal proceedings and the protection of lawful human rights, interests and freedoms.

3. Orders and instructions of a more senior prosecutor are given in writing, stating the grounds, and they are binding on a junior prosecutor. ~~The level of the hierarchy in the organ of the Prosecution Office is determined by the Prosecutor General, in conformity with the determinations made in this law.~~⁵

4. Prosecutors take measures for conducting criminal prosecution, implementing instructions, given in compliance with law, the criminal decisions and the orders of the court, as well as assisting the appropriate rendering of justice.

Article 5

Preventive activities

The Prosecution Office organises and/or cooperates with state institutions as well as other public and private entities for activities for the education of society, aiming at informing about the law and preventing criminality.

⁵ Amended earlier by the law no 9102, dated 10/07/2003

Article 6

Relations with the public

1. The Prosecution Office informs public opinion about the activity it performs.
2. The Prosecution Office is not permitted to release data that damage the process of investigations, infringe the dignity and private life of persons or that infringe the rights of minors and public moral.

CHAPTER II THE PROSECUTOR GENERAL

Article 7

Appointment and discharge

1. The Prosecutor General is appointed by the President of the Republic with the consent of the Assembly.

1/1. The Prosecutor General is elected out of the ranks of lawyers with work experience of no less than 10 years in the justice system and is distinguished for his professional abilities and a clean ethical-moral figure.

1/2. The Prosecutor General stays in office for five years, with the right of re-appointment.

1/3. After the end of the mandate, with his consent, he has the right to be appointed to the function of prosecutor in the Prosecution Office General or in his previous position or in a position equivalent to the previous one. He shall not benefit this right when he is discharged for violations of the Constitution, due to serious violations of law or acts and conduct that seriously discredit the position and figure of the Prosecutor General.

2. The Prosecutor General may be discharged by the President of the Republic upon the proposal of the Assembly for violations of the Constitution or for serious violations of law during the exercise of his functions, for mental or physical incapacity, or for acts of conduct that seriously discredit the position and figure of the Prosecutor.

Article 8

~~Duties~~

~~Competences~~

~~1. The Prosecutor General is responsible for assuming the criminal prosecution and representation of the accusation before the court in the name of the state, as well as accomplishing other tasks assigned to the Prosecution Office by law.~~

1. The Prosecutor General is the highest authority for the exercise of criminal prosecution and the representation of the accusation before the court in the name of the state, as well as for accomplishing other duties assigned to the Prosecution Office by law.

~~2. The Prosecutor General has these principal duties:~~

~~a) After having taken the opinion of the Minister of Justice, he proposes the total number of prosecutors to the President of the Republic;~~

~~b) He proposes the appointment, transfer, promotion and discharge of prosecutors to the President of the Republic;~~

~~c) He appoints the directors of the prosecution offices and their deputies in the prosecution offices attached to the courts.~~

- ~~ç) He approves the structure, organogram and the rules of functioning of the Prosecution Offices attached to the courts and of the office of the Prosecutor General;~~
- ~~d) He orders the secondment of prosecutors;~~
- ~~dh) He exercises the functions of the head of the Prosecution Office attached to the High Court.~~
- ~~e) He appoints and discharges the employees of the administration in the structures of the Prosecution Office General;~~
- ~~è) He represents the Prosecution Office in relations with third parties;~~
- ~~f) He sets out the payments in cases of compensation of witnesses or for obtaining important evidence for investigations;~~
- ~~g) He gives instructions for the work of the judicial police.~~

2. The Prosecutor General has these principal duties:

- a) he represents the Prosecution Office before the joint colleges of the High Court and before the Constitutional Court;
- b) he proposes to the President of the Republic the total number of prosecutors, after having received the opinion of the Minister of Justice, as well as setting the number of prosecutors for every Prosecution Office, also including the Prosecution Office General;
- c) he proposes to the President of the Republic the appointment, transfer, promotion, removal from duty and discharge of the prosecutors;
- ç) he assigns the heads of the Prosecution Offices and their deputies in the Prosecution Offices at the courts, according to the criteria and procedures provided in this law;
- d) he approves the structure, personnel chart and rules of functioning of the Prosecution Offices at the courts and the Prosecution Office General;
- dh) he orders the secondment of prosecutors, according to the criteria defined in this law;
- e) he appoints and discharges the Secretary General in the Prosecution Office General and the chancellors of the Prosecution Offices;
- è) he represents the Prosecution Office in relations with third persons, at the central level;
- f) he takes care for the exercise of the legal and constitutional competences of the Prosecution Office.
- g) he manages, coordinates and supervises the activity of the Prosecution Office and of the judicial police;
- gj) he issues normative acts (rules, orders and instructions) for the exercise of the duties defined by this law or by separate laws that are binding on prosecutors and the judicial police;
- h) he orders the performance of inspections, begins a disciplinary proceeding and decides on the taking of disciplinary measures, as well as ordering the initiation of a criminal proceeding against prosecutors;
- i) he starts a disciplinary proceeding and orders a criminal proceeding of the judicial police in conformity with a separate law;
- j) he directly supervises the service of inspection of the Prosecution Office and approves the annual plan of general inspections in the Prosecution Office;
- k) he calls a meeting of the council of the Prosecution Office and may chair its meetings;
- l) he delegates competences in writing to directors, responsible persons of the sectors or prosecutors of the Prosecution Office General, according to the provisions in this law or in separate laws, except for those provided in letters "b", "c", "ç", "d", "e", "gj," "h" and "i" of this point;
- ll) he sends statistical data of criminal prosecution to the Ministry of Justice for the preparation of unified statistics in the field of justice;
- m) he performs other duties provided by law.

2. The Prosecutor General issues orders and instructions for carrying out the duties given by this law or by separate laws.

~~3. The Prosecutor General may, in compliance with the laws in effect, delegate the powers to one of the directors of the directorates, except those of transferring, proposing for appointment, promotion or dismissal of prosecutors.~~

~~3. The Prosecutor General shall, in his absence, delegate the powers to one of the directors of his office, except those provided for in letters "a", "b", "c", "d" and "g" of point 2 of this law.⁶~~

~~4. The Prosecutor General shall send to the Ministry of Justice the statistical data of criminal prosecution for drafting the unified statistics in the field of justice.~~

CHAPTER III THE OFFICE OF THE PROSECUTION GENERAL

Article 9

~~Structure and main functions~~

~~1. The structure of the office of the Prosecutor General and the main tasks of its units are:~~

~~a) the Cabinet, providing data, preparing and coordinating the relations of the prosecutor General with his dependant structures, with the state institutions and the public;~~

~~b) Directorates of investigation and controlling the criminal prosecution, the latter coordinating, controlling and assisting the prosecution offices at the courts in assuming their functions;~~

~~c) Foreign jurisdictional relations directorate, the latter initiating, preparing and following up the relations with the Prosecution Offices and counterpart institutions or other foreign entities;~~

~~ç) Personnel and inspection directorate, the latter administering the documentation with the personal data of candidates, prosecutors and other employees of the Prosecution Office; scheduled or random controlling of assumption of the task by prosecutors, verifying their assets, as well as preparing the documentation for the appointment, transfer, promotion and dismissal of prosecutors.~~

~~2. In addition to what has been foreseen in point 1 of this Article, the structuring, organisation and detailed definition of the functions of the units of the Office of Prosecutor General shall be made by the Prosecutor General.~~

Structure;

1. The structure of the office of the Prosecutor General consists of:

a) the cabinet;

b) the directorates;

c) the sectors.

ç) the office of legal assistants.

2. The structure and organisation and a detailed specification of the functions of the parts of the office of the Prosecutor General are determined by order of the Prosecutor General.

⁶ Amended earlier by the law no 9102, dated 10/07/2003

3. There functions at the office of the Prosecutor General services of expertise, the organisation and functioning of which are specified by order of the Prosecutor General.

CHAPTER IV THE COUNCIL OF THE PROSECUTION OFFICE

Article 10

Duties

~~1. The Council of the Prosecution Office organises the competition for the appointment of prosecutors, examines their performance evaluation and disciplinary violations committed by the prosecutors and provides its feedback to the draft acts of the Prosecutor General and on the investigation practice.~~

~~1. The Council of the Prosecution Office organises the competition of candidates for prosecutors and those to be promoted, examines their performance evaluations and gives its opinion on disciplinary violations committed by prosecutors, as to which the Prosecutor General proposes the discharge of the prosecutors to the President of the Republic.⁷~~

~~2. The Council of the Prosecution Office has an advisory function and presents its opinion in each case to the Prosecutor General.~~

Competences

1. The council of the Prosecution Office performs advisory functions to assist the Prosecutor General.

2. The opinions of the Council of the Prosecution Office are presented in written form, reasoned and signed by the chairman. The opinion of members in the minority must also be attached to the act.

3. The Council of the Prosecution Office exercises these competences:

a) it organises the competition for the appointment of candidates for prosecutor and gives an opinion to the Prosecutor General about the appointment of prosecutors to duty, their discharge and every other initiative of a disciplinary nature;

b) it examines the performance evaluation of the prosecutors and submits to the Prosecutor General for approval a report of the final evaluation of the professional abilities of the prosecutors;

c) it gives an opinion to the Prosecutor General about the promotion of prosecutors, transfer (lateral or similar transfers), as well as the candidacies of heads of the Prosecution Offices and their deputies, submitting its opinion about the candidates following the procedure of their competition;

ç) it gives an opinion for the approval of the rules of the Council of the Prosecution Office by the Prosecutor General;

d) it gives an opinion about the annual plan of inspections and their topics;

dh) it takes under examination and gives an opinion about the evaluations of the Minister of Justice related to the inspections performed with the organs of the Prosecution Office;

e) it gives an opinion about draft normative acts of the Prosecutor General, about the unification of the policy of criminal prosecution in investigation and trial, as well as proposing measures for the internal organisation and good administration of the Prosecution Office or an improvement of the legislation in criminal matters;

è) it performs every other duty assigned by law.

⁷ Amended earlier by the law no 9102, dated 10/07/2003

4. The Council of the Prosecution Office examines complaints about the evaluation of prosecutors and may refuse or has the right to begin a review of an evaluation that has not been accepted by the respective prosecutor, according to the rules defined by the Prosecutor General.

5. In cases when the Prosecutor General is not in agreement with the opinions suggested by the Council, he sets out his decision-making to the contrary in a reasoned way.

Article 11

Composition

~~1. The Council of the Prosecution Office consists of seven members. One representative of the President, one representative of the Minister of Justice and five prosecutors take part in the Council of the Prosecution Office.~~

1. The Council of the Prosecution Office consists of seven members, of whom six are prosecutors and one a representative of the Minister of Justice. One representative of the President of the Republic may also take part in a meeting of the council.

2. The prosecutor members of the Council of the Prosecution Office shall have over five years' work experience as prosecutors. They are elected every three years by the General Meeting of Prosecutors. The candidacies are submitted by a group of no fewer than 10 prosecutors, and the voting is secret. The Prosecutor General chairs the meeting.

The composition of the Council shall be as follows:

a) three prosecutors exercising their functions at the Prosecution Offices at the courts of first instance;

b) two prosecutors exercising their functions at the Prosecution Offices at the courts of appeal;

c) one prosecutor exercising his functions at the Prosecution Office General.

3. Prosecutors against whom a disciplinary measure has been or is being taken may not be elected to or be members of the Council of the Prosecution Office.

Article 12

Rules of functioning

The rules for the organisation and functioning of the Council of the Prosecution Office are set by the Prosecutor General, after having taken the opinion of the Council.

CHAPTER V STRUCTURE OF THE PROSECUTION OFFICE ATTACHED TO THE JUDICIAL SYSTEM

Article 13

Prosecutors at the High Court

1. The functions of the Prosecution Office at the High Court are exercised by prosecutors of ~~Prosecution Office General~~ the office of the Prosecutor General.

2. The prosecutors attached to the High Court carry out criminal prosecution, as well as they represent the accusation against the President of the Republic, the Prime Minister and members of the Council of Ministers, deputies, judges of the Constitutional Court and judges of the High Court before the court.

Article 14

Prosecutors at the Courts of Appeal

The functions of the Prosecution Office at each court of appeal are exercised by the prosecutors of appeal. Their jurisdiction extends over the entire territory to which the jurisdiction of the respective court extends.

Article 15

Prosecutors at the courts of first instance

The functions of the Prosecution Office at each court of first instance are exercised by the prosecutors of the first instance. Their jurisdiction extends over the entire territory to which the jurisdiction of the respective court extends.

Article 16

Assuming the duty at a lower instance

By order of the Prosecutor General, a senior prosecutor conducts investigations and represents the accusation as a prosecutor of lower instances.

CHAPTER VI APPOINTMENT OF PROSECUTOR

Article 17

General conditions

A person meeting the following conditions is appointed prosecutor in one of the Prosecution Offices attached to a court of first instance:

- a) is an Albanian citizen;
- b) has full capacity to act;
- c) has higher legal education;
- ç) has completed the Magistrates' School;
- d) has not been punished by a final decision for commission of a criminal offence;
- dh) has not been removed, for disciplinary violations, from the public administration within a period of three years from the date the application is deposited; when the disciplinary violation was committed during the exercise of function as a judge, prosecutor, police officer, notary or lawyer; the term being five years;
- e) is at least 25 years old.
- ë) has high moral and professional qualities.

Article 18

Special conditions

A person who has not completed the Magistrates' School may be appointed a prosecutor if he meets the other criteria specified in Article 17 of this law and one of the following conditions:

a) he has worked as a judge or prosecutor;

~~b) he has worked not less than three years as a teacher at the Magistrates' School, at the Faculty of Law, as legal advisor, director or specialist in the legal-professional structures in the Assembly, the President' Office, the Council of Ministers, the High Court, the Ministry of Justice, the Office of the People's Advocate or as a deputy with higher legal education, or an officer of the judicial police.~~

b) he has worked for no fewer than five years as judicial police officer.

Upon the proposal of the Prosecutor General, the President of the Republic may appoint at the Prosecution Offices of first instance, up to 10 per cent of the total number of prosecutors, citizens who have previously worked as prosecutors, judges or officers of the judicial police, who meet the criteria of letters "a," "b," "c," "d," "dh," "e," and "e" of Article 17 and letter "b" of this Article.

Article 19

Restriction to appointments

~~1. The prosecutors may not serve at the same court where assuming the functions of the prosecutor or judge are the persons who have akin or in-law relations with them, whatever the degree of relations in straight line and up to the second degree in non-straight line.~~

~~1. The prosecutors may not serve in the districts where they worked as lawyers.~~

Article 20

Competition

~~1. The Prosecutor General shall, after consulting the opinion of the Prosecution Council, announce publicly the vacancies for prosecutors at least one month prior to the date set out for conducting the competition. The announcement shall occur at least in two newspapers of national circulation and sufficient number of copies, as well as by public Radio and Television.~~

~~Submission of applications associated with the required documentation for admission to competition shall occur by the competitors not later than two weeks since the last date of public announcement of the vacancy.~~

~~1. The Prosecutor General publicly announces vacant places for prosecutors at least one month before the date set for holding the competition. The announcement is made in at least two newspapers with national distribution and sufficient circulation, as well as on Public Radio and Television.~~

~~2. To the effect of filling in the vacancies, the examination, discussion and decision shall be on the candidacies submitted by the prosecutors. In their absence or after the consideration of these candidacies, the other candidates meeting the legal criteria to be appointed as prosecutors shall be examined, discussed and decided upon.~~

2. The applications, accompanied by the documents required for admission to the competition, are to be deposited by the competitors no later than two weeks from the date of the public announcement of the vacancy.

3. The Council of the Prosecution Office makes an evaluation of the candidacies and submits its opinion to the Prosecutor General, who is to express himself within 15 days.

4. Detailed rules for submitting, selecting, verifying and testing the candidacies are set by the Prosecutor General.

Article 21

Appointment

~~The candidates for prosecutor are appointed to office by the President of the Republic upon the proposal of the Prosecutor General, based on the results of competition.~~

~~The candidates for prosecutors are appointed to office by the President of the Republic upon the proposal of the Prosecutor General, after the latter has received the opinion of the Council of the Prosecution Office.⁸⁸~~

1. A prosecutor in a Prosecution Office at a court of first instance is appointed by the President of the Republic, upon the proposal of the Prosecutor General, after the latter has received the opinion of the council of the Prosecution Office.

2. A prosecutor in the Prosecution Office at the court for serious crimes is appointed by the President of the Republic, on the proposal of the Prosecutor General, on the basis of a competition with curricula vitae, after:

a) having worked for not less than five years in the Prosecution Office at a court of first instance;

b) having been distinguished for professional abilities and high ethical-moral qualities;

c) having been evaluated "Very good" for professional abilities the last two times;

ç) not to have a disciplinary measure in force.

3. Among the prosecutors who are candidates for the Prosecution Office at the court for serious crimes and who meet the conditions of point 1 of this Article, the council of the Prosecution Office and the Prosecutor General select the candidate according to points in conformity with the criteria defined in point 3 of Article 43 of this law.

4. Within 30 days, the President decrees the appointment of the candidate proposed by the Prosecutor General to office of the prosecutor. After this term, the proposal is considered rejected.

Article 22

Swearing-In

1. Before taking office, prosecutors take the following oath:

"I solemnly swear that during the performance of duty I will always be faithful to the Constitution of the Republic of Albania, the laws in force and I will keep the image of the prosecutor clean. I so swear!"

2. The oath of the newly appointed prosecutors is taken in a ceremonial manner before all the prosecutors of the structure where they have been assigned to perform their duty.

3. The Prosecutor General sets out rules about the swearing-in procedure.

⁸⁸ Amended earlier by the law no 9102, dated 10/07/2003

Article 23

Prosecutors in internship

1. Upon the proposal of the Prosecutor General, the President of the Republic appoints persons having finished the second year of the Magistrates' School to internship provided for in law no. 8136, dated 31/07/1996, "On the Magistrates' School of the Republic of Albania," to Prosecution Offices at courts that have the best conditions for the organisation of this internship.
2. The criteria set out in letters "ç" and "e" of Article 17 of this law do not constitute an impediment to the appointment of the persons mentioned in point 1 of this Article.
3. After the completion of the professional internship, the President of the Republic decrees their appointment to the Prosecution Offices, according to the needs of the latter.

Article 24

Transfer and promotion

~~1. The promotion or the transfer may occur only for the needs and in the interest of the work by the President of the Republic, upon the proposal of the Prosecutor General, after obtaining the opinion of the prosecutor.~~

~~2. Exempt from the provisions of point 1 of this Article shall be the cases provided for in Articles 25 and 33 of this law.~~

~~1. A prosecutor may be transferred only for the needs of the normal functioning and organisation of the various levels of the system of the Prosecution Office, as well as when requested by the prosecutor.~~

~~2. A prosecutor is transferred or promoted to a higher level by the President of the Republic on the proposal of the Prosecutor General.⁹~~

~~1. A prosecutor may not be transferred without his consent, except when the needs of a reorganisation of the Prosecution Office dictate it. A prosecutor may be transferred only to the same level of Prosecution Office. When for the needs of a reorganisation of the Prosecution Office, the transfer of the prosecutor is accompanied by a demotion to the level of Prosecution Office, he will benefit the his previous salary.~~

~~2. It is an exception from point 1 of this Article when the disciplinary measure "transfer to another lower position within the system of the Prosecution Office" provided in letter "c" of point 1 of Article 33 of this law is given.~~

~~3. The promotion of a prosecutor is based on recognised and objective criteria such as merits and experience, provided for in Articles 21, points 2 and 3, and 43 of this law.~~

Article 25

~~Secondment~~

~~The Prosecutor General may second one or more prosecutors from the prosecution offices they are serving to other prosecution offices of the same level, even in absence of their consent:~~

~~a) not more than two periods per year up to three months each, under the circumstances when one prosecution office is not functioning normally due to the insufficiency of prosecutors or overload;~~

⁹ Amended earlier by the law no 9102, dated 10/07/2003

~~b) not longer than the time necessary to complete the proceedings of a specific case, where the need for its investigation and adjudication appears.~~

The Prosecutor General may second prosecutors from the offices where they work to other prosecutors' offices:

a) for no more than four months in a year, in cases when a Prosecution Office is not functioning normally because of the insufficiency of prosecutors and the overload of their work. This time period may be extended up to eight months if the seconded prosecutor gives his consent;

b) for no longer than the time necessary to complete the proceedings in a particular criminal case, when there is a need for the performance of preliminary investigations or the trial.

Article 26

Suspension

1. A prosecutor may be suspended from the exercise of duty by order of the Prosecutor General when:

- a) a criminal case begins against him, until the end of the proceedings;
- b) a serious disciplinary violation is discovered, until the required procedure for disciplinary responsibility is fulfilled, but no longer than 30 days;
- c) the Prosecutor General proposes to the President of the Republic the discharge of the prosecutor from duty.

1/1. A prosecutor is suspended from the exercise of duty when he assumes the capacity of defendant for an intentional crime, whether committed or attempted, as to which the law sets a sentence of imprisonment no lower than five years at the maximum.

2. In a case of suspension according to point 1 of this Article, when, as the case may be, the prosecutor is found not guilty by the court or has not committed the disciplinary violation, or the 30 day time period contemplated in letter "b" of point 1 of this Article has passed, he has the right to return to his former position.

3. The suspension contemplated in letter "c" of point 1 of this Article ends after the examination of the proposal of the Prosecutor General by the President of the Republic.

Article 27

Removal and discharge from duty

1. A prosecutor is removed from duty when:

a) he resigns;

~~b) he reaches the age of 65 years old;~~

b) he reaches retirement age;

c) his legal capacity to act is removed or limited by a final court decision.

2. After he has received the consent of the prosecutor himself, the Prosecutor General may decide to keep a prosecutor who has reached the retirement age contemplated in letter "b" of point 1 of this Article on duty.

3. A prosecutor is discharged from duty when:

a) he is punished by judicial decision for the commission of a criminal offence;

~~b) when a disciplinary measure according to letter 'd' of Article 32 of this law is taken;~~

~~b) when a disciplinary measure according to letter 'c' of point 1 of Article 33 is taken against him;¹⁰~~

b) when a disciplinary measure according to letters "c," "d" and "dh" of Article 32 of this law is taken;

c) he is evaluated as incompetent in accordance with points 3 and 4 of Article 42 of this law.

Article 27/a

Conditions and appointment of a director

1. The head of a Prosecution Office at the court of first instance, the head of a Prosecution Office at a court of appeal and the director of the links of the structure in the Prosecution Office General are appointed by the Prosecutor General, on the basis of a competition with documents.

2. Candidates for office heads according to the levels of the Prosecution Office shall meet these criteria:

a) having worked, as a rule, for no less than five years as prosecutors in the Prosecution Offices of the same level or higher levels;

b) having been evaluated "very good" the last two times;

c) not being subject to a disciplinary measure in effect;

ç) having organisational and administrative abilities.

Article 27/b

Removal and discharge from duty of an office head

1. According to the levels of the Prosecution Office, office heads are discharged from their position:

a) when they do not fulfil the duties provided in Article 27/c of this law;

b) in the cases of discharge of a prosecutor provided in Article 27 of this law.

2. According to the levels of the Prosecution Office, a director is removed from the duty of director when:

a) he resigns from this office;

b) the cases of removal of a prosecutor provided in Article 27 of this law exist;

c) he is physically unable to assume his duty for more than three months.

3. The removal or discharge of an office head from duty, according to the levels of the Prosecution Office, is done by reasoned order of the Prosecutor General.

Article 27/c

Competences of the office head

1. According to the levels of the Prosecution Office, in addition to exercising functions as a higher prosecutor, heads also perform these duties:

a) they represent the Prosecution Office in relations with third parties in the administrative unit where the Prosecution Office exercises functions;

b) they make an organisation of the work in the Prosecution Office and assignment of prosecutors according to administrative units or to groups of criminal offences;

¹⁰ Amended earlier by the law no 9102, dated 10/07/2003

c) at the beginning of every month, they determine the latest service list at the prosecution offices at the courts of first instance, as well as planning the distribution of denunciations/referrals that have come to the Prosecution Office, according to the criteria defined by order of the Prosecutor General, based on the principles of specialisation of the prosecutors and the equal division of work;

ç) they organise discussions on issues of a legal nature, based on generalising the experience in the exercise of criminal prosecution and judicial practice, the unifying decisions of the High Court, the decisions of the Constitutional Court and other judicial decisions in the criminal field, the orders, guidelines and circulars/orders of the Prosecutor General, the acts of control and the inspections conducted by the Prosecution Office General and the Inspectorate of the Ministry of Justice;

d) they oversee the respecting of the ethics of the prosecutor and the planning of their work, as well as meeting the legal commitments for the professional evaluation of the prosecutors and the officers of the judicial police;

dh) they make contact with the inspection teams of the Prosecution Office General and the Ministry of Justice, they become aware of the purpose and object of the inspection and they create possibilities for them in the exercise of their duty;

e) they oversee discipline in the work of the prosecutors;

è) they coordinate work with the respective directorates in the Prosecution Office General and with the Magistrates' School on questions of the professional improvement of prosecutors and the judicial police;

f) they see to questions of safekeeping and security in the Prosecution Offices;

g) they perform other duties in the service of administrative management of the Prosecution Office provided in the legal or subordinate legal acts in force.

2. When the office head is absent, the duties defined in point 1 of this Article are performed by the deputy head authorised by him.

Article 27/ç

Register of prosecutors

A register of the prosecutors of the Prosecution Offices of the court of first instance, the Prosecution Offices at the courts of appeal and the Prosecution Office General is created at the Directorate of Inspection and Human Resources in the Prosecution Office General, containing at least:

a) the personal data of every prosecutor;

b) data about his academic education;

c) the date of appointment;

ç) participation in qualifications and trainings;

d) disciplinary measures, if any;

dh) his evaluation as a prosecutor;

e) data about the career;

è) data in the field of publications.

CHAPTER VII DISCIPLINARY PROCEEDINGS

Article 28

Beginning of the proceedings

1. The beginning of disciplinary proceedings is done by the Prosecutor General, ~~ex-officio or upon the recommendation of the Council of the Prosecution Office.~~
2. The proceedings are based on data that come from an inspection about which the prosecutor proceeded against has been notified beforehand. The proceedings begin when no more than six months have passed from the time the violation was observed and no more than three years have passed from the time of commission of the violation.

Article 29

Awareness on the documentation of the proceedings

1. The prosecutor proceeded against is given the documentation of the proceedings started against him in advance, as well as a time period of no less than 10 days to prepare his defence.
2. The day of the examination of the materials is made known ahead of time to the prosecutor proceeded against.

Article 30

The right to be heard

1. The prosecutor against whom the disciplinary proceedings have begun has the right to defend and appear in person ~~and/or the defender selected by him~~ before the Council of the Prosecution Office, which is obligated to hear him and verify the claims raised.
2. Failure to appear without reasonable cause does not impede the Council of the Prosecution Office from examining the case and issuing the respective conclusions.

Article 31

Examination of the opinions of the Council of the Prosecution Office

The Prosecutor General expresses himself on the opinions given by the Council of the Prosecution Office about disciplinary violations within 15 days of the presentation, reasoning his position.

Article 32

Disciplinary violations

The following are considered violations of work discipline:

- a) failure to take the oath or violating it;
- b) serious or systematic delays in proceedings or other obligations charged or non-fulfilment of duties;
- c) revealing a secret of the investigation or other data of a confidential nature;
- ç) absence from work for more than five days without cause;
- d) commission of actions that seriously discredit the image of a prosecutor;
- dh) commission of actions that according to law are incompatible with the functions of a prosecutor.

Article 33

Disciplinary measures

1. These measures are taken against prosecutors for violations of discipline:

a) reprimand;

b) reprimand with warning of discharge from duty;

~~c) suspension from duty and transfer to another lower position, within the same body, for a period from six months to one year;~~

~~c) transfer to another lower duty within the prosecution system;~~

ç) discharge from duty.

2. The disciplinary measures provided in letters "a," "b," and "c" of point 1 of this Article are given by order of the Prosecutor General and are noted in the personal file of the prosecutor.

3. Discharge from duty is done by the President of the Republic on the proposal of the Prosecutor General. A proposal for discharge is accompanied by the objections of the prosecutor proceeded against.

4. The measures contemplated in point 1 of this Article are expunged from the file when the following periods have passed:

a) three months from the date a measure under letter "a" was given;

b) one year from the date a measure under letter "b" was given;

c) one year from the date when the measure given under letter "c" has ended.

Article 34

Appeal

~~1. Against the imposition of disciplinary measures provided in letters "a," "b" and "c" of point 1 of Article 33 a complaint may be filed with the Tirana Court of Appeal.~~

~~2. The decree of the President of the Republic on the dismissal shall be non-appealable.~~

1. A prosecutor may file an appeal against the imposition of the disciplinary measures provided for in letters "a," "b" and "e" of point 1 of Article 33 of the law, before the Tirana Court of Appeal, while prosecutors at this court, to the nearest court of appeal.

~~2. In the event of dismissal from office, the prosecutor may file a complaint before the Tirana Court of Appeal, while prosecutors at this court, to the nearest court of appeal. Where the court deems that the dismissal from office is not based on law, the prosecutor shall benefit the salary up to one year, which shall be paid by the prosecution office.¹¹~~

2. Against the disciplinary measure of "Discharge from duty," the prosecutor may file an appeal before the Tirana Court of Appeal, while a prosecutor at that court, before the nearest court of appeal. When the court considers that the discharge from duty is not based on law, it decides his return to office at the Prosecution Office at the court where he was at the moment the disciplinary proceeding began and giving a fair compensation to the prosecutor, if necessary.

CHAPTER VIII STATUS AND CAREER OF A PROSECUTOR

¹¹ Amended earlier by the law no 9102, dated 10/07/2003

Article 35

Special protection

A prosecutor has the right to have special protection for himself, his family and property, when this becomes necessary under the circumstances of a serious danger related to the exercise of his duty.

Prosecutors who exercise their duty at the courts of serious crimes are assured the same treatment and the same protection as the judges of these courts.

Article 36

Protection against criminal proceedings

~~1. A prosecutor may not be detained, searched or arrested without the consent of the Prosecutor General, except for cases when he is caught committing a crime or immediately after its commission. In this case, the competent organ immediately notifies the Prosecutor General.~~

~~2. If the Prosecutor General does not give his consent within 24 hours for the prosecutor to be arraigned, the responsible organ is obliged to release the detained prosecutor.~~

Article 37

Treatment in cases of infringement of freedom

In cases when a prosecutor is detained and the security measure of “prison arrest” is imposed on him, or he has been sentenced to imprisonment, he is kept in an environment without other persons, unless he himself waives this right in writing.

Article 38

Participation in associations

1. A prosecutor is free to take part in associations or organisations with not-for-profit activity or which have the purpose of respecting ethics or professional improvement.
2. A prosecutor is prohibited to strike.

Article 39

Incompatibilities

1. A prosecutor is prohibited to be a member of political party or take part in activities of a political nature.
2. The function of the prosecutor is incompatible with being a candidate and with every electoral mandate, public duty or activity, except for educational and teaching activities, which is regulated by order of the Prosecutor General.
- 3 Double employment is prohibited to prosecutors, except for the activities permitted in point 2 of this Article.
4. A prosecutor is prohibited to take part at the management organs of commercial companies.

Article 40

Safeguarding the data of the proceedings

1. Prosecutors are prohibited to make public or give data to third persons that might damage a case under investigation or adjudication, as well as data of a confidential or reserved nature.
2. Prosecutors are prohibited to make declarations or give opinions about the activity of other organs.

Article 41

Professional improvement

1. Prosecutors have the right and obligation to take part in periodic training for raising their professional level.
2. Prosecutors receive the Official Journal and other legal literature free of charge.

Article 42

Performance evaluation

- ~~1. The Directorate of Personnel and Inspection carries out a planned inspection no less than once every two years to evaluate the professional abilities of prosecutors.~~
 - ~~2. The evaluation is based on the volume of work, the quality and speed of performing it, disciplinary measures given and the publication of legal works.~~
 - ~~3. The Council of the Prosecution Office examines the performance evaluation and submits its opinion to the Prosecutor General, who expresses himself within 15 days.~~
 - ~~4. The levels of evaluation are:
Very good;
Good;
Sufficient;
Incompetent.~~
 - ~~5. The system of work evaluation of prosecutors is set by the Prosecutor General, after having received the opinion of the Council of the Prosecution Office.~~
 - ~~6. An evaluation of "incompetent" constitutes cause for the initiation of disciplinary proceedings.~~
1. The performance evaluation of a prosecutor is done for personal and professional abilities and social conduct, administrative abilities and also for respecting work discipline and disciplinary measures.
 2. The preliminary performance evaluation of a prosecutor is done by the director of the Prosecution Office. This evaluation serves as a proposal for the final evaluation made by the Prosecutor General, who may replace the preliminary evaluation because of a fair comparison of evaluations at the national level.
 3. The Directorate of Inspection and Human Resources performs a planned inspection no less often than once every three years for the work evaluation of the prosecutor.
 4. The Council of the Prosecution Office examines the preliminary performance evaluation and submits its opinion to the Prosecutor General, who shall express himself within 15 days.

5. In cases when a prosecutor makes a request for promotion, transfer or to another position, a new evaluation should be done, except when the last evaluation was done within the previous six months. The prosecutor should be made familiar with the evaluation that has been made.

6. The work evaluation of a prosecutor is:

“Very good”;

“Good”;

“Satisfactory”;

“Incompetent.”

7. An evaluation as “Incompetent” constitutes a reason to begin a proceeding for the discharge of the prosecutor from duty.

8. In cases when the prosecutor has been evaluated “Satisfactory,” a new evaluation is done within one year.

9. For purposes of the professional career, the Directorate of Inspection and Human Resources in the Prosecution Office General maintains a permanent list of the ranking of the prosecutors for their work results, which is updated on a continuing basis.

10. The rules for the performance evaluation of a prosecutor and for the criteria of ranking the prosecutors in the permanent list are determined by the Prosecutor General, after having received the opinion of the Council of the Prosecution Office.

Article 43

Promotion

~~1. After assuming office for a time period of at least five years at the Prosecution Offices at a court of first instance, a prosecutor may be appointed to one of the Prosecution Offices at the courts of appeal.~~

~~2. After assuming office for a time period of at least 10 years at the Prosecution Offices at a court of first instance, or no shorter than five years at the Prosecution Offices at the courts of appeal, a prosecutor may be appointed to the structure of the office of the Prosecutor General.~~

~~3. A prosecutor is promoted when, in addition to meeting the experience requirement provided in points 1 and 2 of this Article, his work during the last five years has been evaluated no lower than “good.”~~

~~4. When two or more candidates compete for any vacant place, the Prosecutor General proposes for appointment the candidate who has more merits and experience.~~

1. A prosecutor of the Prosecution Office at the court of appeal is appointed by the President of the Republic, upon the proposal of the Prosecutor General, on the basis of a competition with documents, after:

- a) having worked for no less than seven years at a Prosecution Office at the court of first instance;
- b) having been distinguished for professional abilities and high ethical-moral qualities;
- c) having been evaluated “very good” for the performance evaluation in the last two times;
- ç) not having a disciplinary measure in effect.

2. A prosecutor of the Prosecution Office General is appointed by the President of the Republic, upon the proposal of the Prosecutor General, on the basis of a competition with documents, after:

- a) having worked for no less than five years at a Prosecution Office at the courts of appeal or 12 years in the Prosecution Offices at the courts of first instance;
- b) having been distinguished for professional abilities and high ethical-moral qualities;
- c) having been evaluated “Very good” in the work evaluation in the last two times;
- ç) not having a disciplinary measure in effect.

3. When two or more candidates compete for the Prosecution Office at a court of appeal or for the Prosecution Office General who meet the conditions of points 1 and 2 of this Article, the Council of the Prosecution Office and the Prosecutor General select, according to points, the candidate with more experience/seniority in the profession, with more merits/work results on a continuing basis, as well as more scientific/academic activity. More detailed rules for the point system are defined by order of the Prosecutor General.
4. Within 30 days, the President decrees the appointment of the candidate proposed by the Prosecutor General to the office of the prosecutor. Upon the expiry of this time period, the proposal is considered rejected.

Article 44

Employment as civil servant

1. ~~A prosecutor may work at management and executive levels of the cabinet of a Minister and legal-professional structures of the Ministry of Justice. The period of their employment in these structures is recognised as a period of seniority in work as a prosecutor for purposes of the requirements of the professional career.~~
2. ~~Prosecutors who work as civil servants in the Ministry of Justice are re-appointed as prosecutors, without a competition, at their request.~~

Keeping the status of a prosecutor

1. At the request of the institutions and with their consent, prosecutors may serve for a time period up to four years in the legal-professional structures of the Prosecution Office General, the Ministry of Justice, pedagogue or director at the Magistrates' School. At the end of this time period, at their request, they are re-appointed prosecutors without a competition to the position they previously had.
2. The financial treatment of a prosecutor is done by the respective institutions, giving him the higher pay between the two salaries.
3. The period of service is recognised as a period of seniority in the profession as prosecutor, for purposes of pay and the professional career.

Article 45

Identification document

A prosecutor is furnished with an identification document. The form and content of the document are specified by the Prosecutor General.

Article 46

Provision with weapons

A prosecutor has the right to carry personal weapons, which are furnished to him according to the legislation in force.

Article 47

Housing

1. A prosecutor has the right to obtain a residence through a loan on favourable terms, when he does not have a residence or a liveable area in the district where he works.
2. If a prosecutor has a residence in a district other than the one where he is exercising his duty, he benefits according to point 1 of this Article, but the amount of the loan shall be as much as the difference between the value of the loan for the new residence and the value of the residence that he owns.
3. The funds for housing are provided for in the annual budget of the Prosecution Office.

Article 48

Expenses of transfer

1. A prosecutor has the right of prepayment or reimbursement in full of the expenses for transferring him and his family, as well as transport of household furnishings, when he is promoted or transferred to another district, for reasons that are not related to disciplinary measures.
2. He does not benefit this right when he is transferred at his own request.

Article 49

Working hours

~~1. The working weekly days and timing are as a rule the same as those of the public administration employees;~~

1. The working weekly days and timing are as a rule the same as those of the courts.

2. In a case of need, upon the order of his direct superior, a prosecutor is obligated also to work beyond regular hours, on weekly days off, on holidays or when he is on annual leave.
3. The heads of every structure of the Prosecution Office organise rotating service for weekdays, weekends and holidays. The service list is set out every month. For the days contemplated in the rotating service list, the prosecutors are obligated to leave the exact address of their location.

Article 50

Annual leave

~~1. A prosecutor enjoys the right to a paid annual leave of 30 days. As a rule, the annual leave is taken in the months of July and August.~~

1. A prosecutor enjoys the right to a paid annual leave of 30 days. As a rule, the annual leave is taken in the month of August.

2. In cases when a prosecutor is assigned to perform urgent duties in the period July – August, month of August, as well as when he interrupts his leave for the needs of work, in addition to the remaining days off he receives up to five additional days off.
3. When they are away on annual leave, prosecutors are obligated to leave the exact address of the place where they will take their vacation and the days they will be there.

Article 51

Leave for special cases

1. For special personal or family needs, a prosecutor has the right to take unpaid leave up to 20 days in a month, but no more than 30 days in a year.
2. In cases of marriages or deaths within the family, when the time provided in point 1 of this Article has been used up, the prosecutor has the right to take up to 10 days leave.
3. For needs of professional specialisations and qualification, a prosecutor has the right to ask for unpaid leave and the preservation of his place of work up to one year.

Article 52

Salary and rewards

1. The salary of the Prosecutor General is equal to the salary of the President of the High Court.
2. The salary of a prosecutor is regulated by law. The salary of a prosecutor is equal to the salary of a judge of the court at which the Prosecution Office to which he was appointed functions.
3. On duty days, the salary is 20% higher than on ordinary workdays.
4. A prosecutor may earn extra compensation for professional merit in an amount set on the proposal of his superior and with the approval of the Prosecutor General.
5. Upon the proposal of his superior and with the approval of the Prosecutor General, a prosecutor may earn up to 20 percent supplemental salary for difficulty of work.

Pay, Compensation and Treatment

1. The salary of the Prosecutor General is equal to the salary of the President of the High Court.
2. The salary of the prosecutors of the Prosecution Office General is equal to the salary of a member of the High Court. The salary of the heads of the units who are prosecutors in the structure of the Prosecution Office General is 5 percent higher than the salary of the prosecutors of that Prosecution Office.
3. The base salary of a prosecutor or the head of a Prosecution Office of first instance and of appeal, as well as the supplement for their seniority or difficult in service, is equal to the salary and supplement for seniority and difficulty of a judge and of the chairman of the court where the Prosecution Office to which he has been appointed functions.
4. On weekends or official holidays, the prosecutor on duty who performs urgent duties earns a salary supplement at the amount of 50 percent of his daily salary.
5. A prosecutor may benefit rewards for professional merits in the amount set on the proposal of the office head and with the approval of the Prosecutor General.
6. Upon the proposal of his superior and with the approval of the Prosecutor General, a prosecutor may benefit up to a 20 percent salary supplement for work difficulty.
7. Prosecutors and their heads have the same treatment and protocol status as the judges and heads of the courts at which the Prosecution Office exercises its functions, except when the law provides otherwise.

CHAPTER IX RELATIONS WITH OTHER INSTITUTIONS

Article 53

Relations with the Assembly

1. The Prosecutor General ~~informs the Assembly~~ reports to the Assembly or the committees of the Assembly at least once very six months or whenever requested by them. The reporting contains data and explanations about the number, types, territorial expansion, intensity and forms of criminality in the Republic of Albania as well as the directions and priorities in the fight against criminality.
2. Reporting about concrete cases is not permitted, except for cases sent by decision of the Assembly.
3. The Assembly may ask the Prosecutor General for suggestions about the legal regulation of various questions.
4. The Prosecutor General cooperates with parliamentary investigative committees according to the legal provisions in force.

Article 54

Relations with the Council of Ministers

1. Every year, no later than 31 March, the Minister of Justice, in the name of the Council of Ministers, forwards to the Prosecutor General recommendations that are to be taken into account for the year in progress in the fight against criminality.
2. The Prosecutor General makes the recommendations of the Council of Ministers known to the heads of the Prosecution Offices at all levels at a joint meeting in which the Minister of Justice also takes part, no later than the month of April. The recommendations analysed in the meeting are made public.
3. In the relations of the Prosecutor General with the Council of Ministers it is prohibited to make recommendations to proceed or not to proceed on concrete cases.
4. The Council of Ministers shall, at the end of criminal proceedings, determine the part belonging to the Prosecution Office, out of the proceeds transferred to the benefit of the state as a result of the attachment of the exhibits, to be used for logistical means and for rewarding the prosecutors.

Article 55

Relations with the High Council of Justice

1. The High Council of Justice, through the Minister of Justice, may request the Prosecutor General to begin disciplinary proceedings on the basis of data that have come out of its meetings and which implicate prosecutors. ~~The Prosecutor General examines the recommendation and decides in connection with it.~~
2. The Prosecutor General may turn to the High Council of Justice to request any summary material about the state of criminal proceedings in the courts, problems of criminal prosecution or organisational and structural questions related to the Prosecution Office.

Article 56

Relations with the Ministry of Justice

1. The Minister of Justice checks the legality of the activity of the prosecutors, in a planned manner or on the basis of information given by organs, institutions or interested persons.

2. The object of checking by the Ministry of Justice with the organ of the Prosecution Office is:

- a) following the progress of issues that are contained in the annual recommendation given by the Council of Ministers for the fight against criminality;
- b) respect for the time limits for investigation;
- c) respect for the time limits for pre-trial detention;
- ç) respect for the fundamental human rights and freedoms of entities of the criminal proceedings and, in particular, of those who have been detained or arrested;
- d) the regularity and continuity of the performance of investigative actions;
- dh) respect for the legal obligation of the prosecutor to begin a criminal prosecution;
- e) the progress of criminal policy and, in particular, the sentencing policies followed by the prosecutors;
- ë) the regularity of holding and administering statistics and the registration of criminal offences;
- f) respect for the principles of justice, equality and legality of activity of the prosecutor in his relations with other entities of the criminal proceedings.

3. The check shall, in every case, be not warned and for cases where preliminary investigation have ended.

4. The result of the check is made known to the President of the Republic, the Prosecutor General and the prosecutor whose activity was subject to the check. The Minister of Justice submits to the Assembly at least once a year a report in writing of the inspections performed by the Ministry of Justice, also making the Prosecutor General aware of it. The report contains general data about the cases provided in point 2 of this Article. The Prosecutor General has the right to submit his opinion to the Assembly in connection with the report sent by the Minister of Justice according to this point.

5. On the basis of the results of the control, as appropriate, the Minister of Justice submits a recommendation to the Prosecutor General for instituting disciplinary proceedings. The Prosecutor General examines the recommendation and decides in connection with it. The recommendation for disciplinary proceedings and the answer of the Prosecutor General are made known to the President of the Republic.

Article 56/a

Relations with the Judicial Police

1. Prosecutors preside over and check the investigative activity of the judicial police, guaranteeing the respect of human rights and freedoms.

2. A prosecutor has the right:

- a) to give appropriate instructions and orders to the judicial police for:
 - i) the efficient implementation of the priorities of criminal policy;
 - ii) the determination of the categories of cases that have priority and the means used to search for evidence.
 - iii) the duration of investigations, as well as to be informed continuously on the progress of the investigations;
- b) to assign particular cases to the structures of the judicial police according to jurisdiction and the type of case, as well as to the possibilities that they have in the performance of the investigations;

c) to make evaluations and checks, to the extent necessary, for the purpose of overseeing the implementation of the law and his orders and instructions;

ç) to ask for the beginning of disciplinary proceedings and the taking of disciplinary measures for violations of law by the judicial police.

CHAPTER X FINAL PROVISIONS

Article 57

Budget

The Prosecution Office has an independent budget that is drawn up, administered and implemented according to the legal provisions in force.

~~At the prosecution offices of the first instance,¹²~~ **The Prosecutor General may appoint chancellors to follow problems of an administrative and financial nature. Their salary is the same as that of the chancellors at the courts.**

Article 58

~~Administration employees~~

~~The administration employees shall be appointed and dismissed by the head of the prosecution office or the Prosecutor General for the employees of the Office of Prosecutor General. Their employment relations are regulated by the Labour Code.~~

~~Employees of the administration of the Office of the Prosecutor General are subject to the criteria and procedures contemplated in law no. 8549 of 11 November 1999 "Status of the civil servant" for the hiring, transferring, lateral movement, promotion or discharge.~~

~~The employment relations of members of the administrative-technical personnel are regulated according to the provisions of the Labour Code.¹³~~

Civil servants

1. The Secretary General is the most senior civil servant at the Prosecution Office General.
2. The other technical-administrative services at the Prosecution Office General and the auxiliary services in the Prosecution Offices of other levels at the judicial system are performed by other employees and civil servants.
3. The secretary general directs the administrative activity of the Prosecution Office General and the prosecutors' offices of other levels, under the authority of the Prosecutor General.
4. The employees of the administration of the Prosecution Office General are subject to the rules of the civil service. The labour relations of the administrative-technical personnel are regulated according to the provisions of the Labour Code.
5. The financial treatment of the administration of the Prosecution Offices of other levels at the judicial system is made equivalent to that of the employees of the administration of the judicial system where the Prosecution Office functions.

Article 58/a

¹² Amended earlier by the law no 9102, dated 10/07/2003

¹³ Amended earlier by the law no 9102, dated 10/07/2003

In Articles 3, 9, 13 and thereafter in the law, the designation "Office of the Prosecutor General" is replaced by "Prosecution Office General."

Article 58/b

Transitional provision

1. Until the beginning of functioning of the system of performance evaluation of the prosecutor and the performance of the evaluation twice for purposes of promotion and career, the Prosecutor General determines specific criteria and procedures for the evaluation of the professional abilities of the prosecutors.

Article 59

Issuance of subordinate legal acts

~~1. The matters foreseen in Articles 13, 14, 15, 40, 41, 49, 50 and 51 of this law are regulated by bylaw acts of the Prosecutor General.~~

1. The matters foreseen in Articles 9, points 2 and 3, 10, point 4, 12, 13, 14, 15, 20, point 4, 22, point 3, 27/c, point 1, letter "c", 39 point 2, 40, 41, 42 point 10, 43 point 3, 45, 49, 50, 51 and 58/b of this law are regulated by subordinate legal acts of the Prosecutor General.

2. The matters foreseen in Articles 5 and 37 of this law are regulated by joint acts of the Prosecutor General and the Minister of Justice.

3. The matters contemplated in Articles 35, ~~36~~ and 46 of this law are regulated by joint acts of the Prosecutor General and the Minister of Public Order.

Article 60

Entry into force

This law enters into force 15 days after publication in the Official Journal.