

Law on the Amendment of the Law on the Prosecutor's Office

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Official translation

REPUBLIC OF LITHUANIA

**LAW ON THE AMENDMENT OF THE LAW**

**ON THE PROSECUTOR'S OFFICE**

13 October 1994 No. I-599

Vilnius

(as amended by 22 April 2003 No. IX-1518)

**Article 1. Revised Version of the Law of the Republic of Lithuania on the Prosecutor's Office**

The Law of the Republic of Lithuania on the Prosecutor's Office shall be amended and set forth to read as follows:

**"LAW OF THE REPUBLIC OF LITHUANIA**

## **ON THE PROSECUTOR'S OFFICE**

### **Article 1. Purpose of the Law**

The Law of the Republic of Lithuania on the Prosecutor's Office shall establish the status, functions, structure, basic principles and control of activities of the prosecutor's office of the Republic of Lithuania (hereafter - prosecutor's office) as well as the status of the prosecutors of the Republic of Lithuania (hereafter - the prosecutors), their competence, rights and duties, course of service, conditions for providing them with incentives and their official liability conditions, social guarantees, conditions of handling and use of personal protective means.

## **CHAPTER TWO**

### **STATUS, STRUCTURE, FUNCTIONS AND BASIC PRINCIPLES OF ACTIVITIES OF THE PROSECUTOR'S OFFICE**

#### **Article 2. The Prosecutor's Office, its Status and Functions**

1. The prosecutor's office is a state institution performing the functions established by the Constitution of the Republic of Lithuania, this Law or other laws. The prosecutor's office helps to ensure lawfulness and assists courts in the administration of justice. The prosecutor's office shall, based on the grounds and according to the procedure prescribed by law:

- 1) organise and direct pre-trial investigation;
- 2) conduct pre-trial investigation or individual actions of pre-trial investigation;
- 3) control the activities of pre-trial investigation officers in criminal proceedings;
- 4) prosecute on behalf of the State;
- 5) supervise the submission of the judgements for enforcement and the enforcement thereof;

6) co-ordinate the actions of the pre-trial investigation bodies pertaining to investigation of criminal acts;

7) protect the public interest;

8) examine, within its competence, petitions, applications and complaints submitted by individuals;

9) take part in the drawing up and implementation of national and international criminal acts prevention programmes;

10) take part in the legislative process;

11) fulfil other functions prescribed by law.

### **Article 3. Legal Grounds of Activities of the Prosecutor's Office**

1. In its activities the prosecutor's office shall be governed by the Constitution of the Republic of Lithuania, this Law, other legal acts as well as international treaties to which the Republic of Lithuania is a party (hereafter - international treaties).

2. The prosecutor shall make his decisions independently and individually based on laws and the principles of reasonableness, respect for human rights and freedoms, presumption of innocence as well as the principle of equality of persons before the law irrespective of their social and family status, duties, occupation, convictions, views, origin, race, gender, ethnic origin, language, religious beliefs and education.

3. Lawful demands and decisions of the prosecutor shall be binding on all state and municipal institutions and agencies, their officials, public servants and employees, natural and legal persons and must be complied with in the entire territory of the State of Lithuania. Failure to comply with the demands and decisions of the prosecutor shall make the above-listed entities liable under law.

4. The acts and decisions of the prosecutor may be appealed against to a superior prosecutor and court following the procedure established by law.

5. Damage caused to individuals by unlawful acts or omission of the prosecutor shall be compensated for in accordance with the procedure established by the Law on Compensation for the Damage Caused by Unlawful Actions of Government Institutions or the Civil Code and the Code of Civil Procedure.

#### **Article 4. Control over Activities of the Prosecutor's Office**

1. The prosecutor's office shall be headed by the Prosecutor General of the Republic of Lithuania (hereafter - the Prosecutor General). He shall be accountable for his activities to the President of the Republic and the Seimas of the Republic of Lithuania.

2. The Seimas of the Republic of Lithuania shall set the priorities for the activities of the prosecutor's office and exercise parliamentary control over the activities.

3. Procedural actions of prosecutors shall be controlled by the superior prosecutor and the court. The superior prosecutor shall establish violations of procedural laws and reverse unlawful decisions.

4. The economic and financial activities of the Office of the Prosecutor General, territorial offices of prosecutors shall be controlled by the Prosecutor General (the prosecutors authorised by him), the State Control and other authorised state institutions.

5. The Prosecutor General shall submit information about the prosecutor's office to the Government of the Republic of Lithuania and the public.

#### **Article 5. International Co-operation of the Prosecutor's Office**

1. The prosecutor's office shall draw up, submit to foreign state agencies and international institutions requests for legal assistance and execute their requests for legal assistance according to the procedure and on the grounds established by laws and international treaties.

2. The prosecutor's office shall receive requests from foreign states and international institutions through the Office of the Prosecutor General. The requests from foreign states or international institutions received directly by territorial prosecutor's offices shall be executed upon receipt of authorisation of the Office of the Prosecutor General.

3. The prosecutor's office shall co-operate with the offices of prosecutors of foreign states, other state institutions or public organisations, take part in the activities of international institutions.

#### **Article 6. Composition of the Prosecutor's Office**

1. The prosecutor's office shall consist of the Office of the Prosecutor General and territorial prosecutor's offices.

2. Territorial prosecutor's offices shall be:

1) regional prosecutor's offices;

2) district prosecutor's offices.

#### **Article 7. The Office of the Prosecutor General**

1. The Office of the Prosecutor General shall consist of departments and divisions. The Office of the Prosecutor General shall be headed by the Prosecutor General and deputy prosecutors general according to their respective competence.

2. The Department of the Office of the Prosecutor General shall be headed by the chief prosecutor of the department, while its division shall be headed by the chief prosecutor of the division.

3. An advisory body - the Collegial Council of the Office of the Prosecutor General of the Republic of Lithuania (hereafter - the Council) shall be formed at the Office of the Prosecutor General. It shall be chaired by the Prosecutor General and its members shall be Deputy Prosecutors General and chief regional prosecutors. Other prosecutors may also be included in the Council as its members by the decision of the Prosecutor General. Judges, heads of law enforcement and other state institutions or their authorised representatives may also be invited to the meetings of the Council.

4. The composition of the Council and the regulations of its activities shall be approved by order of the Prosecutor General.

5. The Office of the Prosecutor General is a public legal person. It shall have a settlement account in the bank, a seal with the emblem of the State of Lithuania and the words "Office of the Prosecutor General of the Republic of Lithuania" inscribed on it.

6. The Office of the Prosecutor General shall have its seat in Vilnius, the capital of the Republic of Lithuania.

### **Article 8. Functions of the Office of the Prosecutor General**

The Office of the Prosecutor General shall:

- 1) guide the territorial prosecutor's offices and supervise their activities;
- 2) form a uniform practice of pre-trial investigation of criminal acts and supervision of procedural steps;
- 3) conduct pre-trial investigation and prosecute on behalf of the State in criminal cases of exceptional significance;
- 4) organise pre-trial investigation carried out at central pre-trial investigation agencies, direct the investigation and supervise the procedural steps of the agency officers;
- 5) form uniform practice of prosecution on behalf of the State in criminal cases and take part in the hearing of cases by appeal or cassation;
- 6) co-ordinate the actions of pre-trial investigation agencies in the investigation of criminal acts;
- 7) protects the public interest and form a uniform prosecutorial practice in the sphere;
- 8) organise the prosecutors' professional training and in-service training and offer them methodological assistance;
- 9) communicate with foreign state agencies and international institutions in the manner established by international treaties, laws and other legal acts;
- 10) make arrangements for financial provisions and provision of technical resources to the prosecutor's office as well as ensuring the social guarantees of the prosecutors;

- 11) analyse the activities of the prosecutor's office and manage its statistical data;
- 12) discharge other functions prescribed by laws and international treaties.

### **Article 9. Territorial Prosecutor's Offices and their Functions**

1. The Prosecutor General shall establish, reorganise and liquidate the territorial prosecutor's offices, determine their status, structure, competence and territories of operation, having regard to the territory of jurisdiction of the regional and district courts determined by law.

2. The territorial prosecutor's office shall be headed by the chief prosecutor of the territorial prosecutor' office.

3. Within the framework of their competence, the territorial prosecutor's offices shall:

- 1) organise and direct pre-trial investigation;
- 2) conduct pre-trial investigation;
- 3) supervise the activities of pre-trial investigation officers in the criminal proceedings;
- 4) prosecute on behalf of the State in criminal proceedings;
- 5) take part in the hearing of cases by appeal;
- 6) supervise submission of sentences for execution and their execution;
- 7) co-ordinate the actions of pre-trial investigation agencies investigating criminal acts;
- 8) protect the public interest;
- 9) according to the procedure and on the grounds established by laws and international treaties, draw up requests for legal assistance for and execute the requests filed by foreign state agencies and international institutions;

10) discharge other functions of the prosecutor's office.

4. Within the framework of their competence, the district prosecutor's offices shall:

- 1) organise and direct pre-trial investigation;
- 2) conduct pre-trial investigation;
- 3) supervise the activities of pre-trial investigation officers in the criminal proceedings;
- 4) prosecute on behalf of the State in criminal proceedings;
- 5) supervise submission of sentences for execution and their execution;
- 6) co-ordinate the actions of pre-trial investigation agencies investigating criminal acts;
- 7) protect the public interest;
- 8) execute, according to the procedure and on the grounds established by laws and international treaties, requests for legal assistance filed by foreign state agencies and international institutions;
- 9) discharge other functions of the prosecutor's office.

#### **Article 10. Commissions Formed by the Prosecutor General**

1. The Candidate Selection Commission (hereafter - Selection Commission) shall be formed for the selection of candidates for the positions at the prosecutor's office.

2. The Selection Commission shall be formed for a 3-year term from five prosecutors having great administrative capacities. One prosecutor shall be nominated to the Selection Commission by the Prosecutor General, while the Prosecutors' Performance Evaluation Commission (hereafter - Performance Evaluation Commission) and the collegial council shall nominate two candidates each.

3. The Candidates' Examination Commission (hereafter - Examination Commission) shall be formed for assessing the candidates' professional qualification.

4. The Examination Commission shall be formed for a 3-year term from seven persons. The Performance Evaluation Commission, the collegial council and the Prosecutor General shall each nominate one prosecutor with an at least 7-year length of service in the prosecutor's position. The Chairman of the Judicial Council and the Minister of Justice shall nominate one

judge each. Two members of the Commission shall be appointed from the persons having Doctor or Habil. Doctor in Social Sciences (law) degree nominated by the universities in which MA in Law or lawyer's qualification degree is granted.

5. The Prosecutors' Ethics Commission (hereafter - Ethics Commission) shall be formed for the investigation and evaluation of violations of the Prosecutors' Ethics Code.

6. The Ethics Commission shall be formed for a 3-year term from five prosecutors whose length of service in the prosecutor's position is not less than 7 years and who is held in high esteem at the prosecutor's office. The Selection Commission, Performance Evaluation Commission, the Prosecutor General shall nominate one prosecutor each to the Commission, while the collegial council shall nominate two prosecutors.

7. The Performance Evaluation Commission shall be formed for the evaluation of the prosecutors' performance of duties, his qualification and suitability for the office.

8. The Performance Evaluation Commission shall be formed from seven prosecutors whose length of service in the position of the prosecutor is not less than 7 years. The regional chief prosecutors and district chief prosecutors shall nominate to the Commission, by common consent, two prosecutors each and the deputies of the Prosecutor General shall nominate three prosecutors.

9. A prosecutor may serve on only one Commission.

10. The composition and regulations of the Selection, Examination, Ethics, Performance Evaluation Commissions shall be approved by order by the Prosecutor General.

## **CHAPTER THREE**

### **STATUS AND COMPETENCE OF PROSECUTORS**

#### **Article 11. Status and Independence of Prosecutors**

1. The prosecutor is a person appointed to the prosecutor's position in the manner prescribed by this Law. The prosecutor's status of the state officer shall be determined by the Constitution and laws of the Republic of Lithuania as well as international treaties to which the Republic of Lithuania is a party.

2. Discharging his functions, the prosecutor shall be independent and obey only the Constitution and laws of the Republic of Lithuania.

3. State, municipal institutions and agencies, their officials and employees, political parties and politicians, public organisations and media, other natural and legal persons shall be prohibited from assigning any tasks to the prosecutor's office or imposing on it obligations that are not prescribed by law or in any other way interfere with the activities of the prosecutor.

4. Attempts at influencing the prosecutor seeking the rendering of an unlawful decision shall be treated as interference with the prosecutor's activities and shall make the person liable under law.

5. Rallies, pickets or any other actions taking place inside the prosecutor's office or at a distance closer than that specified in the Law on Rallies shall be prohibited.

6. Individuals, other than prosecutors and personnel of the prosecutor's office, shall be permitted to film, take photos, make audio- and video-recording in the prosecutor's office only with the authorisation of the head of the Office of the Prosecutor General or territorial prosecutor's office.

## **Article 12. Immunity of Prosecutors**

1. Investigation in relation to a criminal act committed by the Prosecutor General may be initiated only by the President of the Republic, upon removing him from office with the consent of the Seimas.

2. Pre-trial investigation concerning a criminal act committed by the Deputy Prosecutor General may be commenced only by the Prosecutor General upon notifying the President of the Republic thereof.

3. Pre-trial investigation concerning a criminal act committed by the prosecutor may be started only by the Prosecutor General.

4. The residential or office premises of the prosecutor may be entered, examination, search or seizure therein or in his personal or official car or any other personal vehicle may be carried out, also his personal examination or body search, examination or seizure of his personal belongings and documents may be performed only with the prosecutor's consent or provided that the Prosecutor General has started pre-trial investigation relating to the criminal act committed by the prosecutor. The above provision shall not be applicable where the prosecutor is caught *in flagrante delicto* or immediately after it.

5. The prosecutor may not be subjected, according the Code of Administrative Offences, to administrative arrest, personal examination, examination of his belongings, seizure of belongings and documents and no administrative action may be taken against him. In case the act committed by the prosecutor displays elements of administrative offence, the documents shall be referred to the Prosecutor General in order that he should carry out an official examination in respect of the misconduct in office or conduct discrediting the name of the prosecutor.

6. The prosecutor detained without the prosecutor's certificate shall be released immediately after his identity has been established. The provision shall not be applicable where the prosecutor is caught *in flagrante delicto* or immediately after it or where pre-trial investigation has been started concerning the criminal act committed by him.

### **Article 13. Powers of Prosecutors in the Territory of the Republic of Lithuania**

1. When performing their functions the prosecutors shall have the authority to act in the entire territory of the Republic of Lithuania.

2. The prosecutors of the Office of the Prosecutor General shall have the authority of the prosecutor to act in all courts.

3. The prosecutors of territorial prosecutor's office shall have the authority of the prosecutor to act in courts within the framework of competence established by the Prosecutor General or his deputy.

#### **Article 14. Subordination of the Prosecutors**

1. The orders, ordinances, instructions, other regulations establishing the procedure for organising procedural actions and work, which have been issued by the Prosecutor General (his deputies), chief prosecutor of the territorial prosecutor's office (his deputies) shall be binding on the prosecutors.

2. The prosecutors must notify the Prosecutor General (his deputy) of any order, other regulations of the Office of the Prosecutor General or any procedural decision made by the superior prosecutor which is contrary to law.

3. Disagreeing with the order or other regulation of the Prosecutor General (his deputy), the prosecutors may appeal the decision in court in the manner prescribed by law.

#### **Article 15. Superior Prosecutor**

1. Superior prosecutor's status and procedural activities shall be established by procedural laws, this Law and Regulations of the Competence of the Prosecutor's Office and the Prosecutors (hereafter - Regulations of Competence).

2. When implementing procedural laws, the superior prosecutor shall be:

1) with respect to the prosecutor of the district prosecutor's office - district chief prosecutor (his deputy);

2) with respect to the prosecutor of the regional prosecutor's office - regional chief prosecutor (his deputy);

3) with respect to the district chief prosecutor (his deputy) - regional chief prosecutor (his deputy);

4) with respect to the regional chief prosecutor (his deputy), the prosecutor of the Office of the Prosecutor General - chief prosecutor (his deputy) of the department (division) of the Office of the Prosecutor General;

5) with respect to the chief prosecutor (his deputy) of the department (division) of the Office of the Prosecutor General - the Prosecutor General (his deputy).

3. A superior prosecutor shall not give orders to the prosecutor as to what procedural decision he should render. The prosecutor shall have the right to request that the superior prosecutor's directions with regard to procedural decisions which are not executed by resolutions should be given in writing.

4. A superior prosecutor may by a reasoned decision reverse the decision rendered by the prosecutor.

5. Disagreeing with the procedural decision made by the superior prosecutor, the participants in the proceedings may appeal against the decision in court following the procedure prescribed by law.

#### **Article 16. Pre-trial Investigation, Public Prosecution and Supervision of Enforcement of Sentences**

1. The prosecutors shall, according to their competence, conduct, organise and direct pre-trial investigation, supervise procedural activities of pre-trial investigation officers, prosecute on behalf of the State, supervise submission of sentences for execution and their enforcement according to the procedure laid down in the Criminal Code, Code of Criminal Procedure and Code of the Enforcement of Sentences and this Law.

2. The recommendations and other regulations approved by the Prosecutor General, forming the practice of supervision of pre-trial investigation, public prosecution, and enforcement of sentences shall be binding on the prosecutors and pre-trial investigation officers.

#### **Article 17. Co-ordination of Pre-trial Investigation Actions**

1. The Prosecutor General (his deputies) and the chief prosecutors of territorial prosecutor's offices shall co-ordinate, according to their competence, actions of pre-trial investigation of criminal acts.

2. Heads of pre-trial investigation offices shall attend the co-ordinating meeting convened by the prosecutor according to his competence.

## **Article 18. Prevention of Criminal Acts**

The prosecutors shall have the right to take part in the drawing up and implementation of national and international programmes for the prevention of criminal acts as well as submit information and proposals pertaining thereto to the interested state institutions.

## **Article 19. Protection of the Public Interest**

1. Upon establishing a violation of the rights and lawful interests of a person, society or the State, the prosecutors shall protect the public interest in the cases and according to the procedure provided for by laws upon the notification, proposal, application or complaint filed by the person, state or municipal institution or agency, or on their own initiative as well as in cases when the officers, employees of other institutions or persons having equivalent status, who are under the obligation to protect the said interest, failed to take any measures to rectify the violation.

2. Having grounds to believe that the requirements of legal acts have been violated, the prosecutors, when protecting the public interests, shall have the following powers:

- 1) to lay an action, file a statement or an application;
- 2) to request from persons production of documents and information;
- 3) to task the heads and officials of state institutions, agencies to carry out inspections and audits;
- 4) to summon persons and receive their explanations;
- 5) to take part in the court hearing of civil cases, civil actions entered by the prosecutor in criminal proceedings, administrative proceedings and appeal against the court judgements, , rulings and decisions handed down in the proceedings;
- 6) to pass resolutions regarding the eviction of natural persons;
- 7) to issue a warning to a state official, a public servant or a person equal in status to them not to commit violations of law;

8) to pass a decision requesting an official inspection of activities of a state official, public servant or a person equal in status to them be conducted and submit a proposal to take a disciplinary or an administrative action against the said persons;

9) to render a decision to refer the investigation materials for examination according to the administrative procedure, where pre-trial investigation has been terminated but there is evidence of an administrative offence committed by the person.

3. In the cases specified in the Code of Criminal Procedure, the prosecutors may request by a decision to initiate criminal proceedings.

4. Acting in the protection of the public interest, the prosecutors who prosecute on behalf of the State shall file a civil action, provided it has not been filed, if damage has been caused by a criminal act to the State or a person who, because of his minority, illness, dependence on the accused or due to other reasons is unable to defend his rights or legitimate interests in court.

## **Article 20. Other Responsibilities and Rights of the Prosecutors**

1. The prosecutors shall:

1) be faithful to the State of Lithuania and its constitutional order;

2) respect and protect human rights and freedoms;

3) be impartial in the fulfilment of their functions;

4) duly and timely perform their tasks or assignments;

5) notify a superior prosecutor about unlawful requests or orders, potential or existing conflicts of public and private interests;

6) observe the Prosecutors' Code of Ethics;

7) preserve secret information, refrain from using official and other confidential information otherwise than as prescribed by law and likewise refuse access to it for other persons;

8) engage in in-service training.

2. The prosecutors shall have the right to:

1) issue an order to institute disciplinary proceedings against a pre-trial investigation officer;

2) notify persons exercising supervision of administrative activities of courts of the cases when the court fails to take necessary measures to investigate a case in the proper manner.

3. Chief prosecutors of territorial prosecutor's offices shall have the right to take part in the meetings of county governors and municipal institutions.

4. The Prosecutor General (his deputies) shall have the right to attend the Seimas or Government sessions and meetings or meetings held by the President of the Republic, to recommend to the chairman of the Senate of the Supreme Court of Lithuania to study the practice of application in courts of laws and other legal acts, to take part in the deliberation of the issues at the sessions of the Senate of the Supreme Court of Lithuania and give their opinion.

5. Procedural rights and duties of the prosecutors shall be established by procedural laws and this Law.

6. Other rights and responsibilities as well as competence of the prosecutors in fulfilling the functions of the prosecutor's office assigned to them shall be laid down in the regulations issued by the Prosecutor General (his deputy) and the Rules of Competence.

## **Article 21. Public Activities of the Prosecutors**

1. The prosecutors may join trade unions and public organisations in order to meet their interests.

2. The activities of political parties and political organisations shall be prohibited in the prosecutor's office. The prosecutors may not be members or supporters of political parties, political organisations and take part in their activities or in any other way violate the principle of political neutrality.

3. The prosecutors shall be prohibited from going on strike or staging pickets.

## CHAPTER FOUR

### HEADS OF THE PROSECUTOR'S OFFICE

#### **Article 22. Procedure for Appointing and Dismissing from Office the Prosecutor General and his Deputies**

1. The posts of the Prosecutor General and his deputy may be filled by a person who is 35 years old and over, is of high moral character, has a good command of the Lithuanian language, is a national of the Republic of Lithuania, has a MA in law or a professional lawyer qualification degree, has a record of at least ten years of work as a prosecutor or at least ten years standing as a judge or a record of at least ten years of service as a university law professor having Doctor or Habil. Doctor in Social Sciences (Law) degree.

2. The Prosecutor General shall be appointed for a term of seven years and dismissed from office by the President of the Republic with the approval of the Seimas.

3. Deputies of the Prosecutor General shall be appointed for a term of seven years and dismissed from office by the President of the Republic upon the nomination of the Seimas.

4. Before assuming their respective duties, the Prosecutor General and his deputies shall swear an oath of allegiance to the State of Lithuania reading the text of the oath presented in Article 30(1) of this Law. The oath of the Prosecutor General and his deputies shall be administered by the President of the Republic.

5. The Prosecutor General and his deputy shall be dismissed from office:

- 1) upon handing in his resignation;
- 2) upon expiry of the term of office or when he reaches retirement age;
- 3) if he is unable to fulfil his duties for health reasons;
- 4) if he is elected to another office or transferred with his consent to another job;
- 5) if he loses citizenship of the Republic of Lithuania;
- 6) if he breaches the oath by his action;

7) upon the entry into force of a judgement of conviction against him.

### **Article 23. Specific Character of Service of the Prosecutor General**

1. When implementing procedural laws, the Prosecutor General (his deputy) shall be a superior prosecutor for the prosecutors.

2. The Prosecutor General shall establish the competence of the Office of the Prosecutor General, territorial prosecutor's offices, the Prosecutor General and his deputies, and the prosecutors by approving the Competence Rules by his order.

3. The provisions of this Law, Article 25(1), Article 26, 30(3), Articles 31-34, 36, 37, 39(3), Articles 40-44, 45(1-6), 46, 48 and 53(2) shall not apply to the Prosecutor General and his deputies.

## **CHAPTER FIVE**

### **ADMITTING TO SERVICE IN THE PROSECUTOR'S OFFICE**

#### **Article 24. Prosecutors and the Personnel of the Prosecutor's Office**

1. The conditions and procedure of the prosecutors' service shall be laid down by this Law and other laws. The Law on Public Service shall not be applicable to the prosecutors.

2. The personnel of the prosecutor's office shall consist of:

1) public servants of the prosecutor's office: assistants to the chief prosecutor, assistants to the prosecutor, chief specialists, senior specialists, specialists and other public servants;

2) employees.

3. The conditions and procedure of service of public servants of the prosecutor's office shall be laid down by the Law on Public Service.

4. The conditions and procedure of work of the prosecutor's office employees shall be established by the Labour Code and other legal acts regulating employment relations.

#### **Article 25. Requirements for Admission to Service at the Prosecutor's Office and for Appointment to the Post of the Prosecutor**

1. A person may be admitted to service at the prosecutor's office and appointed to the post of the prosecutor provided that he is a national of the Republic of Lithuania of high moral character, has a good command of the state Lithuanian language, has a university degree in law and MA in law or a professional lawyer's qualification degree or having Doctor or Habil. Doctor in Social Sciences (Law) degree, has passed an examination for candidates and has the recommendation of the Selection Commission.

2. Education obtained abroad shall be recognised in accordance with the procedure established by the Government.

3. A person shall be held to be of high moral character if he does not abuse alcohol, does not use psychotropic or toxic substances, narcotic drugs, if there is no effective court judgement under which he has been found guilty of commission of a criminal offence, if he has not been dismissed from service or work for flagrant violation of labour discipline or if five years have elapsed from his dismissal and his conduct complies with the provisions of the Prosecutor's Ethics Code.

4. A person may not be admitted to service at the prosecutor's office and hold the post of the prosecutor if:

- 1) he does not meet the requirements for admission to service at the prosecutor's office;
- 2) his service at the prosecutor's office would result in a conflict of public and private interests;
- 3) he and his spouse, close relative or person related to him by marriage, who are employed at the prosecutor's office, would be related by direct subordination;
- 4) this is prohibited under laws.

## **Article 26. Procedure for Admitting to Service at the Prosecutor's Office and for Appointing to the Prosecutor's Post**

1. Persons shall be admitted to service at the prosecutor's office on a voluntary and selective basis. A person shall be appointed to the post which is on the List of the Prosecutors' Positions by order of the Prosecutor General on the recommendation of the Selection Commission.

2. The list of prosecutors' positions shall be approved by the Prosecutor General.

3. Upon submitting an application for admission for service as a prosecutor, a person shall:

1) submit information and documents confirming that he meets the requirements for admission for service at the prosecutor's office;

2) undergo a health check and submit the conclusion of the medical commission about his fitness to perform prosecutorial duties. The procedure and medical requirements of health checks shall be laid down by the Minister of Health upon consultation with the Prosecutor General;

3) submit the property and income declaration;

4) pass the examination for candidates for the prosecutor's post.

4. A person shall be exempt from sitting for the examination for candidates for the prosecutor's post if:

1) he has passed the examination for candidates for judicial office, provided less than six months have passed from the date of passing of the examination;

2) he has a three-year record of service as a prosecutor or a judge, if not more than five years have lapsed since he last held that position;

3) he has Doctor of Social Sciences (Law) or Habil. Doctor degree.

5. A person who disagrees with the decision of the Examination Commission may appeal against it to court according to the procedure laid down in the Law on Administrative Proceedings.

6. Before assuming the post of the prosecutor, a person shall be familiarised against his signature with the Competence Regulations.

7. If circumstances precluding the performance of prosecutorial duties by the persons appointed to the post of the prosecutor become known before he commences in office, the order for the person's appointment to the post of the prosecutor shall be cancelled.

#### **Article 27. Personal Data**

1. The Office of the Prosecutor General shall have the right to process, according to the procedure established by the Law on the Legal Protection of Personal Data, personal data and special personal data of candidates for admission to the prosecutor's position and of prosecutors.

2. The data relating to a person who has submitted an application for admission to the prosecutor's position as well as documents relating to admission of the prosecutor to the service, his oath, appointment to the position and dismissal, removal from office, provision of incentives, imposition of service-related penalties, issue of personal protection means and other data shall be recorded in his personal file kept at the Office of the Prosecutor General according to the regulations of keeping of personal files, approved by the Prosecutor General.

#### **Article 28. Length of Service in the Position of the Prosecutor**

1. The prosecutor's length of service shall be calculated from the day of his appointment to the position of the prosecutor. If a person was appointed to the position of the prosecutor before 11 March 1990, the day of his appointment to the position of the prosecutor shall be considered as the beginning of service.

2. The length of service in the position of the prosecutor, calculated when admitting a person to service at the prosecutor's office as well as when determining in-service training and promotion procedure, shall comprise:

1) the person's length of service in the position of the judge and judge of the Constitutional Court of the Republic of Lithuania;

2) the person's included length of service as a university law professor having Doctor or Habil. Doctor in Social Sciences (Law) degree.

3) the person's included length of service in the position of the prosecutor or the judge in a foreign state or international institutions.

3. When calculating the duration of the prosecutors' leave the length of service in the prosecutor's position shall embrace:

1) the person's length of service specified in paragraph 2 of this Article;

2) the included other length of service in legal profession.

4. The length of service at the prosecutor's office of the person, appointed to the position of the prosecutor of the Republic (his deputy), prosecutor of the town, district, interregional, transport prosecutor's office (his deputy), position of a trainee at the prosecutor's office, the investigator of the prosecutor's office (his deputy) prior to the entry into force of this Law shall be included in the persons length of service at the prosecutor's office.

5. The person's period of employment (length of service) specified in paragraphs 2 and 3 of this Article shall be included in the length of service in the prosecutor's position by order of the Prosecutor General on the recommendation of the Selection Commission.

6. A person disagreeing with the recommendation of the Selection Commission may appeal to the Prosecutor General; disagreeing with the order of the Prosecutor General on the inclusion of the length of service, a person may appeal against it to court according to the procedure prescribed by the Law on Administrative Proceedings.

## **Article 29. Restrictions Applied with Respect to Prosecutors**

1. The prosecutor may not hold any other elective or appointive posts and work in other offices or enterprises, the only exception being teaching or creative activities.

2. The prosecutor may not receive any other remuneration except the prosecutor's salary, fees for creative activities and remuneration for research and teaching at higher educational institutions and for work in groups and on commissions for drafting legal acts, unless this is part of the prosecutor's direct duties.

3. The prosecutor may be engaged in research or teaching work, be included in the groups or on the commissions for drafting legal acts only with the authorisation of the Prosecutor General.

### **Article 30. The Prosecutor's Oath**

1. Before assuming his office, the person shall swear an oath of allegiance to the State of Lithuania, reading out the following text:

"I, prosecutor of the Republic of Lithuania (name, surname) solemnly swear my allegiance to the State of Lithuania, to observe its Constitution and laws, to perform my duties in good faith, to protect human rights, freedoms and lawful interests, to be impartial, honest, to protect the secrets entrusted to me and always conduct myself as befits the prosecutor.

So help me God."

2. The oath may be sworn without the last sentence.

3. The oath shall be administered by the Prosecutor General.

4. The prosecutor shall swear the oath only once, unless he has been dismissed from the prosecutor's office.

5. The text of the oath signed by the prosecutor shall be kept in his personal file.

6. Breach of the oath of office shall make the prosecutor liable for misconduct in office and for commission of an act discrediting the name of the prosecutor.

## **SPECIFIC CHARACTER OF THE PROSECUTORS' SERVICE**

### **Article 31. Prosecutors' Traineeship**

1. A person who has been admitted to service at the prosecutor's office and has passed an examination for candidates for the prosecutors' positions shall be posted, according to the

prosecutors' traineeship regulations, on an individual 2-year traineeship programme approved by order of the Prosecutor General, while the person exempt from the examination shall be a trainee for up to six months. A supervisor shall be assigned for the prosecutor's traineeship.

2. The prosecutors' traineeship regulations shall be approved by order of the Prosecutor General.

3. During his traineeship the prosecutor shall fulfil prosecutorial duties and must agree drafts of procedural decisions and resolutions with the traineeship supervisor.

4. Upon the expiry of the traineeship period, the prosecutor's performance shall be evaluated by the Performance Evaluation Commission. It shall submit the conclusion to the Prosecutor General, recommending:

1) to evaluate the prosecutor's performance as good, to recommend he should continue in office and to award him a qualification rank;

2) to evaluate the prosecutor's performance as unsatisfactory and to dismiss him from service;

3) to postpone the evaluation of the prosecutor's performance and to grant a single extension of traineeship period, not to exceed six months.

5. The Performance Evaluation Commission, recommending in its conclusion postponement of performance evaluation and extension of traineeship, may advise an individual traineeship programme for the prosecutor.

6. The prosecutor's traineeship period shall be included in the prosecutor's length of service provided for in this Law, Article 28 (2) and (3).

### **Article 32. Prosecutors' In-service Training**

1. The prosecutors shall engage in in-service training according to training programmes drawn up by the Office of the Prosecutor General.

2. The prosecutor's office shall provide conditions for the prosecutors to independently engage in in-service training.

3. The prosecutor who goes abroad for in-service training upon assignment of the prosecutor's office shall have his post reserved for him and shall be paid his average monthly salary for three months only.

4. The prosecutor who engaged in in-service training upon the assignment of the prosecutor's office for over three months and was dismissed from service at the prosecutor's office under Article 44 paragraph 1, subparagraphs 1-6, 9 and 10 and paragraph 2, subparagraphs 1-4, 6 and 7 within a year's period from the end of his in-service training, must reimburse the prosecutor's office for the expenses incurred during two preceding years in relation to his training.

5. Funds amounting to at least 3% of the appropriations for pay-roll expenditure shall be earmarked in the estimate of expenditure of the prosecutor's office for traineeship and in-service training of the prosecutors.

### **Article 33. The Prosecutor's Performance Evaluation**

1. The prosecutor's service, competence, suitability for the prosecutor's duties shall be evaluated by the Performance Evaluation Commission.

2. The prosecutor whose performance is rated as good after the traineeship period shall be subsequently subject to performance evaluation every five years in a regular performance review.

3. A prosecutor appointed to the position of the chief prosecutor shall be assigned an extraordinary performance evaluation on the order of the Prosecutor General. Extraordinary performance evaluation shall not be ordered if the time period after the last performance evaluation is less than one year.

4. A prosecutrix who is pregnant shall undergo performance evaluation procedures only with her consent.

5. After a regular or extraordinary performance evaluation the Performance Evaluation Commission shall submit conclusions to the General Prosecutor, suggesting:

1) to rate the prosecutor's performance as good and to recommend he continues in office;

2) to rate the prosecutor's performance as good and to recommend him for promotion;

3) to rate the prosecutor's performance as unsatisfactory and to recommend him for demotion;

4) to rate the prosecutor's performance as unsatisfactory and to recommend his dismissal.

6. The Performance Evaluation Commission shall suggest to promote the prosecutor to a higher qualification rank, not to change his rank or to demote his qualification rank.

7. The prosecutor may appeal the conclusion of the Performance Evaluation Commission to the Prosecutor General, while the decision of the Prosecutor General concerning the conclusion may be appealed against to court according to the procedure laid down in the Law on Administrative Proceedings.

#### **Article 34. Prosecutors' Promotion**

1. The prosecutor seeking promotion shall be, with his consent and based on the conclusion of the Performance Evaluation Commission, entered in the list of the prosecutors seeking promotion. A prosecutor who is on the list shall have priority in being appointed to a senior position.

2. The list of the prosecutors seeking promotion shall be handled at the Office of the Prosecutor General following the procedure prescribed by the Prosecutor General.

3. The person appointed to the position of the chief prosecutor for a five year term of office shall have a required record of service as the prosecutor and shall have his professional knowledge and administrative capacities approved by the Performance Evaluation Commission.

4. Upon the termination of the five year term of office in the appointive position, the chief prosecutor may be re-appointed based on the conclusion of the Performance Evaluation Commission.

5. A person appointed to the positions of the chief prosecutor (deputy chief prosecutor) of the department (division) of the Office of the Prosecutor General and of the chief regional prosecutor (deputy chief regional prosecutor) shall have an at least 7-year record of service as the prosecutor or judge, provided that he has an at least 2-year record of service as the prosecutor at

the Office of the Prosecutor General, regional prosecutor's office, as chief prosecutor of the district prosecutor's office (deputy chief prosecutor of the district prosecutor's office), or a record of service in the judicial office at the regional court, regional administrative court, the Constitutional Court of the Republic of Lithuania, the Supreme Court of Lithuania, the Court of Appeals of Lithuania or the Supreme Administrative Court of Lithuania or, for persons having academic degrees of Doctor or Doctor Habil. in Social Sciences (Law), the academic record of service of at least 7 years.

6. The person appointed to the position of the prosecutor of the Office of the Prosecutor General, chief prosecutor of a structural unit of the regional prosecutor's office (his deputy), district chief prosecutor (his deputy) shall have an at least 5-year record of service as the prosecutor or judge or, for persons having academic degrees of Doctor or Doctor Habil. in Social Sciences (Law), the academic record of service of at least seven years.

7. The person appointed to the position of the prosecutor of the regional prosecutor's office, chief prosecutor of a structural unit of the district prosecutor's office (his deputy) shall have an at least 3-year record of service as the prosecutor or of service in judicial office, or he shall be a person having academic degrees of Doctor or Doctor Habil. in Social Sciences (Law) with the academic record of service of at least three years.

8. The prosecutors who have effective service-related penalties shall not be eligible for promotion.

### **Article 35. The Prosecutors' Qualification Ranks**

1. The prosecutors shall be awarded the following qualification ranks denoting their qualification or position:

- 1) junior justice adviser;
- 2) justice adviser;
- 3) senior justice adviser;
- 4) chief justice adviser;
- 5) state justice adviser;

6) chief state justice adviser.

2. The Prosecutor General shall be awarded the qualification rank of the chief state justice adviser and the Deputy Prosecutor General shall be awarded the qualification rank of state justice adviser by the President of the Republic when appointing them to their respective positions.

3. The qualification rank shall be awarded to the prosecutor by the Prosecutor General by order issued based on the conclusions of the Performance Evaluation Commission following the evaluation of the person's qualification or as an incentive measure:

1) to the acting prosecutor of the Office of the Prosecutor General or the acting regional chief prosecutor (deputy regional chief prosecutor) or the acting district chief prosecutor (deputy district chief prosecutor) shall be awarded the qualification rank not higher than that of the chief justice adviser;

2) the acting prosecutor of the territorial prosecutor's office shall be awarded the qualification rank not higher than that of senior justice adviser.

4. The prosecutor who sat for the examination for candidates to the prosecutor's post and whose performance after a period of in-service training has been rated as good shall be appointed to the post with the rank of junior justice advisor awarded to him.

5. The prosecutor in respect of whom a service-related penalty is still effective shall not be awarded any higher qualification rank.

6. The prosecutor who is readmitted to service at the prosecutor's office shall be awarded the previously held qualification rank, which, however, shall not be higher than the one prescribed for his position.

### **Article 36. Transfer to another Position**

1. The prosecutor may be transferred to a higher position or to a position assigned to the same level or to a lower position.

2. The prosecutor may be transferred to a higher position:

- 1) with his consent;
- 2) in case of official necessity for a period not longer than six months in three years;
- 3) on the conclusion of the Performance Evaluation Commission.

3. The prosecutor may be transferred to another position assigned to the same level:

- 1) upon his request or with his consent;

- 2) when his position is abolished due to the changes in the organisation of work of the prosecutor's office;

- 3) in case of official necessity for a period not longer than six months in three years ;

- 4) for health reasons (based on the conclusion of the medical commission).

4. The prosecutor may be transferred to a lower position:

- 1) upon his request or with his consent;

- 2) when his position is abolished due to the changes in the organisation of work of the prosecutor's office and it is not possible to transfer him to a position assigned to the same classification level;

- 3) for health reasons (based on the conclusion of the medical commission) where there are no possibilities for his lateral transfer;

- 4) in case of official necessity for a period not longer than six months in three years;

- 5) if there is a conclusion of the Performance Evaluation Commission stating that the prosecutor is not suitable for the position;

- 6) if the prosecutor is imposed a service-related penalty - transfer to a lower position.

5. Transfer of the pregnant prosecutrix to another position without her consent shall be prohibited, except in the cases specified in this Article, paragraph 2 subparagraph 3, paragraph 3 subparagraph 4 and paragraph 4, subparagraphs 3, 5, 6.

6. Transfer of the prosecutor who is alone raising a child under three years of age shall be prohibited, except in the cases specified in this Article, paragraph 2 subparagraph 3, paragraph 3 subparagraph 4 and paragraph 4 subparagraphs 3, 5,6.

7. The order of the Prosecutor General concerning the transfer of the prosecutor to another position shall specify the grounds for the transfer.

### **Article 37. Tasking to Perform other Functions**

1. In case of official necessity the Prosecutor General, his deputy, the chief prosecutor of the territorial prosecutor's office may temporarily task the prosecutor without his consent to fulfil at the same prosecutor's office any prosecutorial functions corresponding to his qualification level.

2. The task specified in paragraph 1 of this Article shall be of temporary character and the prosecutor may be entrusted with it for an up to six months period within three years of service at the prosecutor's office.

### **Article 38. Professional Ethics and Conduct of Prosecutors**

1. The prosecutors shall abide by the Prosecutors' Ethics Code during the service hours and after hours. The Code shall be approved by the Prosecutor General on the recommendation of the collegial council.

2. Infringements of the Prosecutors' Ethics Code shall be investigated by the Ethics Commission. The Commission shall submit a proposal concerning the imposition of a service-related penalty on the prosecutors guilty of infringement of the Prosecutors' Ethics Code.

## **CHAPTER SEVEN**

### **OFFERING INCENTIVES TO THE PROSECUTORS, MISCONDUCT IN OFFICE AND LIABILITY**

### **Article 39. Offering Incentives to the Prosecutors**

1. For exemplary performance of official duties or distinguishing himself in service the prosecutor may be offered the following incentives:

- 1) note of appreciation;
- 2) the prosecutor's badge of honour or badge of distinction;
- 3) a monetary award (in the amount of up to 5 MLSs);
- 4) a personal award (the value whereof is up to 5 MLSs);
- 5) awarding of a higher qualification rank;
- 6) presentation of an awarded weapon.

2. For special merits to the state of Lithuania the prosecutor may be nominated for a state award.

3. The prosecutor shall be offered incentives according to the procedure established in this Law and laid down by the Prosecutor General.

4. The prosecutor in respect of whom the service-related penalty is still effective shall not be eligible for incentives or for nomination for state awards.

### **Article 40. Service-related Penalties**

The following penalties may be imposed on the prosecutor for violations of law, misconduct in office or actions discrediting the name of the prosecutor:

- 1) censure;
- 2) reprimand;
- 3) demotion - reduction of the qualification rank;

4) transfer to a lower position;

5) dismissal from service.

#### **Article 41. Procedure for Imposing Service-related Penalties**

1. The prosecutor shall be imposed a service-related penalty by order of the Prosecutor General according to the procedure established by this Law.

2. The prosecutor shall be imposed a service-related penalty within 15 calendar days from the date of submission to the Prosecutor General (his deputy) of the conclusion of official inspection concerning the commission by the prosecutor of a violation of the law, misconduct in office or action discrediting the name of the prosecutor.

3. Official inspection shall be carried out where the prosecutor's activities contain elements of violation of law, misconduct in office or action discrediting the name of the prosecutor, also when the prosecutor is removed from office, has used a firearms or on the basis of an official communication from the chief prosecutor of the Office of the Prosecutor General or the territorial prosecutor's office.

4. Official inspection shall be started without delay after the receipt of the resolution of the Prosecutor General (his deputy) to commence official inspection and shall last for no longer than 30 calendar days following the procedure established by this Law and the Prosecutor General.

5. During the official inspection the prosecutor must present a written explanation. A service-related penalty may be imposed even in case the prosecutor fails to present a written explanation or refuses to present one.

6. A service-related penalty may be imposed on the prosecutor provided that less than six months have lapsed from the commission of the violation of law, misconduct in office or action discrediting the name of the prosecutor.

7. A service-related penalty may be imposed on the prosecutor who committed a violation of procedural rules when discharging his functions (i.e. made an unlawful decision, carried out an unlawful action of pre-trial investigation, failed to make a mandatory decision

within the time period prescribed by law or failed to carry out the mandatory action of pre-trial investigation), if less than 36 months have lapsed from the date of commission of the violation.

8. The prosecutor's period of absence from service due to his temporary incapacity for work or leave shall not be included in the period of a service-related penalty.

9. A single instance of violation of law, misconduct in office or action discrediting the name of the prosecutor shall incur one service-related penalty.

10. If the prosecutor commits a violation of law, a service-related penalty may be imposed regardless of any other acts for the commission of which he is held liable.

#### **Article 42. Validity of a Service-related Penalty and Appealing against it**

1. A service-related penalty imposed on the prosecutor shall be valid for 12 months.

2. A service-related penalty may be lifted by order of the Prosecutor General after the lapse of at least eight months of validity of the penalty, provided that during the entire period the prosecutor has been exemplary in the performance of his duties or distinguished himself in service.

3. A service-related penalty shall expire after the expiration of its validity period or after it has been lifted.

4. After the expiration of the period of validity of a service-related penalty - demotion to a lower position or awarding of a lower qualification rank, the prosecutor shall be promoted or awarded a higher qualification rank according to the procedure laid down in this Law.

5. The prosecutor may appeal in court the order imposing a service-related penalty according to the procedure established in the Law on Administrative Proceedings within one month from the day he was communicated the order.

#### **Article 43. Procedure for Removing the Prosecutor from Office**

1. The prosecutor may be removed from office if he appears at his service under the influence of alcohol, narcotic drugs, psychotropic or toxic substances or refuses to take a health check or if there is ground to believe that he committed an act containing elements of misconduct in office or criminal act.

2. The prosecutor shall be removed from office by the Prosecutor General (his deputy) or, on their instruction, by order of the chief prosecutor of the territorial prosecutor's office (his deputy) for up to 45 days or, where there are grounds to suspect the prosecutor of having committed a criminal act and the Prosecutor General has started pre-trial investigation - pending the rendering of final judgement in criminal proceedings.

3. The service weapon, ammunition, the prosecutor's certificate, the prosecutor's badge and procedural documents shall be forthwith taken from the prosecutor who has been removed from office.

4. The prosecutor shall not be paid his salary during the period of his removal from office.

5. When the prosecutor who has been removed from office is dismissed, the day of dismissal shall be his last day in office before removal.

6. The prosecutor removed from office without a due cause shall be reinstated in the previous position, he shall be paid the salary due to him for the period and the time period shall be included in his length of service at the prosecutor's office.

## **CHAPTER EIGHT**

### **DISMISSAL OF THE PROSECUTOR**

#### **Article 44. Grounds for Dismissal**

1. The prosecutor shall be dismissed when:

1) he resigns;

2) he has been imposed a service-related penalty - dismissal;

3) a judgement of conviction becomes effective;

4) he loses nationality of the Republic of Lithuania;

5) he does not withdraw from a political party or political organisation, in other way violates the requirements of Article 21(2) of this Law;

6) objects to being transferred to a lower position due to the imposition of a service-related penalty;

7) his position is abolished during the reorganisation of activities of the prosecutor's office and he objects to another position offered to him or there is no position that could be offered to him;

8) he is not fit to serve as the prosecutor (based on the conclusion of the medical commission);

9) he is not suitable to serve as the prosecutor based on the conclusion of the Performance Evaluation Commission;

10) in case any circumstance is discovered why the person should not have been admitted to service at the prosecutor's office and appointed to the prosecutor's position;

11) he resigns after becoming entitled to state officers' and servicemen's pension;

12) he reaches the age of 65 years.

2. The prosecutor may be dismissed if;

1) he breaches the oath by his conduct;

2) he is found guilty of misconduct in office, although the imposed service-related penalty has not yet expired;

3) he is twice in a year's time missing from service for the entire day without a valid reason or is missing from service without a good cause for two days in succession;

4) he fails twice to come to the meeting of the Performance Evaluation Commission without a good cause;

5) he is absent from service by reason of temporary incapacity for work for over 120 calendar days in succession or over 140 calendar days in the course of the last twelve months, except in cases where it is established by law that he shall retain his office for a longer period due to certain illnesses or health impairment in service;

6) he violates the Law on the Adjustment of Public and Private Interests in Public Service;

7) he is not issued authorisation to work with the classified information, where such an authorisation is prescribed by the Competence Regulations;

8) he has reached the age of entitlement for state officers' and servicemen's pension.

3. Dismissal of the prosecutor on the grounds other than those specified in this Law shall be prohibited.

#### **Article 45. Requirements in the Event of Dismissal and the Procedure of Dismissal**

1. The prosecutor shall be dismissed on order of the Prosecutor General according to the procedure established by this Law.

2. Dismissal of the prosecutor during the period of his temporary incapacity for work or during his leave shall be prohibited, except in the cases specified in this Law, Article 44, paragraph 1, subparagraphs 1-4, 11 and paragraph 2 subparagraph 8. If the prosecutor is dismissed in violation of the above provision, the day following the termination of his leave or temporary incapacity for work shall be considered as the day of his dismissal.

3. Dismissal of the pregnant prosecutrix shall be prohibited, except in the cases specified in this Law Article 44, paragraph 1, subparagraphs 1-6, 9-12 and paragraph 2, subparagraphs 1, 3, 6, 8.

4. Dismissal of the prosecutor who is alone raising a child under three years of age shall be prohibited, except in the cases specified in this Law, Article 44, paragraph 1, subparagraphs 1-6, 8-12 and paragraph 2, subparagraphs 1-6, 8.

5. Dismissal of the prosecutor in the cases established in this Law, Article 44, paragraph 1, subparagraphs 7, 12 and paragraph 2, subparagraph 8 shall be authorised only upon a 2-month prior written notice. The prosecutor who is alone raising a child under 14 years of age as well as the prosecutor who has not more than 5 years left until the age of entitlement to the officers' and servicemen's state pension or who is disabled shall be given a 4-month prior written notice of dismissal. In case of the prosecutor's dismissal before the expiry of the period of notice, the date of his dismissal shall be postponed until the termination of the period of notice.

6. The prosecutors who are dead, declared dead according to the procedure established by laws, or declared missing shall be crossed off the List of the Prosecutors' Positions by order of the Prosecutor General.

7. When the prosecutor is dismissed or crossed off the List of the Prosecutors' Positions, his service weapon, ammunition, personal protective measures, the prosecutor's certificate, the prosecutor's badge, procedural documents and the property of the prosecutor's office entrusted to him shall be taken from him.

#### **Article 46. Dismissal of the Prosecutor in Case of Resignation**

1. The prosecutor shall have the right to resign upon filing with the Prosecutor General a written application 14 days in advance.

2. If the Prosecutor General has no objections, the prosecutor may be dismissed after the lapse of 3 days from the day of filing of the application for dismissal.

3. The prosecutor shall have the right to withdraw his resignation within 3 calendar days from the day of filing of the application for dismissal.

4. The prosecutor who resigns by reason of health impairment preventing him from properly discharging the prosecutorial duties shall be dismissed from the day indicated in the application but not later than 14 calendar days after the day indicated in the application.

#### **Article 47. Severance Pay**

1. When the prosecutor is dismissed in the cases established in this Law, Article 44, paragraph 1, subparagraphs 7 and 8, and paragraph 2, subparagraph 5 or when the Prosecutor General (his deputy) is dismissed in the cases established in this Law, Article 22, paragraph 5, subparagraph 3, he shall be paid severance pay in the amount of two average monthly salaries.

2. The severance pay established in paragraph 1 hereof shall be increased 1.5 times for the prosecutor with an over 5-year record of service as the prosecutor, 2 times for the prosecutor with an over 10-year record of service in the position of the prosecutor; 2.5 times for the prosecutor with an over 15-year record of service as the prosecutor, 3 times if the prosecutor's record of service in the prosecutor's position is over 20 years.

#### **Article 48. Reinstatement in Office**

1. The person who has been communicated the Prosecutor's General order for dismissal from service may appeal the order to court within one month from the day of dismissal. Disputes concerning the prosecutors' dismissal shall be resolved according to the procedure established by the Law of Administrative Proceedings.

2. If the court declares the prosecutor's dismissal unlawful and reinstates the prosecutor in the previously held office, the prosecutor shall be paid his average monthly salary for the period of forced absence from service from the day of his unlawful dismissal until the day of enforcement of the court judgement.

3. If the court recognises the prosecutor's dismissal unlawful and establishes that the prosecutor may not be reinstated in his former office due to changes in the organisation of work of the prosecutor's office or due to other valid reasons, the prosecutor shall be awarded severance pay in the amount specified in Article 47 of this Law and the average monthly salary for the period of his forced absence from service from the day of his dismissal until the effective date of the court judgement.

4. The Prosecutor General shall, based on the court judgements specified in paragraphs 2 and 3 of this Article, cancel the unlawful order for the prosecutor's dismissal and remove the existing reasons for the order.

## CHAPTER NINE

### SOCIAL GUARANTIES OF PROSECUTORS

#### **Article 49. Prosecutors' Salaries**

The prosecutors' salary shall be determined by the Law on the Salaries of State Politicians, Judges and State Officers.

#### **Article 50. The Prosecutors' Leave**

1. The prosecutors shall be entitled to the annual paid leave of 28 calendar days.
2. Prosecutors whose length of service in the prosecutor's position is over five years shall be granted an additional calendar day for each subsequent year of service; however, the aggregate duration of the annual paid leave of the prosecutor shall not be longer than 42 calendar days.
3. The prosecutors shall be granted annual leave according to the procedure established in this Law and the Labour Code.
4. For work with no set working time and for the performance on days off and holidays of prosecutorial duties provided for in the Code of Criminal Procedure and other laws and assigned by order of the Prosecutor General or his deputies the prosecutors shall be compensated by granting to them additional 14 calendar days of paid annual leave. The procedure for granting additional annual leave shall be established by the Prosecutor General.
5. In cases of official necessity the Prosecutor General (his deputy) may be recalled from his annual leave. The unused annual leave shall be granted to the prosecutor some other time.
6. The prosecutors may be granted the following special - purpose leave:
  - 1) unpaid leave;
  - 2) maternity leave;

3) parental leave before the child is three years of age;

4) educational leave;

5) leave for in-service training;

6) leave for change of residence.

7. Upon the prosecutor's request, for family or other valid reasons he may be granted annual unpaid leave for up to one month. The time of unpaid leave shall be included in the prosecutor's length of service.

8. Maternity leave, parental leave before the child is three years of age and educational leave shall be granted according to the procedure established by the Labour Code.

9. The General Prosecutor may once in five years grant the prosecutor who has served for two years after the first satisfactory performance evaluation a leave for in-service training for the duration of up to one year. During the leave for in-service training the prosecutor shall retain his position without being paid his salary and the period of the leave shall be included in his length of service.

10. The prosecutor who is changing residence due to his transfer to another position in another locality shall be granted an up to 5-day paid leave for changing residence. If the prosecutor is transferred to another position due to an official necessity, the expenses related to change of residence incurred by him and his family shall be compensated according to the procedure laid down by the Government.

### **Article 51. The Prosecutors' Right to Pensions**

The prosecutors shall have the right to receive the state pension of officers and servicemen and the state social insurance pension according to the procedure and conditions established by the Law on State Pensions of the Officers and Servicemen of Internal Affairs, Special Investigation Service, State Security, National Defence, Prison Department, agencies and state enterprises subordinate to it and the Law on State Social insurance Pensions.

## **Article 52. Other Social Guarantees of the Prosecutors**

1. If a prosecutor has been maliciously killed for service reasons, the State shall in a year's time pay in equal parts a compensation in the amount of his 120-month salary (hereafter - MS) to his family - children (adoptive children) under the age of 18 years or children born after his death, the spouse, father or mother, dependants who are incapable of work.

2. The prosecutor killed in the line of duty shall be buried at the state expense.

3. The prosecutor who has been intentionally caused a health impairment while in the line of duty shall be paid a compensation by the State according to his disability group established by the State Medical Social Examination Commission or the gravity of health impairment:

1) group I disability - in the amount of 60 MSs;

2) group II disability - in the amount of 48 MSs;

3) group III disability - in the amount of 36 MSs;

4) in case of a grave health impairment - in the amount of 26 MSs;

5) in case of a light health impairment - in the amount of up to 12 MSs.

4. The prosecutor who received a compensation for health impairment which later resulted in his disability shall be paid the difference between the compensation due to him according to the disability group and the amount of compensation paid out to him.

5. The prosecutor's medical expenses incurred as a result of health impairment in the line of duty as well as expenses related to psychologist's consultations after the use of a firearms shall be compensated by the State following the procedure prescribed by the Government.

6. The prosecutors shall be insured in the manner prescribed by law by state social insurance and compulsory health insurance.

7. The prosecutor who has no accommodation at the locality of his service may be assigned employee accommodation in the manner laid down by the Prosecutor General.

8. The prosecutor shall be reimbursed his business trip expenses according to the procedure established by the Government.

9. The prosecutor who experiences financial difficulties because of his illness or illness or death of his family member, or a natural disaster, loss of property and in other exceptional cases may be granted a benefit in the amount of up to 5 minimum monthly salaries. The benefit shall be paid from the pay-roll fund of the prosecutor's office.

### **Article 53. Health Checks of the Prosecutors**

1. The prosecutor shall every five years undergo free health checks, following the procedure approved by the Judicial Council and endorsed by the Ministers of Health and of the Interior.

2. Based on the conclusions of the official inspection, Performance Evaluation Commission or Ethics Commission, the Prosecutor General may order the prosecutor to undergo a health check and to present the conclusion of the medical commission concerning his fitness for the prosecutor's position.

### **Article 54. Protection of the Prosecutor and his Property**

1. Physical protection of the prosecutor and members of his family when there is real threat to their life, health or their property connected with the discharge of prosecutorial duties shall be guaranteed in accordance with the procedure established by the Government or an institution authorised by it.

2. Damage caused by stealing, damaging or destroying the property belonging to the prosecutor or members of his family connected with the discharge of judicial duties shall be compensated for by the State following the procedure established by the Government.

## **CHAPTER TEN**

### **PERSONAL PROTECTION MEANS OF THE PROSECUTORS**

## **Article 55. The Prosecutors' Special Personal Protection Means**

1. Service firearms, ammunition and special personal protection means shall be handled, kept and issued at the prosecutor's office in the manner laid down by order of the Prosecutor General.

2. The prosecutor shall have the right to keep and carry service firearms, ammunition and special personal protection means upon the authorisation issued by the Prosecutor General. During his in-service training period the prosecutor shall not be issued service firearms and ammunition.

3. When using the firearms, ammunition and special personal protection means, the prosecutor shall endeavour to avoid heavy consequences for human life and health or for personal property. Having used the firearms, ammunition or special personal protection means, the prosecutor must:

- 1) take measures that the injured person be given medical aid;
- 2) organise protection of the place of the incident and of articles material for the investigation of the act;
- 3) notify the territorial police institution and the head of the territorial prosecutor's office thereof.

4. The prosecutor shall be prohibited from:

- 1) carrying the firearms, ammunition and special personal protection means when under the influence of alcohol, narcotic, psychotropic or toxic substances;
- 2) leaving them in storage in places not specially designed for that;
- 3) transferring them to other persons or providing conditions for other persons to use them;
- 4) modifying them.

5. Illegal use or loss of a firearm, ammunition or special personal protection means shall make the prosecutor liable under law.

## **Article 56. Procedure for Using Firearms**

1. The prosecutor may use a firearm only in the cases where all other possible obvious means have been exhausted or where their use is not possible due to the character of the assault:

1) in self-defence or when defending another person from an ongoing or imminent health or life threatening assault;

2) when apprehending a person suspected of a criminal act and actively resisting detention;

3) when apprehending an arrested (detained) person who attempts to escape or has escaped when escorted under guard;

4) when defending a human attacked by an animal.

2. The prosecutor shall have the right to draw the firearms from the holster, get it ready for firing and fire into the air, if he has good reason to believe that he will be forced to use the firearms against a human or an animal or in case he has to give a danger signal.

## **CHAPTER ELEVEN**

### **FINAL PROVISIONS**

## **Article 57. Financing of the Prosecutor's Office**

1. The prosecutor's office shall be financed from the State budget. The prosecutor's office has its estimate of expenditure, whereas the Prosecutor General is the manager of appropriations allotted to the prosecutor's office

2. The Prosecutor General (his deputy) shall represent the prosecutor's office during the deliberation of the State budget or appropriations allotted to the prosecutor's office at the Seimas, the Government and other state institutions.

3. The State shall ensure by financial, organisational and technical means appropriate working conditions for the prosecutors' service, the guarantees of the prosecutors' independence and social guarantees established by law.

#### **Article 58. Supplies of the Prosecutor's Office**

1. The prosecutor's office shall manage, use and dispose of State property holding it in trust.

2. The prosecutor's office shall have the right to rent premises and use, in the manner prescribed by the Government, the official residential premises assigned to it.

#### **Article 59. Institutions of In-service Training and Publications**

The prosecutor's office shall have the right to set up institutions for the in-service training of the prosecutors and to issue special publications following the procedure established by laws.

#### **Article 60. Symbols of the Prosecutor's**

1. The prosecutors' symbols shall be the gown with the State emblem of Lithuania, the prosecutor's certificate, the prosecutor's badge, the badge of honour or other badges of distinction. The procedure for their issuance and use shall be established by the Prosecutor General.

2. The prosecutor's certificate and the prosecutor's badge shall confirm his identity and grant the right to act according to law.

3. At the court hearing the prosecutor shall wear the prosecutor's gown with the State emblem of Lithuania.

4. The samples of the prosecutor's gown with the State emblem of Lithuania, the prosecutor's badge, the badge of honour or other badges of distinction shall be approved by the President of the Republic.

5. The procedure for hoisting the State flags and their use at the prosecutor's office shall be established by the Prosecutor General following the effective legal acts.

### **Article 61. The Day of the Prosecutor's Office**

The professional holiday of the prosecutors shall be March 30 - the Day of the Prosecutor's Office."

### **Article 2. Implementation Procedure**

1. The Performance Evaluation Commission formed prior to the entry into force of this Law shall have all powers granted under the Law on the Prosecutor's Office set out in Article 1 of this Law but for not longer than until 31 October 2003.

2. The Prosecutors' Ethics Commission shall be formed following the approval of the Prosecutors' Ethics Code. The Candidates' Examination Commission shall be formed and its Regulations shall be approved by 31 October 2003.

3. The prosecutors who have ranks awarded before the entry into force of this Law shall be awarded the corresponding qualification ranks according to the provisions of Article 35 of the Law on the Prosecutor's Office set out in Article 1 of this Law by 31 May 2003:

1) the prosecutors having the rank of the lawyer of the first, second, third grade shall be awarded the qualification rank of junior justice adviser;

2) the prosecutors having the rank of senior lawyer shall be awarded the rank of justice adviser;

3) the prosecutors having the rank of justice adviser shall be awarded the qualification rank of senior justice adviser;

4) the prosecutors having the rank of senior justice adviser shall be awarded the qualification rank of chief justice adviser;

5) the prosecutors having the rank of state justice adviser shall be awarded the qualification rank of state justice adviser;

6) the prosecutor having the rank of chief state justice adviser shall be awarded the qualification rank of chief state justice adviser.

4. The length of service in the prosecutor's position shall be reviewed for all prosecutors by the Candidates' Examination Commission by 31 May 2003.

5. The individual in-service training programmes for the prosecutors engaged in in-service training shall be approved by 31 May 2003.

6. The procedure of health checks of the prosecutors shall laid down by 31 October 2003.

7. The prosecutor who does not have the required educational qualification must acquire it within three years from the day of entry into force of this Law. In case of failure to acquire the necessary educational qualification within the set time period the prosecutor shall be dismissed under the Law on the Prosecutor's Office, Article 44, paragraph 1, subparagraph 10, set out in Article 1 of this Law.

### **Article 3. Entry into Force of the Law**

This Law shall enter into force as of 1 May 2003.

*I promulgate this Law passed by the Seimas of the Republic of Lithuania.*

PRESIDENT OF THE REPUBLIC

ROLANDAS PAKSAS