

This Regulation establishes the functioning and organization of the Superior Council of Prosecutors (hereafter referred to as the „Council”).

## **1. Statute of the Superior Council of Prosecutors**

1.1 The Council shall be an independent, representative and self-governing body for prosecutors and shall be a guarantor of their independence and impartiality.

1.2 The Council is a legal person and shall be set up in order to take part in the establishment, functioning and self-governing of the Public Prosecution system.

1.3 The Council shall have the powers defined in the Law on the Public Prosecution Service, other legislative and regulatory acts and this Regulation.

1.4 The Council shall perform its activity based on the principles of:

- lawfulness;
- transparency;
- predictability.

The Council shall act under the Constitution of the Republic of Moldova, the Law on the Public Prosecution Service, this Regulation, other legislative and regulatory acts and the international treaties to which the Republic of Moldova is a party.

1.5 The Council shall be a collegial body carrying out its duties in plenary sessions.

1.6 The Council shall have its own budget. The budget of the Council shall be prepared by the Council and shall be submitted to the Ministry of Finance in order to be included in the State budget.

1.7 The Council shall have its registered office in Chisinau Municipality.

## **2. Membership of the Superior Council of Prosecutors**

2.1 The Council membership shall be established under the Law on the Public Prosecution Service.

2.2 The Council members shall be elected for a four-year term. A prosecutor's membership in the Council shall be included in their length of service period.

2.3 The term of office shall begin from the date of expiry of his/her predecessor's term or, where applicable, from the election day, if the elections were held after the expiry of that predecessor's term. The elected Council member shall continue to hold office until a successor has taken that office.

2.4 The candidate running for election to the Council to represent the civil society must meet the following requirements:

- to be a recognized authority in its field of activity;

- to enjoy an outstanding reputation;
- not to have been declared guilty for having committed an offense.

A prosecutor who has been sanctioned under disciplinary proceedings in the last year until the date of the General Assembly of Prosecutors may not run as a candidate for membership of the Council.

2.5 The organisation and conduct of the elections for membership in the Council from among prosecutors, as well as the voting procedure shall be established by the Regulation of the General Assembly of Prosecutors.

2.6 Prosecutors who have collected the largest number of votes in the General Assembly of Prosecutors shall be deemed elected as members of the Council. The results of the elections are subject to validation by the General Assembly by a simple majority vote of the prosecutors present at the meeting. If several candidates among those who are within the limits of the admission threshold collect an equal number of votes, the Election Commission shall organize, on the same day, the second round of elections only for the candidates with the same number of votes. The ballot papers shall be printed on the spot by the Election College.

2.7 The prosecutors on the candidate list who do not have access to the position of member in the Council shall become alternate for the position for which they applied and shall substitute the vacancy occurring during the term of office in the descending order of the number of votes gathered. The vacancy of the position of member of the Council shall be ascertained by a decision of the Council. The alternate shall act for the remaining term of the substituted prosecutor.

2.8 The prosecutor elected in the position of member of the Council shall go on secondment for the duration of the term of office until that office has been taken. The files and documents managed by the prosecutor on secondment as a member of the Council shall be transmitted to another prosecutor.

2.9 The members elected in the Council from among prosecutors shall be seconded by the General Prosecutor under a decision of the General Assembly of Prosecutors, at least one day before they have taken office if the prosecutor has been elected until the expiry of the four-year term of his/her predecessor or on the working day following the decision to elect the prosecutor if the election took place after the expiry of the four-year term of his/her predecessor.

2.10 The prosecutor elected in the Council who hold a management position within the Public Prosecution Service on the election date shall lose this position on the date of his/her secondment to the Council and this position shall become vacant.

2.11 In the event of a vacancy of the position of member by right of the Council, that member's tasks within the Council shall be carried out by the deputising person.

2.12 In the event of a vacant position of the member of the Council from among the civil society representatives, the Council shall inform immediately the authority which elected them and shall request for an alternate for that vacancy.

2.13 The member elected in the Council may not hold two consecutive offices.

2.14 The prosecutor who is a member of the Council shall not carry out any other remunerated function, except for teaching, creation, scientific or sport activities.

2.15 The member of the Council elected from the civil society, including lawyers, may carry out, in addition to the functions listed under Section 2.14, functions that are remunerated within non-commercial organisations.

2.16 The rights and obligations of the Council members shall be established under Articles 74 and 75 of the Law on the Public Prosecution Service and this Regulation.

2.17 The position of member of the Council shall cease by right in the cases referred to in Article 76(1) (a)-(g) and (j) of the Law on the Public Prosecution Service. In the cases referred to in Article 76(1)(h) and (i) of the Law on the Public Prosecution Service, the term of office shall end by the adoption of a decision of the Council.

2.18 In the cases referred to in Section 2.17, the Council shall adopt a decision to ascertain the vacancy and shall request from the General Prosecutor to appoint on secondment the alternate prosecutor.

2.19 In the event that incompatibility arises during the term of office, the Council member shall notify immediately the president of the Council, who shall decide thereon until the following Council meeting. If the incompatibility case has not been settled until the Council meeting, this matter shall be dealt with during the following Council meeting.

2.20 During their mandate, and for 6 months after it has ended, Council members may not take part in competitions to be designated or promoted in the position of prosecutor, including in the position of General Prosecutor. This rule shall not be applicable to the persons who deputise for the lawful members of the Council.

2.21 Upon the expiry of the period for which the prosecutor was seconded, he/she shall carry further his/her functions in any vacancy as a prosecutor, at his/her choice, except for the position of chief prosecutor.

### **3. Composition of the Superior Council of Prosecutors**

3.1 The following shall act under the remit of the Council:

- a) the College for Prosecutors' Selection and Career;
- b) the College for the Assessment of the Prosecutors' Performances;
- c) the College of Discipline and Ethics.

3.2 The Council has an administrative apparatus which ensures the operation of the Council and of its subordinated colleges.

3.3 The Council apparatus shall comprise public servants and technical staff. The Council apparatus shall be led by the head of the Apparatus elected by the Council based on a public competition.

3.4 The composition, the staff charts, the duties and the activity of the Council apparatus shall be decided by a Regulation approved by the Council.

3.5 The Council apparatus shall have the following main duties:

- a) to organize the performance and documentation of the works and meetings of the Council and of its subordinated colleges;
- b) to ensure the publication of decisions on the website and the preparation of minutes for the meetings of the Council and of its colleges;
- c) to be in charge with the correspondence of the Council;
- d) to keep the Registers and to archive the documents of the Council and of its subordinated colleges;
- e) to coordinate the preparation of the Council's Activity Programme;
- f) to assist the Council in international relations and to carry out the protocol;
- g) to ensure the collaboration with the public institutions under the lawful provisions;
- h) to represent the Council in courts;
- i) to organize the activity of the General Assembly of Prosecutors.

3.6 The President and the Council members shall provide for the allocation of duties among the Council members.

3.7 The Council may set up advisory commissions by relevant fields. The members of the advisory commissions may be the members of the Council and, on a voluntary basis, prosecutors and other specialists.

#### **4. Powers of the Superior Council of Prosecutors**

4.1 The Council shall have the powers defined in the Law on the Public Prosecution Service, other legislative or regulatory acts and this Regulation, including:

**I. - as regards to the preparation/approval/coordination of regulatory acts:**

- a) preparing and approving regulations relating to its activity, to the functioning of its subordinated colleges and other regulations that concern it;
- b) preparing and approving the regulations of procedure for the prosecutors' selection and career;
- c) preparing the draft regulation of the General Assembly of Prosecutors, including its draft amendments;
- d) endorsing the draft annual priorities for the activity of the Prosecutors' Office, prepared by the General Prosecutor;
- e) participating in the preparation of the strategic development plans of the Public Prosecution Service;

f) endorsing the General Prosecutor's proposal addressed to the Parliament with regard to the establishment of the total number of prosecutors within the Public Prosecution Service and, upon the proposal of the General Prosecutor, establishing the number of prosecutors in each prosecutors' office.

g) expressing a written consent on the internal structure of the General Prosecutors' Office, the specialized prosecutors' offices and the territorial prosecutors' offices, including their headquarters, as decided by the General Prosecutor;

h) approving the apparatus of the Superior Council of Prosecutors;

i) approving the strategy on the initial and further training of prosecutors and submitting the approval on the action plan for the implementation of this strategy;

j) reviewing and submitting opinions on the regulation of organisation of the competition for admission to the National Justice Institute, on education programmes and teaching plans for the initial and further training courses held by the National Justice Institute, on the regulation of organisation of the competition for substituting the teaching position, as well as on the composition of the commissions for admission and graduation exams of the National Justice Institute;

k) coordinating the Order of the Minister of Health on the requirements concerning the health and the procedure for establishing the health status of candidates to the position of prosecutor and of acting prosecutors, including the list of diseases prohibiting the exercise of the prosecutor's duties.

## **II. - as regards the prosecutors' career:**

a) making proposals to the General Prosecutor on the appointment, promotion, secondment or suspension of prosecutors in accordance with the Code of Criminal Procedure, the Law on the Public Prosecution Service and other legislative acts, as well as on the dismissal of prosecutors;

b) initiating checks in the selection of prosecutors pursuant to Law No. 271-XVI of 18 December 2008 on the checks of holders of and candidates to public positions and Law No. 269-XVI of 12 December 2008 on the application of the lie detector (polygraph) test;

c) initiating and organizing the competition for the selection of the candidate for the position of General Prosecutor, which it proposes to the competent authority;

d) proposing to the competent authority, under the Law on the Public Prosecution Service, to dismiss the General Prosecutor before the expiry of his/her term of office;

e) participating in the taking of oath by the prosecutors and by the General Prosecutor;

f) expressing its written consent in the appointment of the General Prosecutor's deputies;

g) laying down rules on the combination of the position of prosecutor with other teaching and scientific activities;

h) establishing the number of vacancies available for the admission competition for the initial training of prosecutors within the National Justice Institute;

i) examining the objections lodged against the decisions of the College for the Assessment of the Prosecutors' Performances and of the College for the Prosecutors' Selection and Career.

### **III. - as regards to the compliance by prosecutors with the discipline and ethics rules:**

a) preparing the draft Code of Ethics for prosecutors and its draft amendments and proposing them to the General Assembly of Prosecutors for approval;

b) initiating disciplinary proceedings with regard to prosecutors (if criminal proceedings are initiated with regard to a prosecutor, after all the important steps have been taken, the General Prosecutor shall notify the Council in view of initiating disciplinary proceedings with regard to the prosecutor subject to the criminal investigation);

c) reviewing the objections lodged against the decisions of the College of Discipline and Ethics;

d) approving the distinctions of the Prosecutors' Office and applying measures to encourage prosecutors or, where applicable, submitting proposals to decorate them with state distinctions;

e) establishing the model for the prosecutors' robe and its distinctive signs;

f) approving the prosecutor's service card template.

### **IV. - as regards to designating the Council representatives within various authorities:**

a) organizing competitions, selecting and designating the members of subordinated Colleges among the civil society, including their alternates;

b) designating and revoking prosecutors from the Council of the National Justice Institute;

c) designating the prosecutor initiating criminal investigation against the General Prosecutor;

d) designating a representative in the Integrity Council;

e) designating a member in the State Commission for Polygraph Testing.

### **V. - as regards the budget:**

a) preparing and approving the draft budget that it will submit to the Ministry of Finance;

b) participating in the preparation of the draft budget of the Public Prosecution Service and endorsing it.

### **VI. - other fields of intervention:**



- a) reviewing the annual reports of its subordinated Colleges and submitting recommendations;
- b) convening the General Assembly of Prosecutors;
- c) endorsing draft legislative and regulatory acts of other authorities;
- d) endorsing the notifications of the General Prosecutor addressed to the Constitutional Court with regard to the constitutionality of parties;
- e) examining the citizens' and prosecutors' submissions on the matters under its remit;
- f) taking action, ex officio or upon a report, if it considers that a prosecutor's independence, impartiality or professional reputation has been affected in any way. If it takes action by virtue of its position, the Council shall previously consult the prosecutor concerned.

## **5. The President of the Superior Council of Prosecutors**

5.1 The President shall be elected from among the Council members elected among the prosecutors by secret ballot.

5.2 The President's term of office is four years, but it may end before its time subject to the requirements of the Law on the Public Prosecution Service and this Regulation.

5.3 The issue of the Council President's election shall be included on the agenda of the first meeting after the occurrence of the vacancy. The meeting for the election of the Council President shall be presided by the senior dean of the Council members who do not run for President.

5.4 The Council members who wish to run for President shall submit the following documents with the Council apparatus no later than the day prior to the day of the Council meeting:

- a) the application form;
- b) the opinion on the exercise of the office;
- c) other documents that the candidate may deem relevant.

5.5 Candidates shall be listed in the ballot paper in an alphabetical order. The head of the apparatus of the Council shall print the ballot papers according to the number of Council members.

5.6 At the meeting for the election of the President of the Council, each candidate shall be offered equal time to present their opinion on the activity to be performed as President of the Council. Each Council member may address questions to the candidates.

5.7 The secret ballot shall consist in filling in the ballot paper confidentially by each member of the Council present at the meeting and inserting it into the sealed ballot box. Postal voting shall not be possible.

5.8 The votes shall be counted by the head of the apparatus of the Council after the voting procedure. He/she shall show each ballot paper to the Council members.

5.9 The candidate who collected more than half of the votes of the acting Council members shall be deemed elected as President. If no candidate has collected the required number of votes, a second ballot shall be organized for the candidates who collected the highest number of votes in the first ballot. If no candidate has collected the required number of votes during the second ballot, a third ballot shall be organized for those two candidates. If no candidate has collected the required number of votes in the third ballot, the selection procedure shall be taken over from the beginning.

5.10 Following the count of votes for the election of the President, the Council shall acknowledge compliance with the procedure and the voting outcome. This decision shall be signed by the President of the meeting.

5.11 The President elected in the Council shall take office immediately after the Council decision under Section 5.10 has been announced.

5.12 The President of the Council shall have the duties provided for in the Law on the Public Prosecution Service and this Regulation, including:

- a) coordinating the draft agenda of the Council meeting;
- b) chairing the Council meetings;
- c) signing the documents issued by the Council;
- d) representing the Council in its internal and international relations and coordinating its activity;
- e) opening the meeting of the General Assembly of Prosecutors;
- f) convening and presiding the first meeting of the Colleges subordinated to the Council;
- g) submitting the annual activity report of the Council to the General Assembly of Prosecutors;
- h) designating, promoting, transferring and relieving the employees of the Council apparatus, applying incentive measures and disciplinary actions to them;
- i) organizing and implementing the financial management and internal control system of the Council;
- j) administering the budget and public assets under the management of the Council;
- k) allocating the citizens' and prosecutors' submissions concerning matters under the Council remit for reviewing purposes.

5.13 In the event of a member's temporary inability to exercise the functions of the President of the Council, his/her duties concerned shall be delegated under a Council decision to another member of the Council from among prosecutors.

5.14 The term of office of the President of the Council shall end in the cases referred to in Article 76 of the Law on the Public Prosecution Service by resignation or dismissal. The President's mandate shall end in any event at the first meeting of the newly elected Council.

5.15 The President of the Council shall announce his/her resignation from the position of President by submitting a written request addressed to the Council. The



resignation shall have effects as from the date of its acceptance by a Council decision.

5.16 The President of the Council may be dismissed by a decision of the Council adopted with the vote of 2/3 of its acting members.

5.17 If the position of President becomes vacant, the Council shall designate a member of the Council to deputise until a new President has been elected. The new President shall act for the remaining term of the substituted President.

## **6. The Council meetings**

6.1 The Council shall be a membership body carrying out its duties in plenary sessions.

6.2 The Council meetings shall be convened whenever necessary, however not less than once a month. As a rule, the date and place of the ordinary meeting of the Council shall be set at the preceding meeting of the Council. The Council shall be convened in an extraordinary meeting by notifying the President or based on a request submitted by at least three of the Council members.

6.3 The first meeting of the newly elected Council shall be convened by the General Prosecutor by an order issued within 10 working days as of the date of the General Assembly of Prosecutors when elections were held.

6.4 The agenda of the Council meeting shall be prepared by the head of the Council apparatus following a consultation with the President of the Council. Any member of the Council may propose topics to be placed on the agenda of the meeting at least three working days before the meeting. The agenda of the meeting shall be posted on the official website of the Council at least two working days before the date of the meeting.

6.5 The Council apparatus shall send the agenda of the meeting and the meeting materials to the Council members by e-mail at least two working days before the date of the meeting.

6.6 The issues that cannot be postponed shall be included in the additional agenda which, until the beginning of the Council meeting, shall be sent by e-mail to the Council members and shall be published on the official webpage of the Council.

6.7 The Council meetings shall be deliberative if at least 2/3 of the acting members participate in them. Participation in the Council meetings may be in person at the place of the meeting or by teleconferencing, provided that it is possible to identify the Council member and to confirm his/her voting option. Participation in the meeting by teleconferencing shall be recorded in the meeting minutes.

6.8 In case of issues that cannot be postponed, the Council members may decide, by the vote of at least 3/4 of the acting members, to adopt certain decisions by e-mail. Upon the adoption of the decision by e-mail, all of the Council members shall be presumed to be present.

The President of the Council shall send an e-mail to all the Council members, calling for the e-mail voting procedure and explaining the substance of the issues that cannot be postponed and the time limit for the Council members to indicate by e-mail whether they agree or not with the e-mail voting procedure.

If the required quorum is constituted, the e-mail voting procedure shall proceed with regard to the issue that cannot be postponed and a different date shall be set for the ballot.

If the decision is adopted by e-mail, the ballot shall be confirmed by an e-mail sent by the Council member concerned to the Council apparatus within the set time limit. The absence of an e-mail shall be deemed a vote against.

Decisions for approving regulatory acts, for competitions or objections to the Colleges' decisions may not be taken by e-mail.

6.9 The meetings of the Council shall be public. In order to comply with the regime of restricted information or privacy, the Council may decide, under a reasoned decision, to hold the meeting or part of it in camera. The information on the activity, career and assets of the prosecutor or candidate for the position of prosecutor shall not be deemed to be restricted or privacy-related information, except for the information deemed to be a state secret.

6.10 Only the Council members, the Council apparatus and the persons invited by the Council shall have access to the session held in camera. Under a Council decision, the persons affected by the matter subject to review may also take part in the sessions held in camera. The media shall not have access to the in camera sessions.

6.11 The person affected by the matter subject to review shall not be bound to participate in the Council meeting. Nevertheless, the Council may decide to invite or hear such persons if they appear at the Council meeting. In the case of a review of an objection lodged against the decisions of the colleges, the Council apparatus shall inform about the meeting the persons concerned by e-mail, phone or fax, however their absence does not prevent the objection from being reviewed.

6.12 The President of the Council shall ensure the smooth conduct of the meeting. The persons attending the Council meeting must display such behaviour as not to prevent the smooth conduct of the meeting. The Council may decide to remove from the meeting room the persons who fail to observe this rule. The Council members may not be removed by force from the meeting.

6.13 The President shall open the Council meeting and:

- a) shall state the existence or non-existence of the quorum;
- b) shall propose and listen to the proposals submitted by the members as regards including topics on the additional agenda of the meeting or excluding them from the agenda;
- c) shall propose to the Council members to approve the final agenda of the meeting, which is approved by a majority vote of the members present at the meeting.

6.14 The topics on the agenda shall be reviewed, as a rule, consecutively, as listed therein. The topics on the additional agenda shall be reviewed, as a rule, after all the topics on the initially published agenda have been discussed.

6.15 A Council member may not participate in the review of a topic on the agenda if there are circumstances that exclude his/her participation from the review of the topic concerned or that would raise doubts regarding that member's objectivity. In the event of such circumstances, that Council member must provide an abstention statement. Right after the meeting agenda has been approved, the President of the meeting shall ask the Council members whether they abstain.

6.16 When the abstentions are announced or until the review of the topic on the agenda, the attendants to the meeting may recuse that Council member verbally. The recusation may also be lodged in writing by submitting a request with the Council apparatus. It is not admissible to recuse the whole composition of the Council.

6.17 The recusation or the abstention statement must contain the underlying reasons.

6.18 The abstention statements or recusations shall be reviewed in the Council meeting and the decision adopted by the Council with regard thereto shall be included in the minutes of the Council meeting. The Council member whose recusation or abstention has been invoked may not participate in the review of the topic and shall leave the meeting room.

6.19 The topic on the agenda shall be reviewed starting with the presentation of the report on the topic concerned by the rapporteur member. The positions of the other members of the Council shall be heard afterwards. Then, the President shall announce that the voting procedure has started. After the Council members' opinions have been heard and until the voting procedure has started, the persons invited or present at the meeting may be interviewed. It is mandatory to hear the persons who lodged an objection against the decisions of the Colleges and who are present at the meeting.

6.20 The Council meetings shall be recorded using video/audio media. Videos from the meeting, except for the sessions or session parts held in camera, shall be broadcasted live on the official website of the Council. The video record of the meeting shall be stored on the official webpage of the Council. The meeting record shall be annexed to the meeting minutes.

6.21 The works of the Council shall be recorded in minutes. The minutes shall include records of: the presence of the Council members and of other persons, the summary of debates and the adopted decisions, as well as the allocation of votes.

6.22 The minutes shall be prepared by the secretary of the meeting within three working days as of the date of the meeting. They shall be signed by the President of the Council and the Secretary of the meeting. The minutes shall be posted on the official website of the Council after it has been signed. The minutes of the meetings or partial meetings held in camera shall not be published. Any person may obtain extracts of the minutes of a public meeting held by the Council.

6.23 Within five working days, the Council shall release, based on a written request, the video/audio records of a Council meeting.

## **7. The Council decisions**

7.1 The Council shall adopt decisions based on the open vote of the members, except for the cases provided for in this Regulation.

7.2 A member who has been recused, who abstained or was not present during the debates on the topic may not participate in the ballot. This shall be indicated in the meeting minutes.

7.3 The ballot shall start after the debates on the topic concerned have ended.

7.4 Until the ballot has started, the Council may reiterate the debate in the event of occurrences that are to be clarified additionally.

7.5 Decisions shall be adopted in public session, based on the open vote of the majority of the Council members present, except for the cases provided for by the law and this Regulation.

7.6 The Council members must vote for or against. The vote shall be exercised by raising the hand, subject to the exceptions defined by this Regulation. The President of the Council shall be the last to vote.

7.7 The Council decisions shall be reasoned. As a rule, a draft decision shall be prepared by the Council apparatus together with the rapporteur member until the date of the Council meeting. The final version of the reasoned decision shall be drafted within five working days as of the issuing date.

7.8 Any member of the Council shall be entitled to a separate opinion. A Council Member shall announce the delivery of a separate opinion right after the completion of the ballot. The separate opinion shall be prepared within three working days as of the date when the final version of the decision has been drafted.

7.9 The final versions of the Council decisions shall be signed by all the members attending the adoption of the decisions and shall be published on the official webpage of the Council within 10 working days. The decisions shall be signed by hand or, where applicable, by applying an electronic signature.

7.10 The Council decisions shall produce effects as of their issue date. Regulatory Council decisions shall produce effects as of the date of their publication on the official webpage of the Council.

7.11 The Council decisions which, in order to protect privacy, were adopted in camera, shall be published on the webpage of the Council and shall have the privacy related information removed. The other decisions adopted in camera shall be published in their original versions.

7.12 The Council decision shall be sent by e-mail to the prosecutors referred to in the decision within three days as of the signing date. The decision shall be sent to the other persons or institutions by e-mail or, where applicable, by regular mail.

7.13 The Council decisions may be subject to objections lodged with the Supreme Court of Justice by any party whose right has been violated within 10 working days as of the date when the decision was received.

7.14 Appeals lodged against the Council decisions shall be reviewed by the panel of judges reviewing appeals against the decisions of the Superior Council of Magistracy.

## **8. Review of topics on selection and career**

8.1 The Council apparatus shall hold the Register of candidates for the position of substitutes for vacancies (hereafter referred to as the Register). The Register shall be approved by the Council and shall include the following sections:

- a) the list of candidates for the vacant prosecutor positions;
- b) the list of prosecutors requesting transfer to another prosecutors' office;
- c) the list of prosecutors requesting designation as chief prosecutor or deputy chief prosecutor in the territorial prosecutors' office;
- d) the list of prosecutors requesting designation as chief prosecutor or deputy chief prosecutor in the specialized prosecutors' office;
- e) the list of prosecutors requesting designation in the position of head of the General Prosecutors' Office subdivision.

8.2 Each section of the Register shall include:

- a) the candidate's/prosecutor's surname and first name;
- b) the number, decision date and score achieved with the College for the Assessment of the Prosecutors' Performances - in the case of prosecutors, the general average mark obtained with the National Justice Institute - in the case of attendants to the Institute, or the mark in the exam taken before the Graduation Commission of the National Justice Institute - in the case of persons provided for under Article 20(3) of the Law on the Public Prosecution Service;
- c) the number and date of the decision of the College for the Prosecutors' Selection and Career and the score obtained;
- d) other relevant data.

8.3 The Register shall be prepared in the Romanian language, it shall be kept in electronic form and shall be available on the official webpage of the Council. The Council apparatus shall update the Register on a weekly basis.

8.4 The graduates of the National Justice Institute and the persons referred to in Article 20(3) of the Law on the Public Prosecution Services shall submit to the Council Apparatus the documents listed under Article 22(2)(a)-(f), (h) and (j) of the Law on the Public Prosecution Service. After they submitted the documents, the candidates shall be sent by the Council to be subjected to the lie detector (polygraph) test and to be examined in terms of health. The health certificate shall be submitted by the candidate to the Council. The outcome of the lie detector (polygraph) test shall be submitted to the Council by the authority of the polygraph tester who conducted the test.



8.5 After having submitted the documents under Article 22(2)(a)-(f), (h) and (j) of the Law on the Public Prosecution Service, the Council shall notify the candidate on the initiation of the procedure under Law No 271 of 18 December 2008. The candidates' verification document for the position of prosecutor shall be valid for two years.

8.6 After having received all the documents referred to in Article 22(2) of the Law on the Public Prosecution Service, the Council apparatus shall enter in the Register the candidate for the position of prosecutor. Candidates who are medically unable and those who have not passed the simulated behaviour detector test shall not be included in the Register.

8.7 The health certificate on the state of health shall be valid for 12 months as of the issue date. If, during the validity of the certificate, the candidate has not been appointed, he/she shall repeat the medical examination.

8.8 An acting prosecutor who wishes to be transferred or promoted to the specialized prosecutors' office or the General Prosecutors' Office shall be entered in the Register by the apparatus of the Council if he/she has been subject to the evaluation of performances in the past two years before the submission of the application. A prosecutor who wishes to be appointed as head prosecutor or deputy head prosecutor shall be entered in the Ledger if he/she has been subject to the evaluation of performances in the last year before the submission of the application for enrolment in the Register.

8.9 Negative opinions issued under Law No 271 of 18 December 2008 shall be reviewed at the Council meeting. In the event of doubts concerning their soundness, the Council shall request from the Prosecutors' Inspectorate to check the information included in the opinion. After having received the review document of the Prosecutors' Inspectorate, the Council shall decide whether the candidate is to be entered in the Register.

8.10 Before being entered in the Ledger, the prosecutor shall be subjected to a health examination. If the Prosecutor has been found medically unfit, the Council shall notify the General Prosecutor in order to cease employment.

8.11 Enrolment in the Register takes place regardless of the existence of vacancies on the date of the enrolment.

8.12 Exclusion from the Register shall take place:

- a) upon the candidate's written request;
- b) upon termination of the prosecutor's employment in circumstances that are outside the parties' will;
- c) upon the prosecutor's being released from their duties;
- d) upon appointment for the office he/she runs for;
- e) upon expiry of the time limit for the evaluation of performances, as referred to in Section 8.8;
- f) upon the application of the disciplinary sanction by the body referred to in Article 39 of the Law on the Public Prosecution Service;



g) upon finding the prosecutor's incompatibility with his/her post under a final document;

h) when no option has been expressed for the vacancies announced during the competition in which he/she participated.

8.13 Vacancies are announced and filled in accordance with Article 24 of the Law on the Public Prosecution Service. Once a vacancy has occurred, it shall be filled upon the following competition.

8.14 As a rule, the Council shall announce a competition once every 6 months. Vacancies filled by transfer shall be announced separately from those filled by candidates to the position of prosecutor. Competitions are announced by a notice posted on the Council's webpage.

**a) the competition for appointment or employment by transfer**

8.15 The candidates for the position of prosecutor or the prosecutors requesting a transfer shall participate in the competition if they are entered in the Register on the date when the notice of competition was posted. Candidates entered in the Register shall be subsequently evaluated by the College for the Prosecutors' Selection and Career. In the event of the candidate's unjustified absence before the College for the Prosecutors' Selection and Career or his/her refusal to be evaluated, the candidate shall be excluded from the Register and he/she shall be entered again in the Register only in accordance with the general procedure.

Only prosecutors who occupy a position in a prosecutors' office of the same level as the one where they wish to be transferred shall take part in the competition for filling vacancies by transfer.

8.16 The College for the Prosecutors' Selection and Career shall send the result of the candidates' evaluation to the Council apparatus together with the information about the persons who failed to appear before the College or who refused to be evaluated. The Council apparatus shall enter the corresponding notes in the Candidates' Register.

8.17 After having published on the website the changes referred to under Section 8.16 of the Candidates' Register, the Council apparatus shall notify all the candidates who were subject to evaluation under the competition referred to in Section 8.15 in order to choose the vacant positions. The candidates shall express their option verbally in a meeting.

If the candidate is unable to take part in the meeting, he/she shall express his/her option by e-mail and send it to the Council apparatus by the date when the candidates are convened. The candidate shall express several options in the e-mail. The options contain the vacancies selected by the candidate, which shall be indicated in the decreasing order of preferences. If the candidate who expressed his option by e-mail appears for the competition, the option expressed verbally at the meeting shall take precedence.

The candidate running for prosecutor must express his/her option for all the vacancies announced for competition. Otherwise, the candidate shall be excluded from the Register with the consequences set out in Section 8.15.

8.18 Candidates running for prosecutor shall choose the advertised posts in the decreasing order of the score they obtained. In case of an even score, the first candidate to choose shall be the one who obtained the best overall average mark at the National Justice Institute. If this mark is also even, candidates shall express their option for a number of posts equal to the number of candidates with an equal score, and the Council shall decide on the specific vacancies to be filled by these candidates.

The prosecutors requesting to be transferred shall choose the advertised posts by transfer as provided for in the preceding paragraph. In the event of an even score, the first candidate to choose shall be the one with the highest score allotted by the College for the Assessment of the Prosecutors' Performances;

8.19 The head of the Council Apparatus shall be responsible for the organisation and carrying out the procedure referred to in Sections 8.13, 8.16 and 8.17. The event shall be video/audio recorded. Within one working day as of the end of the event, the Council apparatus shall prepare minutes recording the options expressed by each candidate and the result of the competition. The video/audio record of the event shall be annexed to the minutes. The Council shall be informed about the minutes.

8.20 The rules under this section also apply accordingly to the eligible prosecutors who want to be promoted to a higher level prosecutors' office.

**b) the competition for the position of chief prosecutor, deputy chief prosecutor and head of the General Prosecutors' Office subdivision**

8.21 Candidates enrolled in the Register until the date indicated in the Council decision shall participate in the competition for the position of chief prosecutor, deputy chief prosecutor and head of the General Prosecutors' Office subdivision. Any eligible prosecutor, whether he/she performs his/her duties in that prosecutors' office or not, may participate in this competition. The prosecutor applying for several positions shall be assessed by the College for Selection and Career for each position for which he/she applies.

8.22 The candidate obtaining the highest score in the competition shall be deemed selected. In the event of an even score, the candidate who obtained the highest score shall be deemed selected by the College for the Assessment of the Prosecutors' Performances. The Council apparatus shall inform the Council about the candidate who obtained the highest score. In the event of an even score awarded by the College for the Assessment of the Prosecutors' Performances, the Council shall designate the winner of the competition.

8.23 The result of the competition indicated under Section 8.18 shall be published on the official webpage of the Council within one working day as of the day when the Council apparatus has drafted the minutes. The result of the

competition indicated under Section 8.22 shall be published on the official webpage by the Council apparatus within two working days as of the identification of the winner.

8.24 The Council shall make proposals to the General Prosecutor for appointments in the position of prosecutor, chief prosecutor, deputy chief prosecutor and head of the General Prosecutors' Office subdivision, as well as for promotions or transfers in accordance with the results of the competition recorded in the minutes. By a decision, the Council may refuse a candidate's proposal to be appointed in the position of prosecutor if it finds that the candidate concerned is incompatible with that position. As a rule, the refusal shall be expressed after the candidate has been heard. The Council shall indicate in the decision the circumstances substantiating the refusal and shall deliver to the candidate the copy of documents confirming such circumstances.

8.25 The General Prosecutor may justifiably refuse the appointment, promotion or transfer if he/she finds that the candidate is incompatible with the position of prosecutor. The General Prosecutor shall submit to the Council and deliver to the candidate the copy of the issued document and of the documents confirming such circumstances.

8.26 Upon receipt of the reasoned refusal of the appointment from the General Prosecutor, the Council shall issue an order to the Prosecutors' Inspectorate or the Council apparatus to check the circumstances claimed in the refusal and shall request the submission of written conclusions in respect thereof. The written conclusion of any of the above shall refer to each circumstance indicated in the refusal and shall be submitted within the time limit set by the Council.

8.27 The Council may only propose the candidate repeatedly at the latter's request. The candidate's opinion shall be submitted in writing until the topic has been included on the agenda of the Council meeting.

8.28 If, during the checks, circumstances have been established confirming that the candidate does not meet the requirements of the Law on the Public Prosecution Service in order to apply for the position of prosecutor, or the candidate does not request the repeated proposal, he/she shall be excluded from the Register of candidates and, in the case of an acting prosecutor, the dismissal procedure shall be initiated.

8.29 The Council decision may be subject to an appeal before the Supreme Court of Justice only with reference to the part concerning the adoption procedure.

8.30 If the Council considers that the reasons invoked in the refusal are not substantiated, it shall propose repeatedly the same candidature based on the vote of 2/3 of its acting members. This proposal shall state the reasons for which the Council considers that the circumstances invoked in the refusal are unfounded. The proposal is mandatory for the General Prosecutor who, within five working days as of the receipt of the proposal, shall issue the appointment order.

8.31 Within three months before the expiry of the term of office, but not later than 15 days before the expiry of that term of office, the chief prosecutor of the General Prosecutors' Office subdivision, the chief prosecutor or the deputy chief prosecutor of the prosecutors' office shall choose a prosecutor's vacancy from the list of vacancies published by the Council, other than the management vacancies. The choice of the selected function shall be expressed in writing.

Prosecutors shall choose their vacancies in the following consecutive order:

- a) General Prosecutor;
- b) President and Council members;
- c) the deputy General Prosecutor and the chief prosecutor of the specialized prosecutors' office;
- d) the chief prosecutor of the directorate of the General Prosecutors' Office and the deputy chief prosecutor of the specialized prosecutors' office;
- e) the chief prosecutor of the General Prosecutors' Office Department;
- f) the chief prosecutor of the regional prosecutors' office;
- g) the deputy chief prosecutor of the regional prosecutors' office.

In the event of an even situation according to the criteria under the previous paragraph, priority shall be given based on the order of expiry of the term of office. If this criterion is not enough, priority shall be given based on length of service in the prosecutor's position, to be calculated in days.

8.32 If the chief prosecutor has not selected a vacancy within the time limit indicated under Section 8.31 or has not occupied another management function within the competition framework, the Council shall propose to the General Prosecutor to release the former chief prosecutor or his/her deputy from their duties.

## **9. Review of objections lodged against the decisions of the colleges**

9.1 The decisions adopted by the College for the Prosecutors' Selection and Career, the College for the Assessment of the Prosecutors' Performances and the College of Discipline and Ethics (hereafter referred to as Council colleges) may be contested before the Council within five working days as of the date of the decision concerned. The five day time limit is a limitation period. Upon the expiry of the time limit for the objection submission, the decisions of the College shall become irrevocable.

9.2 A decision of the College for the Assessment of the Prosecutors' Performances and of the College for the Prosecutors' Selection and Career may be contested by the person with regard to whom the respective decision was adopted. A decision of the College of Discipline and Ethics may be contested by the prosecutor with regard to whom such decision was adopted, by the person who submitted the notification and by the Prosecutors' Inspectorate.

9.3 Objections shall be lodged with the apparatus of the Council in person, by courier, by regular mail or by sending an e-mail to the official address of the Council apparatus. All the evidence shall be annexed to the objection.

9.4 Within five days as of the receipt of the objections lodged against the decisions of the College of Discipline and Ethics, the Council apparatus shall inform the party, other than the one who lodged the objection, about the objection and shall send them a copy of that objection.

9.5 The objections lodged against the decisions adopted by the colleges shall be reviewed by the Council, as a rule, at the following Council meeting, however within not more than one month as of the date of their registration with the Council apparatus.

9.6 The day, time and place of the review of the objection shall be communicated at least three working days before the date of the meeting to the prosecutor referred to in the contested objection, to the candidate to the position of prosecutor who submitted the complaint, to the inspector and to other persons. The Council apparatus shall send the notice of meeting by telegram, e-mail or regular mail. The absence of the persons invited to the Council meeting shall not prevent the examination of the objection by the Council.

9.7 New evidence may be shown at the Council meeting only if it could not be shown on the date when the objection was lodged.

9.8 The objection lodged against the College for the Assessment of the Prosecutors' Performances and the College for the Prosecutors' Selection and Career shall be reviewed as defined under Section 6.19 of this Regulation within the limit of the reasons stated in the objection.

9.9 After the objection lodged against the College for the Assessment of the Prosecutors' Performances and the College for the Prosecutors' Selection and Career has been reviewed, the Council shall adopt one of the following solutions:

- a) maintain the validity of the contested decision;
- b) annul the contested decision and adopt a new decision whereby it orders a re-assessment of the candidate by the College concerned.

9.10 Based on the objections lodged against the decision of the College of Discipline and Ethics, the Council shall review the disciplinary case without limitation to the grounds and reasons indicated in the objection. The disciplinary case shall be reviewed in the following consecutive order:

- a) announcing the review of the objection;
- b) reviewing the recusation and abstention cases;
- c) the rapporteur member or another Council member's presentation of the facts of the case;
- d) hearing the author of the objection and then the other parties. If the objection has also been lodged by the Inspectorate and/or by the author of the notification, the prosecutor shall be the last one to be heard.
- e) the Council members' questions addressed to the parties after they have been heard;



- f) debating;
- g) ruling.

9.11 Following the examination of the objection lodged against the decision of the Council of Discipline and Ethics, the Council shall decide:

- a) to maintain the validity of the contested decision;
- b) to annul the contested decision and to adopt a new decision settling the case.

9.12 If the Council considers that additional information is required in order to adopt a decision, it may defer the review of the matter and request such information from the subjects referred to in Article 86(2) of the Law on the Public Prosecution Service or from the college that adopted the contested decision.

## **10. The competition for appointment as General Prosecutor**

10.1 The candidate for the position of General Prosecutor shall be selected under a public competition organized by the Council in accordance with Article 17 of the Law on the Public Prosecution Service and this Regulation.

10.2 The competition to fill the position of General Prosecutor shall consist of:

- a) preselection of candidates based on the documents indicated under Section 10.6 and the health certificate;
- b) the interview held before the Council in accordance with Sections 10.16-10.21.

10.3 The procedure for the organisation and carrying out of the competition shall be based on the following principles:

- a) ensuring free access to participate in the competition for each person who meets the requirements defined by the Law on the Public Prosecution Service;
- b) equal treatment of all candidates during the competition;
- c) selection of the best candidate on merit basis;
- d) ensuring public access to information about the method of organisation and carrying out of the competition and to the documents listed under Section 10.6.

10.4 The competition shall be made public. The information about the competition shall be published on the official website of the Council and of the General Prosecutors' Office. The candidates have at least 20 working days to submit the files.

10.5 In order to be enrolled in the competition, a candidate must meet the criteria set out in Article 17(1) of the Law on the Public Prosecution Service.

10.6 The candidate shall submit to the Council apparatus the application for participation in the competition, including the documents referred to in Article 22(2)(a), (b), (c), (e), (f) and (h) of the Law on the Public Prosecution Service, including:

- a) a motivation letter;



b) the concept on management and institutional development of the Public Prosecution Service;

c) the declaration on oath pursuant to Annex 1 to this Regulation.

10.7 If no candidate has enrolled in the competition for the position of General Prosecutor or only one candidate has enrolled with a complete application file and is eligible *prima facie*, the Council shall extend the deadline for submission of applications by at least 15 working days.

10.8 The incomplete application files or those submitted after the deadline shall not be accepted. Within five working days from the expiry of the deadline for the submission of documents, the list of candidates the CV, the motivation letter and the concept on management and institutional development of the Public Prosecution Service submitted by each candidate shall be published on the official website of the Council. Interested parties may submit in writing to the Council information about the candidates within 10 working days. This information shall be brought to the knowledge of all Council members who may request the candidate to clarify it at the Council meeting.

10.9 After the submission of all the documents listed under Section 10.6, the Council shall notify the candidate, who qualified *for the first stage*, about the initiation of the procedure in accordance with Law No 271 of 18 December 2008 and shall request the competent body to check the candidate.

Also, candidates, who qualified *for the first stage*, shall be sent by the Council to pass a lie detector (polygraph) test and undergo health examination. The health certificate shall be submitted by the candidate to the Council. The outcome of the lie detector (polygraph) test shall be submitted to the Council by the authority where the polygraph tester who conducted the test works.

10.10 Medically unfit candidates shall not be admitted for the interview. The candidate's incompatibility based on other criteria shall be decided by a decision of the Council.

10.11 Within not more than 20 working days as of the deadline for the submission of the applications, the Council shall prepare the list of candidates who submitted complete applications and met the requirements for participation in the competition. The list shall be published on the official webpage of the Council and of the General Prosecutors' Office, indicating the date, time and place of the interview.

10.12 The meeting of the Council, where the interview for the selection of the General Prosecutor is held, shall be organized within not more than 30 working days as of the date of publication of the list mentioned under Section 10.11, provided that all the approvals have been received from the competent authorities.

10.13 The candidate for the position of General Prosecutor shall be evaluated based on an evaluation form including the following main criteria:

a) justification;

b) the presentation of the concept on management and institutional development of the Public Prosecution Service;

- c) critical thinking, social awareness and commitment;
- d) clear and logical expression, including at the interview;
- e) professional experience and professionalism;
- f) professional self improvement;
- g) timeliness, diligence and stress resistance;
- h) self-control;
- i) managerial skills;
- j) ethics and integrity.

The evaluation form shall be annexed to this regulation (Annex 2).

10.14 Until the interview date, the candidate shall be informed of the approval issued with regard to their person under Law No 271 of 18 December 2008 and the result of the lie detector (polygraph) test. All the approvals and test results regarding the candidates who participate in the competition shall be brought to the knowledge of the Council members before the interview.

10.15 The candidate for the position of General Prosecutor may withdraw from the competition until the interview.

10.16 The candidates shall be publicly interviewed and the interview session shall be broadcasted live online. The Council shall ensure access for media representatives to the room where the interview is held.

10.17 The candidates shall be interviewed by the Council based on the alphabetical order of their names.

10.18 Until the candidate's interview, the president of the Council shall inform about the existence or non-existence of risk factors in the approval prepared in accordance with Law No 271 of 18 December 2008.

10.19 The Council shall grant equal time to each candidate, however not less than 20 minutes and not more than 45 minutes in order to present his/her vision on the future activity as a General Prosecutor, the professional experience, the motivation for the intention to become a General Prosecutor, and the concept on management and institutional development.

10.20 After the candidate has delivered his/her presentation, the Council members shall address questions to him/her.

10.21 Each candidate shall be evaluated by the Council member present at the the candidate's interview meeting by filling in the candidate's evaluation form. Until the following candidate starts to be interviewed, each Council member shall submit the completed form to the member of the apparatus, established by the Council.

10.22 The final result of the competition is the average total score offered by all Council members who evaluated the candidate. Within not more than 24 hours as of the end of the interview stage, the Council shall publish the average total score achieved by each candidate on its official webpage.

10.23 The Council shall adopt a decision whereby it proposes to appoint as General Prosecutor the candidate who obtained the highest score in the interview.

In the event of an even score, the candidate with the longest length of service shall be proposed as prosecutor.

10.24 If the appointment of the candidate proposed for the position of General Prosecutor is refused, the Council may, at the following meeting, review the evidence and circumstances underlying the refusal. The Council may propose the candidate repeatedly with the vote of 2/3 of the number of acting members only at the candidate's request. If the candidate does not request the repeated proposal or the necessary number of votes has not been collected, a new competition shall be published in accordance with the general procedure.

## **11. The competition for the selection of the college members from among the civil society**

11.1 The Council shall elect by public competition two full members and one alternate member from among the civil society in each subordinated college. The competition shall be published at least three months before the expiry of the term of office of the full member or, if the alternate member's term of office is terminated, at the first meeting of the Council after the occurrence of the vacancy.

11.2 The competition shall consist of:

- a) the preselection of candidates based on the documents indicated under Section 11.7;
- b) the interview held before the Council.

11.3 The person who meets the requirements of Article 20(a)-(c) and of Article 69(6)-(7) of the Law on the Public Prosecution Service may apply for the position of member of the College from among the civil society. The candidate must have a reputable activity in his/her professional field.

11.4 The candidate subject to the provisions of Article 15(2)(a), (c)-(e) of the Law on the Public Prosecution Service may not apply for the position of member of the Colleges.

11.5 The same person may apply for several colleges. In this case, the person shall indicate in the request for participation in the competition the options in a decreasing order of preference.

11.6 The competition shall be made public. The information about the competition shall be published on the official website of the Council. The candidates have at least 20 working days to submit the application files.

11.7 Candidates for the position of member of the College subordinated to the Council shall submit the following documents:

- a) the application for competition;
- b) a copy of the identity card;
- c) a copy of the higher education diploma;
- d) diplomas, certificates, other documents confirming the recognition of his/her professional activity;
- e) a copy of the employment record book, if the candidate has one;

- f) the criminal record;
- g) a certificate confirming the absence of disciplinary sanctions in the past 12 months;
- h) a curriculum vitae;
- i) a motivation letter;
- j) the approval of the leadership of the institution he/she works in;
- k) a declaration on oath pursuant to Annex 1 to this Regulation;
- l) a declaration on honour on the truthfulness of the documents submitted and the absence of incompatibilities.

11.8 The application file for the competition shall be submitted to the Council apparatus. The incomplete application files or those submitted by candidates after the deadline shall not be accepted.

11.9 If the number of candidates is smaller than the number of vacancies, the Council shall extend the deadline for the submission of applications by at least 15 working days. If the number of candidates is smaller than the number of vacancies even after the extension of the deadline, the Council shall hold the competition. After the competition has been held, the Council shall publish a new competition to fill the remaining vacancies.

11.10 Within five days as of the expiry of the deadline for the submission of documents, the list of persons who submitted a complete application file, a curriculum vitae and the candidate's motivation letter shall be published on the official website of the Council. The Council shall publish the list of rejected candidates and the reasons for rejection. Within five working days, the interested parties may submit in writing to the Council information about the candidates' professional activity, , . Such information shall be brought to the attention of all Council members who may request from the candidate to clarify it in the Council meeting.

11.11 The Council shall establish the date for holding the interview for the competition to occupy the vacancies in the Colleges within 20 working days at the most as of the date of publication of the list on the official website of the Council in accordance with Section 11.10. The Council apparatus shall announce the candidates by telegram, e-mail or regular mail about the date and place of the meeting. Candidates shall be interviewed in an alphabetical order.

11.12 During the interview meeting, the Council shall evaluate the candidates based on the following main criteria:

- a) professional experience and professionalism;
- b) knowledge of the provisions regarding the activity of the College for which he/she has applied for;
- c) critical thinking, social awareness and commitment;
- d) clear and logical expression;
- e) the candidate's motivation to be a member of the College;
- f) ethics and integrity.

11.13 If the candidate is absent from the interview, he/she shall be deemed excluded from the list of candidates. This is indicated in the Council decision.

11.14 The Council shall interview separately the candidates for the vacancies in each college.

11.15 The Council shall grant equal time to each candidate in order to present his/her application and vision on the future activity within the Colleges subordinated to the Council and to answer the questions addressed by the Council members.

11.16 The rules on the evaluation of candidates presented by the civil society shall be applied in compliance with the rules established under Sections 10.21-10.22 of this Regulation.

## **12. Prosecutors' secondment, suspension and release from duties**

### **Prosecutor's secondment**

12.1 The prosecutor went on secondment for up to 4 years in order to fulfill functions within:

- the Superior Council of Prosecutors as a member among prosecutors;
- the National Justice Institute;
- some international institutions of the EU, of other states or in order to perform his/her duties under projects funded by these institutions.

By way of derogation, the prosecutor may be seconded in the General Directorate of the Governmental Agent of the Ministry of Justice as a Governmental Agent for a term of office of 7 years.

12.2 A prosecutor may only be seconded with his/her consent. When submitting the report whereby he/she requests to be seconded, the prosecutor shall indicate the institution and the position in which he/she has requested to be seconded, the secondment period and whether the position in which he/she has requested to be seconded is a remunerated position.

12.3 During the secondment period, the prosecutor shall keep his/her status. Upon expiry of the time limit for which he/she was seconded, the prosecutor shall be assigned to the position he/she holds if it is vacant, except for the position of chief prosecutor or, with his/her consent, another vacancy for a prosecutor. If, on the date of the secondment, the prosecutor exercises a management function, the prosecutor's secondment shall imply losing that position.

12.4 If the prosecutor is seconded to a non-remunerated function, the prosecutor's expenditure incurred with the secondment and the salary of the basic function shall be compensated by the Public Prosecution Service Office.

12.5 If the function to which the prosecutor is seconded entails remuneration, the Public Prosecution Service shall not reimburse the expenditure incurred with the secondment and the basic salary of the function.



12.6 If the salary established for the function to which the prosecutor is seconded is lower than the one he/she received in the previous function, the salary of the basic function shall be kept.

12.7 The period of secondment to other institutions shall be added to the prosecutor's length of service.

12.8 The order on the prosecutor's secondment shall be issued by the General Prosecutor under a decision of the General Assembly of Prosecutors if the prosecutor is seconded to the Superior Council of Prosecutors and under an appointment decision by the Government in the case of secondment as a Governmental Agent. In the other cases, the prosecutor shall be seconded under a proposal from the Superior Council of Prosecutors.

12.9 Until the actual secondment date, the hierarchically superior prosecutor shall withdraw the files and materials managed by the seconded prosecutor, which shall be transmitted to another prosecutor.

### **Prosecutor's suspension**

12.10 The prosecutor's suspension shall entail suspension from the performance of its duties as a prosecutor and the cessation of the remuneration rights (wages, increments, other payments) by the employer. Throughout the prosecutor's suspension period, the parties' rights and obligations, except for the ones referred to in the first sentence, are still valid.

12.11 The prosecutor with regard to whom criminal proceedings have been initiated may be suspended from his/her duties by an order of the General Prosecutor. The General Prosecutor or, where applicable, the prosecutor conducting the criminal investigation, shall previously submit to the Council a request to issue a written approval for the suspension of the prosecutor. The notification about the suspension shall be motivated before the Council by the prosecutor initiating the suspension procedure.

12.12 If it is required to suspend a prosecutor with regard to whom criminal investigation have been initiated and it is impossible to organize an ordinary or extraordinary meeting of the Council, the General Prosecutor shall issue a suspension order on the prosecutor's name without the Council's consent until the following meeting of the Council. In this case, when ruling to suspend the prosecutor subject to criminal proceedings, the General Prosecutor shall notify the Council in order to confirm the lawfulness of the suspension order issued on the prosecutor's name for the period before the meeting of the Council and to issue the approval to suspend the prosecutor after such date.

12.13 Notifications for the issue of approvals to suspend a prosecutor who is subject to criminal investigation shall be reviewed by the Council in camera.

12.14 The prosecutor's suspension may be maintained until no later than the date when the indictment issued in the criminal case with regard to the prosecutor has become enforceable.



12.15 The Secretary of the Council shall send within not more than two working days a copy of the Council's decision to suspend the prosecutor to:

- the General Prosecutor in order to issue the suspension order;
- the prosecutor conducting the criminal investigation to be included with the criminal case file;
- the suspended prosecutor for information purposes.

12.16 The Council has the power to propose to the General Prosecutor to suspend prosecutors in the other cases under the law, except for the cases when the prosecutor requests maternity leave and childcare leave to be granted until the age of 6. In these two latter cases, the prosecutor's suspension shall be the exclusive competence of the General Prosecutor.

12.17 The prosecutor requesting suspension in the cases referred to in Section 12.16 shall submit the suspension request to the Council at least 10 working days before the date of the actual suspension.

12.18 Immediately after having ruled in accordance with Sections 12.11 and 12.12 or until the date of the actual suspension in accordance with Section 12.16, the hierarchically superior prosecutor shall withdraw the files and documents handled by the suspended prosecutor and shall transmit them to another prosecutor.

### **Release from duties**

12.19 In the case of release from duties, the prosecutor's employment shall be terminated.

12.20 The prosecutor, chief prosecutor and deputy General Prosecutor shall be released from duties based on an order of the General Prosecutor without the Council's intervention.

12.21 By derogation from Section 12.20, the prosecutor, the chief prosecutor and the deputy General Prosecutor shall be released from their duties based on an order of the General Prosecutor in the following cases:

a) upon the application of a disciplinary sanction to release the prosecutor from duties by the College of Discipline and Ethics (right after the decision has been issued, the prosecutor shall be lawfully removed from his/her duties);

b) when the prosecutor has been awarded the "insufficient" rating in two consecutive evaluations carried out by the College for the Assessment of the Prosecutors' Performances or in case of failure to assess performances;

c) if the prosecutor has failed to appear, for unjustified reasons, two times consecutively, before the College for the Assessment of the Prosecutors' Performances;

In the cases referred to under points (a)-(c), the Council shall notify the General Prosecutor in order to issue the prosecutor's release order:

- on the expiry of the time limit for appeals against a College decision, if it has not been contested:

- when the Council has issued a decision whereby the objection lodged against the Council decision has been reviewed.

d) enrolment as a candidate on the list of a political party or of any political and social organisation in the elections for the Presidency of the Republic of Moldova, Parliament or for the local public administration authorities;

e) when the document ascertaining his/her state of incompatibility or breach of a prohibition (Articles 14 and 15 of the Law on the Public Prosecution Service) is final;

f) if he/she is considered medically unfit to perform his/her duties;

g) in case of refusing to be subjected to controls under Law No 271-XVI of 18 December 2008 on the control of holders and candidates to public functions;

h) if he/she is appointed in a position that is incompatible with that of a prosecutor;

i) if it has been established under a final judicial finding document that he/she has signed a legal document either directly or through a third person, has made a decision or taken part therein without any settlement of the real conflict of interest in accordance with the law governing the conflict of interest;

j) if he/she has failed to submit a personal assets and interest statement or has refused to submit it under Article 27(8) of Law No 132 of 17 June 2016 on the National Integrity Authority;

k) the court has ruled by irrevocable judgment with regard to the seizure of unduly owned assets.

In the cases referred to under points (d)-(k), the Council shall propose to the General Prosecutor to release the prosecutor from duties at the first meeting after the date of acknowledgment of the above cases or, where applicable, when it has officially received the documents of the issuing authorities.

12.22 The Council decisions proposing the prosecutor's release from duties shall be sent to the General Prosecutor within not more than two working days, with the observation that the actual release from duties is to be effected on a date subsequent to the adoption of the order of the General Prosecutor.

12.23 The General Prosecutor may be released from duties before the expiry of the term of office by the authority competent to vest him/her, upon a proposal from the Council in the cases listed under Article 58(1)(a), (d), (g), (h), (i), (j), (l), (m) and (n) of the Law on the Public Prosecution Service. In the situation referred to in Article 58(1)(h) of the Law on the Public Prosecution Service, the Council shall propose to release the General Prosecutor from duties only after the court judgment ruling on the validity of the document ascertaining his/her incompatibility state has become irrevocable.

### **13. Final and transitory provisions**

13.1 This Regulation shall become effective on the date of its publication on the official website of the General Prosecutors' Office, with the following exceptions:

- Section 2.15 shall become effective on 20 December 2017.

- Section 3.5 - as of the date of employment of the Council apparatus staff.

13.2 The Council shall carry on its activity keeping its structure as of 1 August 2016 until 19 December 2017.

13.3 The term of office of the prosecutor members of the Colleges elected at the General Assembly of 27 May 2016 shall start on 1 August 2016.

13.4 Until the official webpage of the Superior Council of Prosecutors has been launched, the Council shall publish its acts on the official webpage of the Public Prosecution Service - [www.procuratura.md](http://www.procuratura.md).

13.5 The rules on the broadcasting, recording and storage of video/audio records of the meetings of the Council shall enter into force after the Council has ensured that it has all the necessary equipment.

13.6 The Superior Council of Prosecutors shall bring its regulatory acts in accordance with this Regulation within three months.