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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

DRAFT LAW
ON THE PUBLIC PROSECUTOR'S SERVICE
OF MOLDOVA

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The Parliament hereby adopts the present organic law.

TITLE I ORGANIZATION OF THE PUBLIC PROSECUTOR'S SERVICE

Chapter I GENERAL PROVISIONS

Article 1. The Public Prosecutor's Service

The Public Prosecutor's Service is an institution which represents the general interests of the society and protects the law and order and the citizens' rights and freedoms, carries out guiding of criminal prosecution and exercises it directly, represents the accusation in courts, in accordance with the law.

Article 2. Principles upon which the activity of the Public Prosecutor's Service is organised

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

(2) Activity of the Public Prosecutor's Service is transparent and is built upon the presumption of guaranteeing the access of the society and mass-media to the information related to this activity, with exceptions provided by law.

(3) The principle of independence excludes the possibility of subordination of the Public Prosecutor's Service to the authority of legislative and executive powers, as well as the influences and interferences of other bodies and authorities of the state in the activity of the Public Prosecutor's Service.

(4) Prosecutors organise and exercise their activity on the basis of the principle of autonomy, which allows them to take decisions by their own with regard to files and cases under their examination.

(5) Within the activity of the Public Prosecutor's Service, internal hierarchical control and judicial control are principles that ensure the exercise by hierarchically superior prosecutor of the right to verify the correctness and legality of the activity and decisions adopted by hierarchically inferior prosecutor, as well as the possibility of contesting the prosecutor's decisions and actions of procedural character with a court of law.

Article 3. The legal framework for the activity of the Public Prosecutor's Service

The activity of the Public Prosecutor's Service is governed by the Constitution of the Republic of Moldova, by the present law, by other legislative acts, as well as by norms of the international law.

Article 4. The prosecutor

The prosecutor is an official person by whom the Public Prosecutor's Service exercises its competences.

Chapter II COMPETENCY AND FIELD OF WORK OF THE PUBLIC PROSECUTOR'S SERVICE

SECTION 1 Competency of the Public Prosecutor's Service

Article 5. Competences of the Public Prosecutor's Service

(1) The Public Prosecutor's Service:

- a) in the name of the society and in public interest, ensures the enforcement of the law, protects the legal order and the citizens' rights and freedoms, when the violation thereof calls for a penal sanction;

- b) conducts and carries out the criminal investigation;
 - c) represents the accusation in the courts of law;
 - d) participates, under the law, in court trials on civil and on cases of administrative offence, where court proceedings have been instituted on its initiative;
 - e) ensures the legal assistance and the international cooperation in its sphere of activity;
 - f) implements the national penal policy;
 - g) ensures the efficient protection of witnesses and victims of crimes;
 - h) initiates civil actions, in cases set forth in the law;
 - i) controls the observance of laws in the places of preliminary and remand detention;
 - j) exercises control over execution of laws in the Armed Forces
 - k) exercises control over the execution of judicial decisions on criminal cases.
- (2) By law can be provided for other competencies of the Public Prosecutor's Service

Article 6. Competences of the prosecutor

(1) In order to exercise competences of the Public Prosecutor's Service, the prosecutor is entitled to:

- a) demand from legal entities, irrespective of their type of ownership, as well as from individuals the submission of documents, materials, statistical data, other information;
- b) assign the competent authorities to execute controls, audits of the activities displayed by the enterprises and other legal entities, irrespective of their type of ownership; to ensure the participation of corresponding experts in order to clarify certain problems appearing in exercising his/her competencies; assign the carrying out of expertises, verification of materials, information, communications received by Public Prosecutor's Service, with submission of the obtained results to the prosecutor;
- c) summon any official person or citizen and demand verbal or written explanations with the purpose of carrying out criminal prosecution or on infringements of fundamental human rights and freedoms, and violations of legal order;
- d) freely enter the offices of state institutions, enterprises, irrespective of their type of property, as well as of other legal entities, and to have access to their documents and materials.

(2) The competences of the prosecutor can be broadened or limited only by law.

SECTION 2

Conducting and carrying out criminal investigation

Article 7. Prosecutor's attributions during investigations aimed at discovering actions that shall be subject to penal sanction

In the course of examining the notifications, petitions and materials submitted to the Public Prosecutor's Service by natural and legal persons, as well as in cases of self-notification resulted from *ex officio* investigations, the prosecutor, within the limits of his/her competency, shall investigate the case with a view to finding the existence or non-existence of a violation of law which calls for a person to be held criminally responsible, with a view to identifying the guilty persons and, depending upon the results of the investigation, shall decide on the initiation of criminal prosecution or on taking other measures of response to the law infringements found.

Article 8. Prosecutor's attributions in carrying out criminal investigations

The prosecutor carries out the criminal investigation in the name of the state, on the crimes prescribed by the Criminal Procedure Code as falling within his/her competency, and if necessary, the prosecutor may carry out or take over the criminal investigation on any criminal case.

Article 9. Prosecutor's attributions in conducting criminal investigations

(1) For the purpose of ensuring a proper application of criminal law by the criminal investigation bodies, by the fact-finding and operative investigations bodies, the prosecutor shall conduct the criminal investigation and shall control the actions of said bodies in relation to their compliance with due procedures as provided for in the criminal procedure law, in other normative acts, as well as in international acts.

(2) With a view to exercising this function, the prosecutor has the right to:

- a) exercise the attributions provided for by the Criminal Procedure Code;
- b) issue mandatory instructions to the criminal investigation bodies, to the fact-finding and to the operative investigations bodies on the issues concerning the efficiency of combating and preventing crime, the application of legislation, as well as on other aspects of this activity;
- c) initiate the sanctioning of violations concerning the non-fulfilment or inappropriate fulfilment of professional duties by the criminal investigation officers or by officers from the fact-finding and from the operative investigations bodies;

(3) The Prosecutor General and lower level prosecutors shall coordinate the crime-combating activity of the criminal investigation authorities, of the fact-finding and of the operative investigations bodies. To ensure the coordination of activities of the abovementioned bodies, the prosecutors:

- a) plan joint actions to fulfil their attributions;
- b) convoke coordinating meetings;
- c) form working groups;
- d) identify the assessment criteria for the activity of the criminal investigation bodies as well as movement of criminal cases, require statistical data and necessary information of other nature;
- e) exercise other attributions provided for by the law.

Article 10. Applying alternative measures to criminal prosecution

The prosecutor may decide, in the course of criminal investigations, on the exemption from criminal liability of the person, who has committed an act which contains elements of a crime, for opportunity reasons, and in accordance with the Criminal Code and the Criminal Procedure Code.

Article 11. Implementing the national penal policy

Aiming at a unitary implementation of the state penal policy, the prosecutor shall act to prevent and combat criminality, shall analyze the factors which generate or facilitate crimes, shall draft and present proposals for eliminating them, as well as for improving the existing legislation.

Article 12. Ensuring of the effective protection of victims of crimes

In order to ensure the effective protection of victims of crimes, the prosecutor is obliged to:

- a) take measures, envisaged by the law, in order to restore citizens' legitimate rights that were infringed through illegal actions of the criminal investigation bodies;
- b) demand from the criminal investigation bodies to take measures in order to protect the life and ensure safety of injured parties, witnesses and members of their families, as well as of other persons, who offer assistance to the criminal procedure, or to make sure that such measures have already been taken.

SECTION 3

Participation of the prosecutor in the administration of justice

Article 13. Prosecutor's attributions in the administration of justice on criminal cases

Within the limits of his/her attributions, the prosecutor submits criminal cases to the courts for examination, represents the state accusation on all criminal cases based on the

principle of adversarial proceedings, lodges appeals against judicial decisions, in accordance with the law.

Article 14. Prosecutor's attributions in the administration of justice on civil cases

The prosecutor participates, according to the law, in the examination of civil and administrative cases, as a party to the case, where the proceedings were launched on his/her initiative.

Article 15. Exercising control over the enforcement of judicial decisions

The prosecutor shall exercise, according to the law, control over the observance of the legislation in the process of enforcement of judicial decisions on criminal cases, as well as in civil and administrative cases initiated by him/her.

Article 16. Exercising control over the observance of laws in places of detention

(1) In accordance with the procedure set by the law, the prosecutor shall exercise control over the legality of holding persons in places of preliminary detention, in penitentiaries and in other institutions where coercive measures are enforced, inclusively in hospitals in cases of fulfilment of compulsory psychiatric treatment.

(2) If the prosecutor discovers an illegal holding of a person in one of the institutions mentioned in paragraph (1), the person shall be immediately released on the basis of an ordinance issued by the prosecutor.

SECTION 4

Reactionary acts of the prosecutor

Article 17. Reactionary acts of the prosecutor

When carrying out investigations aimed at the discovery of breaches of law which shall be subjected to penal sanctions, when carrying out and conducting criminal investigations, when applying alternative measures to criminal prosecution, when implementing the national penal policy and ensuring the protection of witnesses and victims of crimes, as well as while participating in the process of administration of justice, the prosecutor has the right, within the limits of his/her competency, to adopt ordinances, to prepare case-files and indictments, to institute and to put forward notifications, civil actions, recourses and appeals.

Article 18. Prosecutor's ordinance, case-file and indictment

(1) In cases envisaged by the Criminal Procedure Code, the prosecutor shall dispose through an ordinance or case-file the carrying out of actions or of procedural measures within the limits of his/her competency.

(2) After the presentation of criminal investigation materials by the criminal investigation bodies, or upon the termination of the criminal investigation carried out by the prosecutor, he/she shall prepare the indictment, with which the case shall be brought before the court.

(3) The prosecutor can initiate an administrative case and apply an administrative sanction, according to the provisions of the Code of Administrative Offence, of the Criminal Code and of the Criminal Procedure Code.

Article 19. The notification of the prosecutor

(1) In the course of exercising his/her attributions, in cases when the prosecutor considers that the illegal act could bring about other measures or sanctions than those provided for by the criminal law, he/she shall notify the authority or the competent official person, with a view to:

- a) eliminating the violations of law, removing the factors and conditions which favoured them;
- b) sanctioning the violations committed by criminal investigation officers, by officers of the fact-finding authorities, with exception of instruction judges, and by officers of the operative investigation bodies, or sanctioning the non-fulfilment or inappropriate fulfilment of their professional duties in the course of criminal investigations;

c) lifting the immunity of certain persons and holding them accountable as prescribed by the law.

(2) The notification on eliminating violations of law shall be directed by the prosecutor to the respective institution or to the responsible official person for immediate examination.

(3) The respective institution or the responsible official person shall take specific measures to eliminate the breaches of law mentioned in the notification, to eliminate the factors and conditions which favoured them, to apply sanctions prescribed by law, or to stimulate a person, and shall inform the prosecutor in written form of such actions within one month from the receipt of the notification.

Article 20. The civil action

(1) In the course of penal proceedings, the Prosecutor is entitled to initiate civil proceedings against the accused, the defendant or the person who is materially liable for the act of the accused or of the defendant:

a) to secure the interests of the injured party, who is in a state of impossibility or dependence on the accused, defendant, or who, for other reasons, cannot exercise himself or herself the right to institute a civil action;

b) to secure the interests of the state.

(2) The Prosecutor initiates civil proceedings in the courts, when it is necessary to secure protection of legitimate rights, freedoms and interests of the juveniles, of the elderly persons and of the disabled persons, as well as of the persons, who, due to their state of health, are not able to address the court by themselves, or to secure interests of the state and of the society, according to the procedure established by the Civil Procedure Code.

Article 21. The recourse and appeal of the prosecutor

(1) The Prosecutor can declare appeal or recourse against court decisions he/she considers to be illegal or ungrounded.

(2) When in the course of exercising his/her attributions the prosecutor discovers illegal acts issued by an official authority or by an official person, through which citizens' rights and freedoms are violated, the prosecutor is entitled to react against those acts through a recourse.

(3) The recourse shall be examined by the respective official authority or person within 10 days from the day of receipt, and in case of a collegial body – at the first sitting. The prosecutor shall immediately be notified, in written form, of the results of the examination of the recourse.

(4) In case of an ungrounded rejection or failure to examine the recourse, the prosecutor is entitled to denounce the legal act at the court of law, so as to declare it null and void.

Article 22. Application to the Constitutional Court

The Prosecutor General is entitled to apply to the Constitutional Court and ask for a ruling on the constitutionality of laws, on decrees of the President of the Republic of Moldova, and on Governmental decisions and ordinances.

Chapter III

**THE STRUCTURE OF THE PUBLIC PROSECUTOR'S SERVICE
AND THE PERSONNEL OF PROSECUTOR'S OFFICES**

Article 23. The system of the Public Prosecutor's Service

(1) The Public Prosecutor's Service is an integrated, centralized **and hierarchic** system, which includes:

a) the General Prosecutor's Office;

- b) the prosecutor's offices of the level of courts of appeal, Gagauzia and Chisinau municipality;
- c) rayon, municipal and district prosecutor's offices;
- d) specialized prosecutor's offices (anticorruption, military and transport).

(2) The number of prosecutor's offices, their location, the structure of the General Prosecutor's Office and the personnel of the Public Prosecutor's Service shall be approved and modified by the Parliament, at the suggestion of the Prosecutor General.

Article 24. The General Prosecutor's Office

(1) The General Prosecutor's Office organizes and coordinates the activity of the subordinated prosecutor's offices and administrates the budget of the Public Prosecutor's Service and is hierarchically superior to all bodies of the Public Prosecutor's Service.

(2) The structural subdivisions of the General Prosecutor's Office are headed by chief-prosecutors, who can be assisted by their deputies. The economic and administrative service shall be headed by persons, who enjoy the status of a public servant.

Article 25. Prosecutor's offices of the level of courts of appeal, Gagauzia and Chisinau municipality

(1) Prosecutor's offices of the level of courts of appeal are territorial subdivisions established for the purpose of ensuring proper functioning of justice, and which work with a view to coordinate the activity of territorial prosecutor's offices from the respective constituencies, to carry out criminal investigations on criminal cases for which the Court of Appeal has first-instance jurisdiction, and contributes to the administration of justice in the respective courts of appeal under the law.

(2) The prosecutor's office of the Administrative Territorial Unit of Gagauzia exercises the attributions of the Public Prosecutor's Service on the respective territory and is hierarchically superior to the prosecutor's offices from ATU of Gagauzia.

(3) The Chisinau municipality prosecutor's office exercises the attributions of the Public Prosecutor's Service on the respective territory and is hierarchically superior to the prosecutor's offices of the municipality's districts.

Article 26. Rayon, municipal, district and city prosecutor's offices

The territorial prosecutor's offices include also the prosecutor's offices of rayons, of the municipalities of Balti, Bender, Comrat and Tiraspol, of the districts of Botanica, Buiucani, Centru, Ciocana and Riscani from within the Chisinau municipality, and of the cities Vulcanesti and Ceadir-Lunga, with their headquarters in the respective localities.

Article 27. Specialized prosecutor's offices

(1) Specialized prosecutor's offices include the anti-corruption, military and transport prosecutor's offices.

(2) The anti-corruption prosecutor's office is specialized in combating corruption crimes and exercises its functions on the entire territory of the Republic.

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

- a) carry out criminal investigations on criminal cases that are under the competence of military courts;
- b) press charges in the military court;
- c) exercise functions belonging to the Public Prosecutor's Service in the Armed Forces.

(3) The transport prosecutor's office exercises the attributions of the Public Prosecutor's Service on the railroad, air and naval transport on the entire territory of the Republic.

Article 28. The Prosecutor General

(1) The General Prosecutor's Office is headed by the Prosecutor General, assisted by his/her first Deputy and deputies.

(2) Each year the Prosecutor General presents to the Parliament a report on the status of law and order in the country, as well as on the measures taken to improve the situation. The respective information shall be made public through mass media and through electronic means.

(3) The Prosecutor General:

- a) represents the Public Prosecutor's Service in relations with other public authorities and with any legal or natural persons, from the country and from abroad;
 - b) exercises, either directly or through his/her deputies or subordinate prosecutors, control over the activity of prosecutors;
 - c) issues written orders, resolutions and mandatory instructions, approves regulations;
 - d) revokes, suspends or cancels acts issued by prosecutors, if they run counter to the law;
 - e) establishes, in accordance with the structure approved by the Parliament, the internal organisation of the bodies of the Public Prosecutor's Service, distributes means for their maintenance;
 - f) requests from the bodies with legal competence in detecting and investigating crimes, as well as in the exercise of operative investigation activities to delegate their specialists to fulfil, under the direct management and control of prosecutors, procedural acts conferred by the law;
 - g) notifies the Constitutional Court on the matter of the constitutionality of laws, decrees of the President of the Republic of Moldova as well as Governmental decisions and ordinances;
 - h) confers upon prosecutors, under the law, classification and military degrees;
 - i) decides on the attributions and duties of his/her First Deputy and deputies, and those of other subordinate prosecutors;
 - j) convokes the prosecutors' general assembly every year or whenever necessary;
 - k) acts as the administrator of financial means of the Public Prosecutor's Service;
- (4) By law can be provided for other competencies of the Prosecutor General.

Article 29. The First Deputy and the deputies of the Prosecutor General

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

- a) organize and head the main activities of the Public Prosecutor's Service, according to their competence, in the course of criminal investigations, in the administration of justice as well as during the investigations, aiming at the discovery of criminally punishable acts;
- b) decide on the attributions and duties of the heads and those of other prosecutors of subordinated subdivisions;
- c) exercise other functions at the decision of the Prosecutor General.

(2) In case of the Prosecutor General's absence or impossibility to exercise his/her functions, his/her attributions shall be exercised by the First Deputy, or by another deputy specified in the order issued by the Prosecutor General.

Article 30. Chief-prosecutors of subdivisions of the General Prosecutor's Office

(1) The subdivisions of the General Prosecutor's Office are headed by chief-prosecutors, assisted by deputies.

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

- a) organize and coordinate the activity of subordinate prosecutors and of auxiliary personnel and decide on their attributions and duties;
- b) exercise other functions, following the instruction of the Prosecutor General, his/her First Deputy or deputies.

Article 31. Chief-prosecutors of territorial and specialized prosecutor's offices

Chief-prosecutors of territorial and specialized prosecutor's offices represent the Public Prosecutor's Service on the respective territory, exercise the functions prescribed by law and are assisted by deputies and other subordinate prosecutors.

Article 32. The hierarchy of prosecutorial posts

(1) The hierarchy of prosecutors, depending upon the post held in the system of prosecutor's offices, is as follows:

- a) the Prosecutor General;
- b) the First Deputy and deputies of the Prosecutor General;
- c) prosecutors, heads of the General Prosecutor's Office subdivisions and their deputies;
- d) territorial prosecutors and prosecutors from specialized prosecutor's offices and their deputies.

(2) The prosecutors of the level of courts of appeal, the prosecutor of Gagauzia and the prosecutor of the Chisinau municipality and their deputies are hierarchically superior to prosecutors from the respective territory.

(3) The heads of subdivisions, territorial prosecutors and prosecutors of specialized prosecutor's offices and their deputies are hierarchically superior to the prosecutors, who are subordinated to them.

(4) Prosecutors enumerated in descending order are hierarchically superior to the prosecutors, who are indicated after them.

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

(6) The hierarchy consists in the subordination of the lower level prosecutors to superior prosecutors, according to the provisions of the law, as well as in the obligation to enforce and observe orders, dispositions, indications and instructions they receive.

Article 31. The personnel of the prosecutor's office

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

(2) The status of prosecutors is regulated by law.

(3) The specialized auxiliary personnel works within specialized auxiliary sections of the subdivisions of the General Prosecutor's Office, of the territorial and specialized prosecutor's offices, and contribute through their work to the exercise of the attributions of the Public Prosecutor's Service.

(4) The specialized technical personnel provides technical assistance to the Public Prosecutor's Service.

TITLE II THE STATUS OF THE PROSECUTOR

Chapter IV INCOMPATIBILITIES AND PROHIBITIONS IN THE EXERCISE OF THE FUNCTION OF PROSECUTOR

Article 34. The status of the prosecutor

(1) In the exercise of their competences the prosecutors are autonomous, impartial and abide only by the law.

(2) The promotion, delegation, secondment and transfer of prosecutors shall be made only with their consent, with the exceptions specifically prescribed by law.

(3) Prosecutors can be sanctioned, suspended and dismissed from their position only on the grounds and in the conditions set forth in the law.

Article 35. Incompatibilities

(1) The function of prosecutor shall be incompatible with any other public or private position and with any other professional and remunerated activity, with the exception of teaching positions in higher education institutions, management positions in representative

organizations (trade unions) of the Public Prosecutor's Service as well as that of trainers in the National Institute of Justice, in accordance with the law.

(2) Prosecutors, in their capacity of civil servants, shall also be subjected to the provisions regarding the incompatibilities and conflicts of interests set forth by the special legislation.

Article 36. Prohibitions

(1) Prosecutors are obliged to abstain from any activity related to the exercise of their duties in cases they presume there exists a conflict between their interests and the public interest in the administration of justice or the protection of the general interests of the society, except for cases when the conflict of interests has been communicated, in written form, to the head of the prosecutor's office where he/she works and it was decided that the existence of the conflict of interests will not affect the impartial exercise of his/her professional duties.

(2) Prosecutors are subjected to a regime of prohibitions according to which they cannot:

- a) participate in trial proceedings if they are in a marital relation, kinship or relatives up to the 2nd degree with the judge, lawyer or any other trial participant with a vested interest in the outcome of the case;
- b) be members of any party or political formation, or carry out or take part in political activities, or express or manifest in any way their political beliefs in the exercise of their professional duties;
- c) work as operative agents, including under cover, or as informants or collaborators of secret and intelligence services;
- d) publicly express their opinion concerning case-files and cases under investigation, or concerning cases on which they hold information by virtue of their position;
- e) carry out entrepreneurial or commercial activities, whether directly or through intermediaries;
- f) carry out arbitral activities on civil, commercial or other types of disputes;
- g) provide consultancy, whether written or verbal, on litigious matters, even if the respective matters are examined by another body of the Public Prosecutor's Service than the one where they are working except for husband (wife), children and parents or carry out any other activity which, according to the law, is performed by lawyers;
- h) be associates or members on the board of management, administration or control of commercial societies, including banks or other crediting institutions, insurance or financial companies, national companies, national societies and autonomous administrations, or be members of any economic interest group.

Chapter V

THE PROMOTION OF A CANDIDATE TO THE POST OF PROSECUTOR. THE APPOINTMENT OF THE PROSECUTOR

Article 37. Conditions to be met for the appointment to the post of prosecutor

(1) To the post of prosecutor can be appointed the person who meets the following conditions:

- a) has the citizenship of the Republic of Moldova and is domiciled on its territory;
- b) has a licence degree in law;
- c) has full legal capacity;
- d) has the length of service necessary for appointment to the respective position and has a good reputation;
- e) does not have criminal record;
- f) knows the state language;
- g) is medically capable to exercise the professional duties;
- h) has graduated the initial training courses for the prosecutors with the National Institute of Justice (as the case may be).

(2) To the post of Prosecutor General can be appointed the person who has a length of service in the bodies of the Public Prosecutor's Service of at least 15 years, and to the post of deputy Prosecutor General can be appointed a person who has worked (as a prosecutor) in the bodies of the Public Prosecutor's Service not less than 10 years.

(3) To the post of territorial prosecutor, prosecutor of a specialized prosecutor's office, chief of a structural subdivision of a prosecutor's office can be appointed persons who have a length of service (as prosecutors) in the bodies of the Public Prosecutor's Service of at least 5 years; deputies of the above-mentioned positions can be persons with a length of service (as prosecutors) in the bodies of the Public Prosecutor's Service of not less than 4 years.

Article 38. The candidate to the post of prosecutor

(1) The person who meets the criteria for appointment to the post of prosecutor shall lodge an application to the Superior Council of Prosecutors and shall get registered as a candidate for vacancies in the posts of prosecutors.

(2) The post of prosecutor can be sought by candidates who have graduated the courses of initial training for prosecutors at the National Institute of Justice.

(3) By derogation from the provisions of paragraph (2), the post of prosecutor can also be sought by candidates who have worked as prosecutors or at least the past 5 years as judges, investigators, criminal investigations officers, lawyers, ombudsmen, full-time professors of law in a duly accredited higher education institution, notaries, as well as in legal positions or in the staff of public authorities and who have passed the capacity exam.

(4) The persons who have held the post of prosecutor or judge for at least 10 years and who had terminated their activity for unimputable reasons can be appointed without having to pass a capacity exam for occupying posts of prosecutors, in case no more than 5 years have passed since seized to hold the post of prosecutor or judge.

Article 39. The contest for occupying vacancies in posts of prosecutors

(1) The contest for occupying vacancies in the posts of prosecutors shall be organized annually or whenever necessary on the date and at the venue set by the Superior Council of Prosecutors. The date, venue and method of organizing the contest for admission and the number of posts open as vacancies shall be published in the official publications and posted on the official website of the Public Prosecutor's Service and that of the National Institute of Justice at least 60 days before the date of the contest.

(2) The Superior Council of Prosecutors shall determine each year the number of candidates for occupying the vacancies in the posts of prosecutors, depending upon the number of existing vacancies and the posts which are to be newly established.

(3) The contest for occupying the posts of prosecutors shall include the stage of the capacity exam, to be passed by the candidate for the post of prosecutor before the Qualification Board, and the stage of the contest which will include an assessment of the results of the capacity exam and the acceptance of candidates, based upon the results of the capacity exam, for appointment to the vacant posts of prosecutors.

(4) The method of organizing and carrying out the contest for occupying the vacancies in the posts of prosecutors shall be prescribed by a Regulation approved by the Superior Council of Prosecutors.

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

(6) The candidates who disagree with the results of the contest may lodge appeals with the Superior Council of Prosecutors within 7 days from the announcement of the results. The Superior Council of Prosecutors shall rule on the appeals within 15 days or another reasonable period of time needed for complete and objective examination of the appeals. The decision of the Superior Council of Prosecutors can be appealed with a court, in accordance with the procedure and terms established by law.

(7) The number of vacancies offered at the contest to the candidates enumerated in paragraph (3) of article 38 shall not exceed 20 percent of the total number of vacancies in a period of 3 years.

Article 40. Candidate's registration for occupying a vacancy in the post of prosecutor

(1) To participate in the contest for occupying the post of prosecutor, the candidate shall lodge, within 60 days from the publication of the date of the contest, a written application to the Qualification Board, which shall then register him or her as a participant in the contest.

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

- a) a curriculum vitae;
- b) a copy of the diploma;
- c) the certificate of graduation from the National Institute of Justice (in the case of candidates who are graduates of prosecutors' initial training courses);
- d) a copy of the workbook (in the case of candidates who have a workbook);
- e) a certificate on the criminal record;
- f) the medical health certificate in the required form;
- g) the declaration on income and property;
- h) a reference from the last place of work or studies.

(2) The registration of candidates for the contest for occupying vacancies in the posts of prosecutors shall be made in the order in which the applications were submitted in the period for which the contest was announced.

(3) The manner of registering candidates for the contest for occupying the vacancies in the posts of prosecutors shall be determined by the Qualification Board.

Article 41. The appointment to the post of prosecutor

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

(2) A person may hold the post of Prosecutor General for a maximum of 2 consecutive mandates.

(3) After being appointed, the Prosecutor General shall take before the Parliament the following oath:

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

(4) The first-deputy and deputies of the Prosecutor General shall be appointed for the mandate period of the Prosecutor General.

(5) All the hierarchically inferior prosecutors shall be appointed by the Prosecutor General at the proposal of the Superior Council of Prosecutors. The prosecutor of the Administrative Territorial Unit of Gagauzia shall be appointed at the proposal of the People's Assembly of Gagauzia.

(6) The mandate of the prosecutor of the Chisinau municipality, and the prosecutor of Gagauzia, as well as that of territorial prosecutors and prosecutors of specialized prosecutor's offices shall be of 5 years. They may not hold the same position for more than two consecutive mandates.

(7) The Prosecutor General may refuse to appoint a candidate proposed, informing the Superior Council of Prosecutors of the reasons for such a refusal.

(8) If the Prosecutor General repeatedly refuses to appoint a candidate proposed by the Superior Council of Prosecutors, the latter shall propose another candidate.

(9) A prosecutor can be appointed to the post of judge, in the court of law which corresponds to the level of the prosecutor's office where the respective prosecutor is working, if the prosecutor meets the criteria for nomination to the post of judge, including the criteria for appointment to the respective court.

Article 42. Prosecutor's oath

(1) After appointment to the post, the prosecutors take the following oath: "I swear to strictly abide by the Constitution, the laws of the Republic of Moldova, to protect the legal order, human rights and freedoms, the general interests of society, to conscientiously fulfil my obligations".

(2) A refusal to take the oath shall result *de jure* in the invalidation of the appointment to the post.

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

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

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

Article 43. The assessment of the prosecutor

(1) With a view to verifying their responsibility and compliance to the criteria of professional competence and performance, the prosecutors shall undergo an assessment every 5 years.

(2) In accordance with the law, prosecutors shall undergo assessment:

a) at the expiry of 5 years from the previous assessment;

b) for promotion to a higher post or for the awarding of classification degrees and special military ranks after application of disciplinary sanctions of downgrading in degree or rank, respectively.

(3) The prosecutors' first assessment shall be carried out after 2 years from the appointment to the post.

(4) The prosecutors are assessed by the Qualification Board.

(5) Prosecutors may appeal against the results of the assessment before the Superior Council of Prosecutors within 3 days from the communication of the results.

(6) A prosecutor's career advancement shall be registered in the person's professional file, which shall be prepared and kept by the Superior Council of Prosecutors.

(7) Shall not undergo assessment the Prosecutor General and his/her deputies as well as the prosecutors – members of the Superior Council of Prosecutors and Qualification and Disciplinary Boards during the period of exercising their mandate.

(8) By regulations at the institutional level can be established also other ways of intermediary evaluation of the results of the activity of prosecutors in between the ordinary assessments held every 5 years. The result of these evaluations can be used as a basis for decisions regarding the assessment.

Article 44. Prosecutors' continuous professional training

(1) Prosecutors' professional training is the guarantee of their independence and impartiality in the exercise of their professional duties.

(2) The continuous professional training must take into account the dynamics of the legislative process and must focus, in particular, on deepening the knowledge of the domestic legislation, of European and international documents to which the Republic of Moldova is a party, of the case-law of the courts of law, of the Constitutional Court, of the European Court of Human Rights and of the European Court of Justice of the European Communities, the knowledge of comparative law, deontological norms, the multidisciplinary approach to new legal institutions, as well as the knowledge and improvement of foreign languages and computer skills.

(3) The responsibility for the continuous professional training of prosecutors shall lie with the National Institute of Justice, the heads of prosecutor's offices where the prosecutors work, as well as with each prosecutor himself or herself, through individual training.

(4) The prosecutor shall participate, for at least 40 hours a year, in programs of continuous professional training organized by the National Institute of Justice, as well as in other programs organized by other higher education institutions from the country or from abroad, or in other professional trainings.

(5) The continuous professional training of prosecutors shall be carried out with due account for their need for specialization.

(6) Within each body of the Public Prosecutor's Service there shall be organized periodically activities of continuous professional training, which shall include consultations,

debates, seminars, sessions or roundtables, including with the participation of trainers of the National Institute of Justice.

(7) In the process of drafting of the continuous training curricula and topics for prosecutors, proposals and individual needs of prosecutors should be taken into consideration so that prosecutors have options and be able to choose the field they want to be trained in.

Chapter VI **AWARDING CLASSIFICATION DEGREES AND** **SPECIAL MILITARY RANKS TO PROSECUTORS**

Article 45. Prosecutors' classification degrees and special military ranks

(1) The following classification degrees can be awarded to prosecutors:

a) for the supreme juridical body:

- state legal counsellor of the I rank
- state legal counsellor of the II rank
- state legal counsellor of the III rank.

b) for the superior juridical body:

- legal counsellor of the I rank
- legal counsellor of the II rank
- legal counsellor of the III rank.

c) for the middle juridical body:

- jurist of the I rank
- jurist of the II rank
- jurist of the III rank.

(2) The following special military ranks are set for the prosecutors from the military prosecutor's offices and from the structural subdivisions of the Public Prosecutor's Service empowered to exercise control over the observance of law in the Armed Forces:

a) for the superior juridical body:

- colonel of justice
- lieutenant-colonel of justice
- major of justice.

b) for the middle juridical body:

- captain of justice
- lieutenant-major of justice
- lieutenant of justice.

Article 46. Conditions for awarding classification degrees and special military ranks

The classification degrees and special military ranks shall be awarded to prosecutors consecutively, at the expiry of the time-period of holding the previous degree or rank, in accordance with the post held and the length of service, taking into account the person's professionalism and on the condition of a positive characterization, with the exceptions provided by law.

Article 47. Time-periods for holding classification degrees and special military ranks

(1) The holding of classification degrees and special military ranks is correlated to the following time-periods:

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

(2) No time-periods are set for the holding of the classification degrees of state legal counsellor of the I, II and III rank, and for that of legal counsellor of the I rank, as well as for the military rank of colonel of justice.

Article 48. The correlation of classification degrees and special military ranks with the post held

The classification degrees and military ranks shall correspond to the positions held by prosecutors as follows:

state legal counsellor of the I rank	Prosecutor General
state legal counsellor of the II rank	Deputies of the Prosecutor General
state legal counsellor of the III rank	The Head of the Apparatus of the Prosecutor General, the prosecutor of the autonomous territorial unit of Gagauzia, the prosecutor of the Chisinau municipality, members of the Board of the Public Prosecutor's Service
legal counsellor of the I rank	Prosecutors heading departments of the General Prosecutor's Office, special missions prosecutors of the General Prosecutor's Office, prosecutors heading sections of the General Prosecutor's Office and their deputies, prosecutors heading the services of the General Prosecutor's Office, territorial prosecutors and prosecutors from the prosecutor's offices by the Courts of Appeal and from specialized prosecutor's offices, deputies of the prosecutor of the autonomous territorial unit of Gagauzia and of the prosecutor's offices by the Courts of Appeal, deputies of the prosecutor of the Chisinau municipality and deputies of the prosecutor of the Anti-Corruption prosecutor's office
legal counsellor of the II rank	Prosecutors from the departments, sections and services of the General Prosecutor's Office, prosecutors heading sections of the Prosecutor's office of the autonomous territorial unit of Gagauzia, of the Prosecutor's office of the Chisinau municipality, of the Anti-Corruption prosecutor's office and of the prosecutor's offices by the Courts of Appeal, deputies of prosecutors from territorial and specialized prosecutor's offices
legal counsellor of the III rank	Prosecutors from the sections and services of the Prosecutor's office of the autonomous territorial unit of Gagauzia, of the Prosecutor's office of the Chisinau municipality, of the Anti-Corruption prosecutor's office and of the prosecutor's offices by the Courts of Appeal
jurist of the I rank	Prosecutors from the territorial and specialized prosecutor's offices
jurist of the II rank	Prosecutors whose time-limit for holding the previous degree has expired
jurist of the III rank	Prosecutors who were appointed to the post for the first time
Colonel of justice	Prosecutor heading a section of the General Prosecutor's Office with attributions concerning the Armed Forces, and his/her deputies, prosecutors from military prosecutor's offices
Lieutenant-colonel of justice	Prosecutors from the section of the General Prosecutor's Office with attributions concerning the control over the observance of laws in the Armed Forces, deputies of prosecutors from military prosecutor's offices

Major of justice	Prosecutors from military prosecutor's offices
Captain of justice, lieutenant-major of justice	Prosecutors from military prosecutor's offices whose time-limit for holding the previous degree has expired
Lieutenant of justice	Prosecutors from military prosecutor's offices who were appointed to the post for the first time.

Article 49. The awarding of classification degrees and special military ranks

(1) The degree of jurist of the III rank and that of lieutenant of justice shall be awarded to a prosecutor upon assessment, after being appointed to the post.

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

(3) The classification degrees of state legal counsellor of the I-III ranks shall be awarded at the appointment of the prosecutor to the post indicated at article 48.

Article 50. Correlation with other classification degrees and military ranks

The persons enumerated in article 38 paragraph (3), who at the moment of appointment to the post of prosecutor were holding classification degrees or military degrees, shall be awarded classification degrees or military ranks similar to those previously held, taking into account the positions to which they are appointed in the Public Prosecutor's Service, their professionalism and length of service.

Article 51. Awarding of classification degrees or military ranks in case of transfer

(1) In case of a transfer to the section of the General Prosecutor's Office with attributions concerning the Armed Forces, and to the military prosecutor's offices, the prosecutors with classification degrees shall be awarded military ranks taking into account the position to which they are nominated, their degrees and length of service.

(2) In similar conditions, classification degrees shall be awarded to the prosecutors transferred to other bodies of the Public Prosecutor's Service from the section of the General Prosecutor's Office with attributions concerning the Armed Forces, and from the military prosecutor's offices.

Article 52. Additional attributions

(1) As regards the awarding of classification degrees and special military ranks, the Prosecutor General shall have the right:

- a) in certain cases, for actions with a spirit of sacrifice, for an exemplary discharge of professional duties and for remarkable successes in the activity of consolidating the legality and combating of crime, to award prior to the normal time-period the successive classification degree or special military rank or the classification degree or military rank of a higher level than the one set for the position held by the prosecutor, though only after the elapse of at least half of the time-period of the previous degree;
- b) at the promotion to a higher position, to award a classification degree without taking into account the normal succession, but not more than two degrees higher than the degree held by the prosecutor;
- c) to present to the President of the Republic of Moldova proposals for awarding classification degrees which fall within his/her attributions.

(2) The awarding of classification degrees and special military ranks prior to the normal time-period, as prescribed in paragraph (1), letters a) and b), shall be done only once in a person's entire career in the Public Prosecutor's Service.

Article 53. The period of holding the classification degrees and the special military ranks

(1) The classification degrees and the special military ranks shall be awarded to the persons working in the Public Prosecutor's Service for lifetime.

(2) The prosecutor can be demoted only through a decision of the Superior Council of Prosecutors, which can be appealed against in a court of law, for the commission of acts which discredit the title of prosecutor or for the commission of premeditated crimes as well as for the awarding of classification degrees or special military ranks in violation of the present law.

Chapter VII

THE RIGHTS AND OBLIGATIONS OF PROSECUTORS

Article 54. The rights of prosecutors

(1) The Prosecutor enjoys the rights and freedoms provided for the citizens of the Republic of Moldova by the Constitution, current legislation and international treaties to which the Republic of Moldova is a party with the restrictions determined by the particularities of the service in the bodies of the Public Prosecutor's Service.

(2) Within his/her professional activity the Prosecutor is entitled:

- a) to examine the cases connected with the performance of his/her duties and to make decisions within the limits of his/her functions and competence;
- b) to be promoted according to his/her professional training, qualification and personal achievements;
- c) to be remunerated according to his/her position, professional level and qualification, length of service as well as other rights established by law;
- d) to join professional organizations and other organizations having as goal the representation and protection of professional rights;
- e) to have free access to his/her professional file and to personal data included in other deeds and documents that are held in the Public Prosecutor's Service;
- f) to be informed about all the decisions affecting him/her directly;
- g) to be provided special protection against threats, violence or any other actions exposing him, his/her family or his/her property to danger;
- h) to be provided, according to current legislation, with adequate working conditions which could protect his/her health and physical and psychical integrity;
- i) to receive compensation in case of a prejudice suffered in connection with the performance of his/her duties;
- j) to make effective use of all social guarantees granted by the legislation;
- k) to choose his/her sphere of continuous training.

(3) The Prosecutor can be appointed as judge under conditions provided by law. In this case the seniority in the position of prosecutor, qualification and social guarantees are maintained and assimilated with those of the judge.

Article 55. The obligations of prosecutors

The Prosecutor is obliged:

- a) to perform his/her duties in strict conformity with the Constitution and laws of the Republic of Moldova;
- b) to comply with the rules of professional conduct of prosecutors, and to abstain from actions which could compromise the honour and the dignity of the prosecutor or could prejudice the image of the Public Prosecutor's Service;
- c) to make income and property statements according to the legislation;
- d) to observe the regime of restrictions and incompatibilities imposed on prosecutors and public officials by law;
- e) to execute the provisions of acts with normative character adopted within the Public Prosecutor's Service;
- f) to take measures in order to reveal and register all law violations which become known to him/her in exercise of his/her function or outside the exercise of his/her function.

Article 56. Dress code

(1) The prosecutor is obliged to keep during performance of his/her functions the dress code stipulated by law.

(2) The prosecutors of military prosecutor's offices and divisions of bodies belonging to Public Prosecutor's Service invested with functions of controlling the execution of laws in the Armed Forces wear uniforms of the model foreseen for the military men.

(3) The description of prosecutors' uniform and distinctive marks of prosecutors' classification degrees is given in Annexes 1 and 2 which are component parts of present law.

**Chapter VIII
GUARANTEEING PROSECUTOR'S AUTONOMY**

Article 57. Guaranteeing prosecutor's autonomy

(1) The prosecutor's autonomy is guaranteed by:

- a) explicit regulation by law of prosecutors' status, delimitation of the functions of the Public Prosecutor's Service, and competences and attributions of the prosecutor in the exercise of the functions of the Public Prosecutor's Service;
- b) procedure of appointment, suspension, resignation and dismissal;
- c) declaration of his/her inviolability;
- d) decision-making discretion granted by law to the prosecutor exercising his/her functions;
- e) establishment by law of prohibitions regarding the undue intervention by other persons or authorities in the activity of the prosecutor;
- f) allocation of adequate resources for the functioning of the system of Public Prosecutor's Service bodies, provision of favourable organizational and technical conditions for the activity of these bodies;
- g) ensuring material and social security of the prosecutor;
- h) other measures stipulated by law.

(2) The prosecutor is autonomous at making decisions under the conditions provided by law.

(3) The orders of a hierarchically superior prosecutor which are given in writing and pursuant to law are binding upon subordinate prosecutors. The prosecutor is entitled to request that an order is submitted to him/her in written form. The prosecutor can refuse to fulfil an order which is obviously illegal or which infringes upon the his/her judicial consciousness, and can protest the order which he/she does not agree with in front of the prosecutor hierarchically superior to that who has given the order.

(4) The decisions made by the prosecutor which are appraised as being illegal can be cancelled on well-grounded reasons by the chief prosecutors of the Public Prosecutor's Service body. The decisions made by the chief prosecutors can be cancelled on well-grounded reasons by the head of the hierarchically superior Public Prosecutor's Service body.

Article 58. Inviolability of the prosecutor

(1) The inviolability of the prosecutor shall guarantee to the later protection against any abusive influences or interferences in his/her activity.

(2) Entering the prosecutor's home and service room, the personal or service transport facilities, on spot controls or searches and seizure of his/her goods, the interception of telephone communications, body search, control and seizure of his/her objects, documents or correspondence can be undertaken only after initiation of a criminal prosecution, and in conditions provided for under the Code of Criminal Procedure.

(3) The prosecutor cannot be called to account for the opinion expressed during criminal prosecution and in the process of contributing to administration of justice and for the

decision he/she has made if his/her guilt of criminal abuse is not established by a final sentence.

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

(5) The prosecutor shall be called to administrative responsibility in the conditions established by the Code on administrative offences. The prosecutor who was detained for being suspected of committing an administrative offence must be freed immediately after identification.

Article 59. Promotion of the prosecutor

(1) The prosecutor can be promoted by the hierarchically superior prosecutor for taking up a vacant position or advanced for appropriate performance of his/her duties, for organizational and decision-making abilities. The proposal on promotion of the prosecutor can be advanced by the hierarchically superior prosecutor, Prosecutor General, his/her deputies or by Qualification Board.

(2) The Regulations on the promotion of prosecutors must be approved by the Superior Council of Prosecutors.

(3) The promotion of the prosecutor is made on the basis of the principles of opportunity, free consent, transparency, and appraisal of professional and personal achievements.

(4) The prosecutor who received a disciplinary punishment or did not pass the certification, as well as the prosecutor who was demoted because of professional incompatibility cannot be promoted for one year and can not be elected member of a collegial body within the Public Prosecutor's Service.

**Chapter IX
STIMULATION, DISCIPLINARY AND PATRIMONIAL LIABILITY
OF PROSECUTORS**

Article 60. Awards and distinctions for professional successes

(1) The following stimulation measures can be applied to prosecutors for appropriate fulfilment of duties, initiative, efficiency and other professional merits:

- a) thanks;
- b) granting a bonus;
- c) making a symbolic present;
- d) conferring a higher degree;
- e) decoration with the "Honorary diploma of the Public Prosecutor's Service";
- f) decoration with the order "Honorary Worker of the Public Prosecutor's Service".

(2) The stimulation measures provided for at paragraph (2) are applied through the order the Prosecutor General on the proposal of the Qualification Board or of the Superior Council of Prosecutors.

(3) For special merits in performance of professional duties prosecutors can be proposed for decoration with state awards. The proposals for the decoration with state awards are made by the Superior Council of Prosecutors.

Article 61. Disciplinary liability of the prosecutors

(1) The prosecutors can be called to disciplinary account for violation of duties, and for behaviours that prejudice the service interest and the image of the Public Prosecutor's Service.

(2) The disciplinary violations for which the prosecutors are called to disciplinary account are exhaustively stipulated by law.

(3) The prosecutors of military prosecutor's office and divisions of General Prosecutor's Office invested with functions in Armed Forces can be called for disciplinary account under this law.

Article 62. Disciplinary violations

Shall be regarded as disciplinary violations the following:

- a) inadequate performance of professional duties;
- b) incorrect interpretation or application of legislation whether deliberately or by severe negligence, if this action is not justified by the change of the practice of applying legal norms established in the current legal system or court practice;
- c) interference in the activity of another prosecutor or any other interventions with authorities, institutions or officials for solving of some applications, pretending to or acceptance of solving personal interest or interests of family members in other ways than those foreseen by provisions of current legislation;
- d) deliberate violation of law during performance of duties;
- e) participation in public activities of political character;
- f) violation of legal provisions relating to the income and property statement;
- g) ungrounded refusal to perform one of his/her duties;
- h) ungrounded absences, delay or leaving before time;
- i) dishonourable attitude towards colleagues, judges, attorneys, experts, witnesses or any other participants of the judicial proceedings during performance of duties;
- j) three consecutive violations of the prosecutor's ethics or an infringement that seriously affects the moral image of the prosecutor;
- k) using the status of the prosecutor for the purpose of obtaining undue benefits and advantages;
- l) public expression of agreement or disagreement with the decision of other prosecutors for the purpose of interference in their activity;
- m) violation of provisions relating to incompatibilities and prohibitions concerning the prosecutors.

Article 63. Disciplinary sanctions

(1) The following disciplinary sanctions can be applied to prosecutors through the decision of Disciplinary Board according to law and depending on the gravity of committed violations:

- a) rebuke;
- b) reprimand;
- c) severe reprimand;
- d) demotion in function;
- e) recall of the order of "Honorary Worker of the Public Prosecutor's Service";
- f) demotion in degree;
- g) dismissal from the bodies of the Public Prosecutor's Service.

(2) The disciplinary sanctions shall be applied within 30 days from the date of detecting the disciplinary violation, but not later than 6 months from the date of its committing.

(3) The punished prosecutor is entitled to contest the decision of Disciplinary Board with the Superior Council of Prosecutors, and in case he/she does not agree with the decision of the latter he/she can contest the application of disciplinary sanctions in the court, under provisions of the law.

Article 64. Patrimonial accountability of prosecutors

(1) The state carries patrimonial responsibility for the prejudice caused through errors made by prosecutors during performance of duties to human rights and fundamental freedoms which are guaranteed by the Constitution and the international treaties of which the Republic of Moldova is a party.

(2) The person is entitled to lodge actions for the reparation of damages only against the state that is represented by the Ministry of Finance.

(3) The responsibility of the state does not remove the responsibility of prosecutors who performed their duties in bad faith or with severe negligence.

(4) After reparation of damage on the basis of an irrevocable court decision the state can initiate according to law an action of regress against the prosecutor who committed the error causing damage by bad faith or severe negligence.

(5) The right of the person to reparation of material damage caused by errors committed by the prosecutor within other than criminal procedures and proceedings can be exercised only if a prior final court decision establishes the criminal liability of the prosecutor for the action committed in exercise of his/her function, if this action could determine a judicial error.

(6) In case of paragraph (4), if the fundamental rights and freedoms are violated by a collegial body, the action can be initiated against all guilty prosecutors who respond solidarily. The action of regress against the prosecutor can be initiated only with the consent of the Superior Council of Prosecutors.

(7) The person who deliberately contributed to the commitment of the error by the prosecutor in any way is not entitled to reparation of damage.

(8) The prescription term of the right to action in all cases provided for by this article is one year if the law doesn't foresee other terms for all cases stipulated by present article.

Chapter X

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

Article 65. Transfer, delegation and secondment of the prosecutor

(1) The transfer of the prosecutor to the position of another prosecutor who was suspended, transferred, assigned to other position for a limited or unlimited term shall be made only according to the provisions of present law and labour legislation.

(2) In case one of the offices of Public Prosecutor's Service cannot function because of temporary absence of some prosecutors, existence of vacant positions, and other reasons, the Prosecutor General can, at the proposal of the head of this body, delegate prosecutors from other prosecutor's offices without their consent for a period of up to one month in a year. The delegation can be prolonged only upon a written consent of the prosecutor. The average salary of the delegated prosecutor cannot be smaller than the one in previous function.

(3) For the purpose of fulfilling the functions of the Public Prosecutor's Service the prosecutor can be seconded to other institutions. The prosecutor keeps his/her status and makes use of all the rights provided by law for seconded staff within the period of his/her secondment.

(4) If the salary provided for the function to which the prosecutor is delegated or seconded is smaller than that received in the main position, then the salary of the main position will be kept.

(5) The period of secondment to other institutions is included in the period of seniority in the Public Prosecutor's Service.

(6) Upon the expiry of the period of secondment, the prosecutor is assigned to his/her main position, or, with his/her consent, is assigned to another equivalent position.

(7) The decisions about the transfer, delegation and secondment of the prosecutor are made by the Prosecutor General at the proposal of the Superior Council of Prosecutors.

Article 66. Prosecutor's suspension of the term of office

(1) The prosecutor shall be suspended by order of the Prosecutor General upon the proposal of the Superior Council of Prosecutors:

- a) when a criminal prosecution is initiated against him/her till the final sentence on case;
- b) when recognized missing by a final sentence of the court;
- c) when he/she takes part in elections as a candidate for the public authority or local public administration authority and when elected for these authorities;
- d) when granted with a maternity leave and a leave for child's care for a period of 3 years maximum.

(2) In case stipulated by paragraph (1) letter b) the salary of the prosecutor is paid to his/her family, but in cases stipulated by the letter a), c) and d) of the same paragraph the salary is paid to the prosecutor according to law.

(3) The suspension of the prosecutor for the reasons stipulated in the paragraph (1), except for letter a) does not imply the cancellation of personal immunity and of material and social safeguards.

(4) In case stipulated by paragraph (1) letter a) when the prosecutor's fault was not proved or a judgement of acquittal or cessation of criminal procedure was given, the suspension shall be cancelled and the prosecutor shall be fully rehabilitated.

(5) In cases stipulated by paragraph (1) letter c) and d), upon expiration of the term for which the prosecutor was suspended, he/she is granted the position of prosecutor he/she held before suspension or is granted another equivalent position of prosecutor with his/her consent.

(6) The decision on prosecutor's suspension can be appealed with a court, according to the law.

Article 67. Dismissal

(1) The prosecutor shall be dismissed from the function by order of Prosecutor General upon the proposal of the Superior Council of Prosecutors or of the Disciplinary Board:

- a) upon resignation;
- b) when the commission expires;
- c) when committing systematic misconduct or a grave misconduct;
- d) in case of non compliance with the position he/she holds according to unsatisfactory results in the performance of the function this fact being established upon evaluation;
- e) upon the delivery of a final conviction sentence;
- f) upon losing the citizenship of the Republic of Moldova;
- g) when refusing to swear;
- h) upon impossibility to fulfil the duties of service for reasons of long-term and continuous (more than 4 months) bad health condition;
- i) due to the refusal to be transferred to another organ of the Public Prosecutor's Service in case the organ of the last work is the subject of liquidation or reorganization;
- j) due to the decease of the prosecutor or the declaration of his/her decease by final court decision.

(2) The decision on dismissal can be appealed against in the court according to the law.

(3) In case of cancellation of the decision on prosecutor's dismissal the latter shall be fully rehabilitated and paid all lost rights.

(4) The Prosecutor General can be dismissed before the expiry of his/her mandate by the Parliament upon the proposal of the Chairman of the Parliament in the following cases:

- a) due to the incompatibility, established according to the law;
- b) upon impossibility to fulfil the duties of service for reasons of long-term and continuous (more than 4 months) bad health condition;
- c) upon the delivery of a final conviction sentence.

Article 68. Resignation of the prosecutor

(1) The prosecutor is entitled to resignation in case of submitting of a resignation application.

(2) The resignation of the prosecutor shall be considered the honorable leave of the position, when in the pursuance of his/her duties and out of work relationships the prosecutor didn't commit acts which discredit the Public Prosecutor's Service or compromise the prosecutor's honour and dignity.

(3) The resigned prosecutor preserves the title of prosecutor and warranties of personal inviolability.

(4) The resigned or the retired prosecutor is entitled to an unique discharge allowance which equals to the product of multiplication of his/her monthly average salary by the number of full experience years in the position of prosecutor. At the same time, by calculating the unique discharge allowance for the resigned and the returned prosecutor it is taken into account the time of exercise from the date of cessation of last resignation.

(5) The resigned prosecutor has the right to a service pension or to a monthly life indemnity according to the law.

(6) When the resigned prosecutor has at least 20 years of work experience he/she beneficiaries of a monthly life indemnity of 80 percent; from 25 to 30 years of experience - of 85 percent; from 30 to 35 years – of 90 percent; from 35 to 40 years – of 95 percent; from 40 years an more – of 100 percent in comparison with the average salary paid depending on the respective prosecutor's position, taking into account the salary indexing. The monthly life indemnity is to be recalculated taking into account the current salary of acting prosecutors.

(7) The resigned prosecutor has the right to work in other functions in the organs of the Public Prosecutor's Service or in the field of justice.

(8) If the resigned prosecutor exercises a function in the organs of the Public Prosecutor's Service or in the field of justice, he/she is entitled to receive the monthly life indemnity and a salary according to the article 70.

(9) The prosecutor shall be considered as resigned as long as he/she observes the provisions of the articles 35 and 36, preserves the citizenship of the Republic of Moldova and does not commit acts which discredit the image of the Public Prosecutor's Service or compromise the prosecutor title.

(10) When the Superior Council of Prosecutors establishes the fact that the resigned prosecutor does not meet the provisions of the present law, it shall propose to the Prosecutor General to cease the prosecutor's resignation. The prosecutor can appeal against the decision of cessation in the court.

(11) The prosecutor's resignation is also cancelled due to the repeated assignment in the prosecutor's position.

(12) When the prosecutor demands the resignation by dismissal the Superior Council of Prosecutors can state a 30-days term from which the dismissal will be effective if the attending of prosecutor's duties is called for the liquidation of engagements.

(13) The questions on prosecutors' dismissal are examined by the Superior Council of Prosecutors that proposes its solutions for decision to the Prosecutor General.

Chapter XI

STATE PROTECTION OF PROSECUTORS, THEIR MATERIAL AND SOCIAL SECURITY

Article 69. The state protection of the prosecutor and of his/her family members

(1) The prosecutor, his/her family members and property are protected by the state. Upon well-grounded request of the prosecutor, by invoking the existence of a danger for himself/herself or his/her family life and health as well as the integrity of his/her property, the internal affairs authorities are obliged to take the necessary arrangements for the assurance of his/her security and the security of his/her family members, the integrity of his/her property.

(2) The attempt on the life and health of the prosecutor, the destruction and deterioration of goods, threat with murder, violence or with the deterioration of goods, calumniating or insulting him/her as well as the attempt on the life and health of his/her family members (parents, wife, husband, children), imply a responsibility in accordance to the law.

(3) The prosecutors in exercise of duties have the right to carry a firearm and other self protection means.

(4) The method of issuance and application of a firearm and of self protection means is stipulated in the law.

(5) The prosecutor is entitled to compensation of all expenses incurred by him/her in the interests of the service.

Article 70. The remuneration of the prosecutor

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

(2) The total remuneration of the prosecutor comprises his/her monthly salary, supplement for qualification degree, length of service, protection of state secret, for high professional competence, high workload, as well as for assignments of major importance.

(3) Diminution or annulment of remuneration rights of the prosecutor shall be prohibited.

Article 71. Leave of the prosecutor

(1) The prosecutor has the right to take a paid annual leave of 30 work days.

(2) Due to the prosecutor's length of service in the Public Prosecutor's Service up to 5 years his/her leave increases with 2 work days, from 5 to 10 years – with 5 days, from 10 to 15 years – with 10 days, over 15 years – with 15 work days.

(3) The prosecutor is granted a leave through the order of the Prosecutor General according to the program of granting annual leaves to prosecutors which is coordinated with the Superior Council of Prosecutors.

(4) The refusal of granting the prosecutor an annual leave two years in succession is forbidden.

Article 72. Housing of prosecutor

(1) When the prosecutor has no place to leave or his/her living place conditions need quality improvement the local public administration authority is obliged to assure the prosecutor in term of one year from the date of appointment with a living place (a flat or house) for the period of his/her term of office in the respective area.

(2) When the prosecutor is not provided with a living place according to the paragraph (1) he/she has the right in the period of time before receipt of a living space to compensation of expenses for rent (sub-rent) of a provisory living place in an amount according to the rent (sub-rent) agreement but which shall not exceed the official salary of the tenant.

Article 73. Other social guarantees

(1) The acting prosecutors and family members living with them beneficiate of free medical care at the expense of the state budget.

(2) The resigned or pensioned prosecutors, in case they are not employed at another workplace, as well as parents, spouse and minor children of the deceased prosecutor shall beneficiate of free medical care in accordance with paragraph (1).

(3) The life, health and the property of the prosecutor are subject to an obligatory state insurance from the state budget.

(4) The insurance sum is paid in case of:

- a) a violent death or decease of the prosecutor in exercise of his/her function if death occurred as a result of some physical injuries or other health's violent lesions, - the sum is paid to his/her successor under the form of a lump-sum allowance which equals to the product of multiplying the annual average salary of the deceased by the number of full experience years which he/she didn't survive till the reach of age limit, but not less than 15 annual average salaries;
- b) the prosecutor's mutilation or other violent health lesions which exclude the possibility to continue the professional occupation and which provoked the total loss of work capacity, - in form of a lump-sum allowance equal to the sum of support funds for a period of 10 years;
- c) mutilation of prosecutor in exercise of his/her function excluding the possibility of continuing the professional activity, in form of a monthly compensation equal to the salary received in the position of prosecutor. The disability pension or any other types of pension granted before or after losing the capacity of continuing the professional activity are not taken into consideration by the calculation of compensation. The salary received by the prosecutor after receiving the injury and the state insurance compensations are also not included in this type of compensation;
- d) violent death or decease of the prosecutor as result of bodily harm or other violent health injury, - to the disabled family members maintained by him, in form of a monthly indemnity equal to the difference between the part falling to them from the

salary of the deceased and the pension granted in relation with the bread-winner's loss without taking into account the one-time indemnity.

(5) The material prejudice caused in connection with the work activity of prosecutor through the damage or destruction of his/her goods, the goods of his/her family members or close relatives is repaired integrally from the state budget, if this situation is confirmed by a final court decision.

Article 74. Provision with pension

(1) The prosecutor who has reached to age of 50 years and has a seniority of at least 20 calendar years, at least 12 years and 6 months of which spent in the position of prosecutor or judge has the right to service pension in the amount of 55 percent of the average salary, and a bonus of 3 percent for each complete year of work over the seniority of 20 years, but not more than the total of 80 percent of the average salary taking into account its indexation.

(2) The Law on provision with pension of military, officers and persons from the troupes of the bodies of internal affairs is applied to prosecutors from given division of General Prosecutor's Office and military prosecutor's office. The seniority of the prosecutors who are transferred to the military section and military prosecutor's office is included in the total seniority of the military man.

(3) The service pension is paid integrally to the prosecutor in exercise of his/her function.

(4) The pensioned prosecutor is entitled to be employed and to receive integral pension and salary after retirement.

(5) In case of disability the prosecutor receives a disability pension, and in case of death of the prosecutor who is the family's bread-winner, the members of his/her family will receive a pension for the loss of bread-winner according to the provisions of the Law on state social insurance pensions.

(6) The retired prosecutors profit from pension recalculation depending on the rising of salary of the prosecutor in exercise of his/her function starting with the month following the rise of salary whether the pensioner continues to works or not in the bodies of the Public Prosecutor's Service.

(7) The period of activity as investigator at the Public Prosecutor's Service and judge is also included in the seniority in the position of prosecutor which is necessary for granting of service pension.

(8) The pensions are granted and paid by the social insurance bodies.

(9) The social insurance bodies are entitled to check the authenticity of the acts confirming the seniority and the insured income which are issued by the competent bodies.

Article 75. The prosecutor's certificate

(1) Upon appointment in the position of prosecutor, the person receives a certificate of the model approved by the Superior Council of Prosecutors.

(2) The prosecutor's certificate is issued by the Superior Council of Prosecutors and serves as a document confirming his/her identity and position.

(3) The present article is also applied to resigned and retired prosecutors.

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

Chapter XII
THE BOARD OF THE PUBLIC PROSECUTOR'S SERVICE

SECTION 1
General provisions

Article 76. The Board of the Public Prosecutor's Service

The Board of the Public Prosecutor's Service (hereinafter called "the Board") is a consultative body for organisation of the activity of the Prosecutor General.

Article 77. The structure of the Board of the Public Prosecutor's Service

(1) The Board is composed of 9 persons. The Prosecutor General is the Chairperson of the Board.

(2) The Board includes: the Prosecutor General, the First Deputy and the deputies of the Prosecutor General, the Prosecutor of Gagauzia, other prosecutors.

SECTION 2
Competences and appointment of Board's members

Article 78. Appointment of the members of the Board

(1) The Prosecutor General, his/her deputies and the Prosecutor of Gagauzia are ex officio members of the Board.

(2) The nominal composition of the Board of the Public Prosecutor's Service, proposed by the Prosecutor General, shall be confirmed by Parliament within one month from the appointment of the Prosecutor General, for the entire period of his/her mandate.

Article 79. Competences of the Board

(1) The Board of the Public Prosecutor's Service provides recommendations and opinions on the issues in the competence of the Prosecutor General or on general issues of the management and organization of the Public Prosecutor's Service, on the international legal cooperation, on the strengthening of the Rule of Law, on the combating of crime etc.

(2) When important issues arise concerning the strengthening of the rule of law and the coordination of activities, concerning the protection of human rights and freedoms and the combating of crime, joint sessions of the Board of the Public Prosecutor's Service with the collegial bodies of other national public authorities can be organized. At the Board's sessions, the activity of other bodies can also be analyzed on matters concerning the combating of crime and the strengthening of the rule of law; official persons can be invited to participate in the works of such sessions.

(3) The Board's role and competences are set forth in the Regulations of the Board of the Public Prosecutor's Service, approved by the Prosecutor General.

Article 80. The Decisions of the Board

(1) The Board shall be deliberative, if the quorum is present (i.e., if not less than 2/3 of its members are present).

(2) The decisions of the Board shall be considered adopted, if a simple majority of Board's members present at the session cast their votes to its support.

(3) The decisions of the Board shall be implemented through normative acts issued by the Prosecutor General.

Chapter XIII
THE SUPERIOR COUNCIL OF PROSECUTORS

SECTION 1
General provisions

Article 81. The Superior Council of Prosecutors

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

(2) The Council is the guarantor of prosecutors autonomy, objectivity and impartiality.

Article 82. The composition

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

(2) Ex officio members of the Superior Council of Prosecutors include:

- the Prosecutor General;

- the Chairperson of the Superior Council of Magistracy;

(3) Other members of the Council shall be elected by acting prosecutors through a secret, direct and free vote, as follows:

- two prosecutors from and by the prosecutors of the General Prosecutor's Office;

- six prosecutors from and by the prosecutors of the territorial and specialized prosecutor's offices.

- two members of the civil society, experts in law, proposed by the Board of the Public Prosecutor's Service.

Article 83. The competences of the Superior Council of Prosecutors

(1) The Superior Council of Prosecutors has the following competences regarding prosecutors' professional career:

a) examines the correspondence to criteria for candidates to the post of the Prosecutor General and his/her deputies;

b) requests information necessary to solve the issues of its competence;

c) makes proposals to the Prosecutor General for the appointment, promotion, transfer, temporary transfer, delegation, stimulation, suspension or dismissal of prosecutors;

d) hears the prosecutors' oath;

e) organises the contest for filling in the vacancies of the posts of prosecutors and selects the candidates for vacancies;

h) appoints the members of election commission.

(2) In the field of prosecutors' initial and continuous training:

a) proposes to the Prosecutor General the appointment of prosecutors to the Council of the National Institute of Justice;

b) approves the Strategy for the prosecutors' initial and continuous training, presents an opinion on the action plan for the implementation thereof;

c) examines the appeals against the decisions (opinions) of the Qualification and Disciplinary Boards;

d) validates the decisions of the Qualification and Disciplinary Boards.

(3) In the field of prosecutors' discipline and ethics observance:

a) examines citizens' petitions on issues concerning prosecutors' ethics;

b) coordinates the schedule of granting prosecutors' annual leaves.

(4) The Superior Council of Prosecutors shall approve the regulations concerning the activity of the Council.

Article 84. Promotion of proposals and solutions with regard to the career of prosecutors

(1) The proposals made by the Superior Council of Prosecutors to the Prosecutor General with regard to the appointment, promotion, transfer, temporary transfer, delegation, stimulation, suspension or dismissal of prosecutors can be refused by the later only once.

(2) The well-grounded motivation for refusal of a proposal shall be sent in written form by the Prosecutor General to the Superior Council of Prosecutors.

(3) In case the Superior Council of Prosecutors insists on a candidate refused by the Prosecutor General, the issue shall be solved through additional consultations, until a compromise solution is found.

Article 85. The Chairman of the Council

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

(2) The functions of the Chairman shall be exercised in his/her absence by a member of the Council appointed through a decision of the Council.

(3) The position of the Chairman of the Superior Council of Prosecutors cannot be held or exercised by the persons specified at art. 82 para. (2) of the present law.

Article 86. The competences of the Chairman

The Chairman of the Council shall:

- a) represent the Superior Council of Prosecutors in domestic and international relations;
- b) coordinate the activity of the Superior Council of Prosecutors;
- c) preside over the works of the Superior Council of Prosecutors;
- d) propose to the plenum to take corresponding measures for initiating the proceedings for dismissing members of the Superior Council of Prosecutors and for filling in the new vacancies;
- e) sign the acts issued by the Superior Council of Prosecutors;
- f) designate the members of the Superior Council of Prosecutors who may be consulted for the drafting of certain normative acts;
- g) present to the Council the annual report on the activity of the Superior Council of Prosecutors, which shall be made public.

Article 87. The notification of the Superior Council of Prosecutors

Any prosecutor may notify the Superior Council of Prosecutors, directly or through the chief-prosecutor, of the inadequate activity or conduct of an elected member of the Council, or of the violation of professional duties or the commission of disciplinary violations by the latter.

SECTION 2

The status of a member of the Superior Council of Prosecutors

Article 88. Duration of mandate

(1) The members of the Council shall have a mandate of 4 years.

(2) The *ex officio* members of the Superior Council of Prosecutors shall not be under the incidence of the paragraph (1).

Article 89. The rights of the members of the Council

The members of the Superior Council of Prosecutors shall have the right to:

- a) consider the materials submitted to the Council for examination;
- b) participate in their examination;
- c) file requests, present their arguments and submit supplementary materials;
- d) propose for examination in session various issues within the competency of the Council;
- e) participate in the adoption of decisions through voting, and to file, depending upon the case, a separate opinion;
- f) benefit of other rights under the law.

Article 90. The obligations of the members of the Council

A member of the Superior Council of Prosecutors is obliged to:

- a) exercise his/her functions according to the law;

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

Article 91. Termination of the mandate of a member of the Superior Council of Prosecutors

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

- submission of a request;
- expiry of the mandate of appointment to the post;
- suspension from or quitting of the post of prosecutor;
- dismissal from the post;
- an impossibility to exercise the functions for a period of more than 4 months;
- death.

(2) The dismissal from the post of an elected member of the Superior Council of Prosecutors shall be proposed by the Chairman or by one third of the members, in cases when the person in question no longer meets the legal conditions for being an elected member of the Superior Council of Prosecutors, in case of non-fulfilment or bad fulfilment of duties in the Superior Council of Prosecutors.

Article 92. The secretary of the Council

Secretarial functions shall be exercised by the secretary of the Council, who shall be appointed by the Council. The secretary shall be a prosecutor but he/she will not be a member of the Council. The secretary of the Council shall:

- a) ensure the collaboration with the district, territorial and specialized prosecutor's offices, with the National Institute of Justice, as well as with other institutions and authorities;
- b) ensure the communication of the decisions of the Council on disciplinary matters;
- c) ensure the editing and communication of the agenda for the sessions of the Council and the editing of the minutes of the respective sessions;
- d) ensure the keeping of special registries with the works of the sessions, as well as the keeping of archives of files.

SECTION 3

Organization of the activity of the Superior Council of Prosecutors

Article 93. Sessions. Convocation of sessions.

(1) The sessions shall be open, save for cases concerning the application of disciplinary measures.

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

(3) Decisions shall be taken on the basis of a majority vote.

(4) For a decision to be valid, at the session there must be present at least 2/3 of the members.

Article 94. The procedure of examining issues

The examination of issues which are to be solved at the session shall start with a report of the responsible member, who had studied beforehand the documents and materials submitted, after which the persons who were invited to the sessions shall be heard, and the necessary documents and materials shall be analyzed.

Article 95. Recusation and self-recusation

(1) A member of the Superior Council of Prosecutors cannot participate in the examination of the matter and shall be recused if there are circumstances that exclude his/her

participation or that may raise doubts concerning his/her objectivity. In case such circumstances exist, the member of the Council is obliged to declare a self-recusation .

(2) For the same reasons, a recusation can be effected by the person whose problem is being examined, as well as by the person who has presented the materials for examination.

(3) The recusation must be supported with a written or verbal request.

(4) The recused member of the Superior Council of Prosecutors shall not participate in the voting on the request for recusation .

Article 96. The proposal for appointment to the post of prosecutor, chief-prosecutor or deputy chief-prosecutor

(1) The Superior Council of Prosecutors shall make proposals to the Prosecutor General concerning the appointment of candidates to the post of prosecutor, as well as concerning the appointment to the post of chief-prosecutor or deputy chief-prosecutor.

(2) The selection of candidates for the post of prosecutor, chief-prosecutor or deputy chief-prosecutor shall be done on a contest-basis, according to certain objective criteria and according to a procedure set by a Regulation approved by the Council.

Article 97. Procedure of adopting decisions

(1) The decisions of the Superior Council of Prosecutors shall be adopted through a direct vote, and shall be supported with arguments.

(2) The decisions shall be edited in written form in a maximum of 20 days.

(3) The decisions of the Superior Council of Prosecutors shall be posted on the website of the Public Prosecutor's Service within 20 days from adoption.

Article 98. Appealing against decisions of the Superior Council of Prosecutors

The decisions of the Superior Council of Prosecutors can be appealed with a court of law, by any interested person, within 10 days from the moment of communication.

Article 99. The seal and the headquarters

(1) The Superior Council of Prosecutors uses the seal of the Public Prosecutor's Service.

(2) The Superior Council of Prosecutors has its headquarters in the Chisinau municipality.

Chapter XIV THE DISCIPLINARY BOARD

SECTION 1 General Provisions

Article 100. The Disciplinary Board

(1) The Disciplinary Board shall be set up under the aegis of the Superior Council of Prosecutors and shall serve the purpose of examining the cases involving prosecutors' disciplinary liability.

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

Article 101. Composition

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

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

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

(3) The Chairman of the Disciplinary Board shall be elected through a secret vote at the Board's first session, from among its members

Article 102. Activity reports

The Disciplinary Boards shall present to the Superior Council of Prosecutors each semester and yearly reports on its activity, which shall be published on the website of the Public Prosecutor's Service.

SECTION 2**Disciplinary Board's competences and method of operation****Article 103.** The competences of the Disciplinary Board

The Disciplinary Board shall:

- a) examine cases involving prosecutors' disciplinary accountability;
- b) decide on the early termination of disciplinary sanctions.

Article 104. Board's Chairman competences

(1) The Chairman of the Disciplinary Board organizes the work of the Board, heads its secretarial activity, and distributes duties among its members.

(2) In case of a temporary absence of the Chairman of the Disciplinary Board, his/her functions shall be exercised by one of the Board's members.

Article 105. The right to institute disciplinary proceedings

(1) The right to institute disciplinary proceedings belongs to any member of the Superior Council of Prosecutors, to chief-prosecutors of subdivisions of the General Prosecutor's Office, to territorial and specialized prosecutors.

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

Article 106. Time-limits for applying disciplinary sanctions

The prosecutor may be held disciplinary accountable within 6 months from the discovery of the disciplinary violation, without taking into account the period when the prosecutor was sick or on leave, but not later than one year from the date of its commission.

Article 107. The institution of disciplinary proceedings

(1) When instituting disciplinary proceedings, the internal security section of the General Prosecutor's Office, empowered with corresponding duties, shall preliminarily verify the grounds for holding the prosecutor accountable and shall ask for written explanations from the prosecutor concerned.

(2) The disciplinary case-file materials, before being sent for examination, shall be presented to the person against whom the procedure is instituted. The said person has the right to offer explanations, to present evidence and to request the carrying out of additional verifications.

Article 108. Revoking the instituted disciplinary proceedings

(1) The decision on instituting disciplinary proceedings can be revoked, by the person who has instituted the proceedings, before the case-file is examined by the Disciplinary Board.

(2) The prosecutor, concerning whom a decision is taken to revoke the instituted disciplinary proceedings, has the right to ask for an examination of his/her case, and the Disciplinary Board or, depending upon the case, the Superior Council of Prosecutors, is obliged to give a ruling on it.

Article 109. The deliberation of the Disciplinary Board on disciplinary proceedings

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

Article 110. Time-limits for examining disciplinary cases

Disciplinary cases shall be examined within one month from the date of reaching the Disciplinary Board.

Article 111. Participants to the disciplinary proceedings

(1) At the examination of the disciplinary case, the participation of the prosecutor who is held accountable is mandatory. If the prosecutor is absent from the session unjustifiably, the Disciplinary Board has the right to decide the examination of the disciplinary case in his/her absence.

(2) The person who has instituted the disciplinary proceedings has the right to participate in the examination of the case; other prosecutors may attend the examination.

Article 112. Decisions on disciplinary cases

(1) The Disciplinary Board may decide:

- a) to apply a disciplinary sanction;
- b) to reject the proposal of applying a sanction and to terminate disciplinary proceedings;
- c) to submit the disciplinary case-file materials to the Superior Council of Prosecutors for initiating the procedure of suspending the prosecutor from the office.

(2) The Disciplinary Board shall terminate the disciplinary proceedings when:

- a) there are no grounds to hold the prosecutor disciplinary accountable;
- b) the limit term for applying disciplinary sanctions has elapsed;
- c) it is inappropriate to apply disciplinary sanctions, in cases when the mere examination of case-file materials in a session is sufficient.

Article 113. Adopting decisions

(1) A decision on the disciplinary proceedings shall be adopted with a majority of the votes of the Disciplinary Board members who participate in the examination of the case. The decisions shall be issued in written form and shall be signed by the president of the session and by Board members.

(2) The decision of the Disciplinary Board and the materials that support the application of the disciplinary sanction shall be submitted to the Superior Council of Prosecutors for validation.

Article 114. Appealing against a decision of the Disciplinary Board

(1) The decision of the Disciplinary Board can be appealed against, by the prosecutor on whom the disciplinary sanction was applied or by the prosecutor who had instituted disciplinary proceedings, to the Superior Council of Prosecutors.

(2) If the prosecutor does not agree with the decision of the Superior Council of Prosecutors, he/she may appeal it with a court of law.

Article 115. Annuling a disciplinary sanction

(1) If, during one year from the date when a disciplinary sanction was applied onto the prosecutor, no other disciplinary sanction is applied on him or her, it shall be considered that the prosecutor has not been subjected to disciplinary sanctions.

(2) At the proposal of the prosecutor who had instituted disciplinary proceedings, as well as upon the initiative of the Disciplinary Board that has applied the disciplinary sanction, upon the expiry of at least 6 months from the date when the sanction was applied, the Disciplinary Board may annul the disciplinary sanction before the expiry of its term if the sanctioned prosecutor has not committed another disciplinary violation and has had an irreproachable conduct and conscientious attitude in the exercise of his/her duties.

(3) In the period when the disciplinary sanction is in effect, the sanctioned person shall not receive any stimulation measures.

Chapter XV
THE QUALIFICATION BOARD

SECTION 1
General Provisions

Article 116. The Qualification Board

The Qualification Board shall be set up under the aegis of the Superior Council of Prosecutors and shall serve the purpose of promoting the state policy in the field of selection of candidates for the Public Prosecutor's Service, assessing the level of prosecutors' professional skills and training, their correspondence to the requirements of the offices held, the observance of restrictions and exigencies set for prosecutors.

Article 117. Composition, duration of mandate

(1) The Qualification Board operates in the following composition:

a) three prosecutors from the General Prosecutor's Office elected by the prosecutors of the General Prosecutor's Office;

b) six prosecutors of the level of territorial and specialized prosecutor's offices elected by the prosecutors thereof.

(2) The duration of the mandate of the Qualification Board is of 4 years.

(3) The Chairman of the Qualification Board shall be elected through a secret vote at the Board's first session, from among its members.

SECTION 2

Qualification Board's competences and method of operation

Article 118. The competences of the Qualification Board

In the exercise of its duties, the Qualification Board shall:

a) organize the capacity exam for candidates to the post of prosecutor, in accordance with the law;

b) examine the content of materials presented for the Board's session, the conclusions and recommendations of the chief-prosecutor or those of other persons, entitled to give references for the person passing the assessment, and the opinion of the prosecutor being assessed;

c) hear the person undergoing the assessment and, depending upon the case, the chief-prosecutor or the person entitled to give references for him or her;

d) assess the activity results of the prosecutor undergoing the assessment;

e) adopt decisions and recommendations;

f) make proposals for applying stimulation measures for prosecutors' professional merits.

Article 119. The Chairman

(1) The Chairman of the Qualification Board shall be elected through a secret vote at the Board's first session, from among its members.

(2) The Chairman of the Qualification Board organizes the work of the Board, heads its secretarial activity, and distributes duties among its members.

(3) In case of an absence of the Chairman, his/her functions shall be exercised by one of Board's members.

Article 120. Method of operation

(1) The Chairman of the Qualification Board shall set the time and venue for the session, and shall announce the candidate or the prosecutor whose case is to be examined.

(3) The Qualification Board shall convene sessions whenever necessary.

(4) A Qualification Board's session shall be deliberative if at least 2/3 of its members participate in it.

Article 121. Recusation and self-recusation

(1) A member of the Qualification Board cannot participate in the examination of the case and shall be recused if there are circumstances that may raise doubts concerning his/her objectivity.

(2) The recusation shall be supported by arguments and presented in written form prior to the examination of the case.

(3) The decision on the recusation or self-recusation shall be adopted with the vote of the majority of Board members present at the session, in the absence of the member whose recusation or self-recusation is being decided.

Article 122. The adoption of decisions

(1) The decision of the Qualification Board shall be adopted through a secret vote, with a simple majority of the votes of members present at the session. In case of a parity of votes, the decision for which the Chairman of the Board had cast his/her vote shall be considered adopted.

(2) The prosecutor who is a member of the Qualification Board cannot participate in the examination of his/her own assessment.

(3) The decision of the Qualification Board shall be issued in written form and shall be signed by the Board's Chairman and members who had taken part in the session.

(4) The decision of the Qualification Board and the materials that support the Board's proposal shall be submitted to the Superior Council of Prosecutors for validation.

Article 123. Appealing against the decision

The decision of the Qualification Board can be appealed against within 10 days before the Superior Council of Prosecutors.

Article 124. Information on the activity of the Qualification Board

The Qualification Board shall present to the Superior Council of Prosecutors an annual information on its activity, which shall be published on the website of the Public Prosecutor's Service.

SECTION 3
The capacity exam

Article 125. Lodging requests for taking the capacity exam

(1) The request for taking the capacity exam shall be lodged with the Superior Council of Prosecutors.

(2) The method of organizing and carrying out the capacity exam shall be set by a regulation approved by the Superior Council of Prosecutors.

Article 126. The capacity exam

(1) The capacity exam implies a verification of a candidate's theoretical and practical knowledge through written and oral tests.

(2) The person who has not passed the capacity exam may re-take the exam not sooner than after 6 months.

Article 127. The decisions of the Qualification Board

(1) Following the capacity exam, the Qualification Board shall adopt a decision on the successful passing or the failure to pass the exam.

(2) The results of the capacity exam, indicated in the decision of the Qualification Board, shall serve as a basis for the respective person's participation in the contest for filling in of the vacancies of the posts of prosecutors.

SECTION 4
The assessment exam

Article 128. The purpose of the assessment

The assessment of prosecutors serves the purpose of evaluating the professionalism of prosecutors, providing stimuli for raising their professionalism, and raising the responsibility in the exercise of prosecutorial functions.

Article 129. The assessment

(1) For a prosecutor's assessment, the chief-prosecutor of the respective prosecutor or a member of the Superior Council of Prosecutors shall prepare an assessment file, analyzing the prosecutor's professional and moral qualities and professional activity, and shall present the said file to the Qualification Board.

(2) The prosecutor must take notice of the assessment file 15 days prior to the assessment, at latest.

(3) The assessment shall take place in the presence of the person undergoing the assessment.

Article 130. The decision on the assessment

(1) Based upon the level of professional skills, the length of service and the work experience, the results of the professional activity, and, depending upon the case, the organizational capacities of the person undergoing the assessment, the Qualification Board may recommend to the Prosecutor General:

- a) to stimulate the prosecutor;
- b) to include the prosecutor in the staff reserves;
- c) to confer a qualification degree or a superior qualification degree;
- d) to repeat the assessment procedure within the period set by the Board, after the liquidation of the shortcomings discovered in the person's professional activity;
- e) to downgrade the prosecutor;
- f) to dismiss the person from the post of prosecutor in case of insufficient training, that was revealed during the assessment.

(2) The results of the assessment shall be brought to the knowledge of the prosecutor immediately after the adoption of the decision.

Chapter XVI

Election of members of Superior Council of Prosecutors, Qualification Board, Disciplinary Board

Article 131. Principles of election

(1) The election of members of Superior Council of Prosecutors, Qualification Board, Disciplinary Board shall take place according to the proportional representation principle. The prosecutors' election rights shall not be hindered.

(2) The Superior Council of Prosecutors shall set up the Election Commission composed of 6 persons which shall examine and approve the voting results. Members of the Commission shall appoint the Chairman of the Commission.

(3) The prosecutors wishing to become members of the Superior Council of Prosecutors, Disciplinary Board or Qualification Board shall lodge a request to be considered as candidates, addressed to the Chairman of the Election Commission, and shall support their application with the following documents:

- a curriculum vitae;
- a current declaration on income.

The prosecutor-candidate must have worked at least 5 years as prosecutor.

(4) The date for the voting on members of the Council, Disciplinary Board or Qualification Board shall be announced with at least 90 days before the expiry of the mandate of the members. The date shall be posted on the website of the Public Prosecutor's Service.

(5) The members of the Superior Council of Prosecutors, Disciplinary Board or Qualification Board mentioned at art. 82 paragraph (3), art. 101 paragraph (1) and art. 117 paragraph (1) shall be elected on the basis of a list of candidates containing a minimum of 10 persons.

(6) The prosecutors who have accumulated the greater number of votes shall be considered elected as members of the Superior Council of Prosecutors, Disciplinary Board or Qualification Board.

(7) If several candidates accumulate an equal number of votes, repeated elections shall be organized with participation of the candidates with the same number of votes.

(8) The manner of holding the initial elections of the members of the Superior Council of Prosecutors shall be established by the Election Commission appointed by the Board of the Public Prosecutor's Service.

(9) The Superior Council of Prosecutors shall elaborate and approve the regulation on elections.

Article 132. The filling in of vacancies.

In case of termination of a Superior Council of Prosecutors member's mandate, the election and appointment of a new member shall be made in a term of 30 days from date of vacancy, according to the procedure of election established by law.

Article 133. Ensuring of activity of the Superior Council of Prosecutors, Disciplinary Board and Qualification Board

The activity of the Superior Council of Prosecutors, Disciplinary Board and Qualification Board shall be ensured by Human Resources Division and the Division on Internal Security of the General Prosecutor's Office.

Article 134 Secretarial works

(1) The agenda for the sessions shall be posted 6 days in advance on the website of the Public Prosecutor's Service. The decisions of the Superior Council of Prosecutors, of the Qualification Board, and of the Disciplinary Board shall be posted on the website of the Public Prosecutor's Service.

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

(3) The minutes shall be defined within 6 days after the session and shall be signed by the president of the session and by the secretary.

**TITLE IV
AUXILIARY PERSONNEL AND THE BUDGET OF THE PUBLIC PROSECUTOR'S
SERVICE**

**Chapter XVII
The specialized auxiliary and technical personnel**

Article 135. The specialized auxiliary personnel

(1) The Public Prosecutor's Service employs auxiliary personnel specialized in law, economy and administration, having the status of public servant.

(2) The specialized auxiliary personnel of prosecutor's offices is composed of: prosecutor's consultants, main specialists, coordinating specialists, and specialists.

(3) The specialized auxiliary personnel of prosecutor's offices is obliged, during its entire activity, to respect human rights and freedoms, as well as the equality of people before the law, to observe deontological norms of the profession and to participate in the continuous training.

(4) The organisation and functioning of the auxiliary departments of the Public Prosecutor's Service, as well as the functions of the personnel of those departments, shall be set forth by a regulation approved by the Prosecutor General.

Article 136. Conditions for appointment

To be appointed in the position indicated in Article 135 paragraph (2) of the present law, a person that meets the following conditions:

- a) to have the citizenship of the Republic of Moldova, to be domiciled on its territory and have full legal capacity;
- b) to have no criminal record and a good reputation;
- c) to know the state language;
- d) to be capable, from the medical point of view, to exercise this position;
- e) to have specialized higher or secondary education , and to show appropriate theoretical knowledge;
- f) to have computer or typing skills.

Article 137. The appointment

(1) The appointment of specialized auxiliary personnel shall be done on contest basis, organized at the level of prosecutor's offices.

(2) The method of organizing and carrying out the contest shall be stipulated in the regulation approved by the Prosecutor General.

(3) Persons, who successfully pass the contest, shall be appointed to the position by the Prosecutor General, at the suggestion of the chief-prosecutor of the respective prosecutor's office, after taking the oath as prescribed by law.

Article 138. The rights and the obligations

(1) The rights and obligations for the auxiliary personnel shall be established, taking in due account its place and role in the activity of the Public Prosecutor's Service, the complexity and the liabilities that are inherent for each post, the prohibitions and incompatibilities provided for by the law for the persons employed in public institutions.

(2) For the performed work, the specialized auxiliary personnel has the right:

- a) to adequate salary, established according to the level of the respective prosecutor's office, and according to the post held, to the length of service and in the office, and to other criteria set up by the law;
- b) to continuous training. The training and professional enhancement of the specialized auxiliary personnel shall be implemented according to the regulation approved by the Prosecutor General;
- c) to the freedom of association or to accede to trade unions, as well as to local, national or international professional organizations, in order to protect his/her professional, social and economic interests;
- d) to be promoted according to his/her professional training and individual qualities;
- e) to enjoy yearly a paid leave, medical leave, unpaid leave, leave for studies or for other cases, as well as other rights pursuant to the legislation in force.

(3) The specialized auxiliary personnel has the obligation to carry out their duties in a professional and impartial manner, in accordance with the law, and to abstain from any act, which might cause prejudices to natural or legal persons, or the prestige of the Public Prosecutor's Service.

(4) The positions held by the specialized auxiliary personnel are incompatible with any other public or private positions, save for teaching positions, as prescribed by the law.

Article 139. The technical specialized personnel.

(1) The technical specialized personnel shall not enjoy the status of public servant. The employment conditions for the technical specialized personnel shall be regulated by the labour law.

(2) The leadership of public prosecutor's offices shall organise the activity of the technical specialized personnel, shall appoint, promote, transfer and dismiss them, as well as shall apply disciplinary sanctions and incentives to the technical specialized personnel.

Chapter XVIII

The budget of the Public Prosecutor's Service, organization of the activity of prosecutor's offices

Article 140. The budget of the Public Prosecutor's Service

- (1) The activity of the Public Prosecutor's Service is financed from the state budget.
- (2) The budget of the Public Prosecutor's Service is approved by the Parliament in the process of approving the budget for the respective year.

Article 141. Organizational and technical-material assistance to prosecutor's offices

- (1) The central and local public administration authorities are obliged to provide the prosecutor's offices with premises to carry out their functions.
- (2) The General Prosecutor's Office shall provide prosecutor's offices with operative technical and forensic equipment, telecommunications equipment and computers, and with official vehicles from the state budget.

Article 142. The dress code

- (1) The state shall provide the prosecutor with a uniform free of charge.
- (2) In the exercise of his/her functions, the prosecutor is obliged to have the attire prescribed by law.

Article 143. The economic-financial and administrative management of prosecutor's offices

The economic-administrative service of the General Prosecutor's Office has the following main functions:

- a) is responsible for the economic-financial management of prosecutor's offices;
- b) organizes the drafting, motivation and submission to the Prosecutor General of the draft annual budgets;
- c) organizes the record-keeping, keeps registries of all the buildings of the Public Prosecutor's Service, and of other assets thereof;
- d) ensures the supply of maintenance and household equipment, assets and inventory items or other effects necessary for the optimal exercise of prosecutorial activities;
- e) ensures the maintenance and proper functioning of buildings, technical-sanitary heating systems, and other goods and inventory items on record;
- f) ensures the order, tidiness and integrity of the assets of prosecutor's offices;
- g) takes measures to prevent the occurrence of fires and measures to mitigate the consequences of calamities;
- h) exercises other competences as prescribed by the law.

Article 144. The Registry and the archive

The Registry and the archive provide the secretarial services during the exercise of the attributions of the Public Prosecutor's Service, ensure the record-keeping, registration and examination of petitions, materials and other documents, and the control over their examination and storage in the archive.

Article 145. Statistical information

The General Prosecutor's Office, through its specialized subdivisions, ensures:

- a) the collection, processing, systematization, analysis, distribution and publication of statistical information on the state of criminality and the activity of prosecutor's offices;
- b) the coordination of the statistical activity of all prosecutor's offices in accordance with existing statistical standards;
- c) the management of statistics, the analysis of statistical information, the drafting of forecasts, the calculation of current and prospective estimations and the development of proposals;
- d) the drafting of statistical methodology.

Article 146. The international relations

The Public Prosecutor's Service may have direct international relations, conclude contracts and sign agreements with similar foreign institutions, in the limits set by the law.

Article 147. The seal

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

Article 148. The guard

(1) Prosecutor's offices dispose of a police subdivision placed in their service free of charge by the Ministry of Internal Affairs, which ensures the guarding of premises and assets owned by prosecutor's offices, the security of the personnel, the public order within the premises of prosecutor's offices, and checks the persons at the entrance to and exit from the building, including body searches, and exercises other functions as prescribed by the law.

(2) The staff of the police subdivision shall be approved by the Government upon a proposal submitted by the Prosecutor General.

(3) Police officers appointed to guard prosecutor's offices are subordinated to the leadership of respective prosecutor's office.

(4) State guarding of the General Prosecutor's Office headquarters, its subdivisions and, if necessary, of the Prosecutor General shall be provided as prescribed by the law.

Title IV FINAL PROVISIONS

Article 149. Entry into force of the present law

(1) The present law comes into force on the date of its publication

(2) Article 39 paragraph (7) shall enter into force upon first course graduation from the National Institute of Justice.

Article 150. Bringing the legislation in conformity with present law

Within 3 months the Government:

a) will submit to the Parliament proposals for the bringing of current legislation in conformity with present law;

b) will bring its normative acts in conformity with present law.

Article 151. Abrogation of legislative acts

On the date of entry into force of the present Law shall be abrogated:

Law No. 118-XV of 14.03.2003 on Public Prosecutor's Service;

Law No. 920-XIII of 11.07.1996 on special ranks and military ranks of the employees of the Public Prosecutor's Service in the Republic of Moldova;

Law No. 921-XIII of 11.07.1996 on stimulation of prosecutors and investigators from prosecutor's offices and their disciplinary liability.

CHAIRMAN OF THE PARLIAMENT