

PROSECUTION OFFICE, LAW

PROKURORIA, LIGJ

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LAW No. 97/2016

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

Pursuant to articles 81 and 83, point 1 of the Constitution, upon the proposal of a group of members of the Assembly,

THE ASSEMBLY OF THE REPUBLIC OF ALBANIA

DECIDED:

CHAPTER I GENERAL PROVISIONS

Article 1 Object of the Law

1. The object of this law is to define the rules regarding to:
 - a) Organization and functioning of the Prosecution Office in the Republic of Albania;
 - b) Requirements, criteria and procedures for the appointment of Prosecutor General;

- c) Relations of the Prosecution Office of general jurisdiction with other state institutions, public or private entities and the public.
- ç) The functioning of the Prosecution Office administration;
- d) Status of the Prosecution Office civil servants.

2. The provisions of this law shall be applicable to all prosecution offices of general jurisdiction and specialized prosecution offices established by special law, unless otherwise provided by special laws.

Article 2

Definitions

1. For the purposes of this law, these terms shall have the following meaning:

- a) "National Bureau of Investigation" is the special investigation unit, provided for by Article 148, paragraph 4, of the Constitution.
- b) "Head of the Prosecution Office" is the officeholder/head of any prosecution office including the Special Prosecution Office.
- c) "Higher Prosecutor" shall be:
 - i. The Prosecutor General, for the prosecutors of the General Prosecution Office and for the prosecutors of the prosecution offices attached to appeal courts and first instance courts according to the provisions of this law;
 - ii. The head of the prosecution office attached to the appeal court for the prosecutors assuming their functions attached to this prosecution office.
 - iii. The head of the prosecution office attached to the first instance court for the prosecutors assuming their functions attached to this prosecution office.
- ç) "Special Prosecution Office" shall be the authority responsible for exercising criminal prosecution and representing accusation in court in the name of the State for criminal offences of corruption, organized crime, and criminal cases according to Article 135, paragraph 2, of the Constitution;

- d) "Prosecution offices of general jurisdiction" shall be the prosecution offices attached to the first instance courts of general jurisdiction, to the appeal courts of general jurisdiction and to the General Prosecution Office.

Article 3
Scope of Activity of the Prosecution Office

1. The Prosecution Office exercises criminal prosecution and represents accusation in court in the name of the State, takes measures and oversees the execution of criminal decisions, directs and controls the Judicial Police activity and performs other duties provided for by law.
2. The Prosecution Office carries out its functions independently via prosecutors.

CHAPTER II
FUNDAMENTAL PRINCIPLES OF THE ORGANISATION AND FUNCTIONING
OF THE PROSECUTION OFFICE

Article 4
Legality of the Activity

1. Prosecutors shall, while carrying out their duties, be subject to the Constitution, international agreements ratified by the Republic of Albania and other laws in force.
2. Prosecutors shall exercise their powers observing the principles of fair, equal and due legal process and protection of human rights and fundamental freedoms and the public interest.

Article 5
Compulsory Prosecution

The exercise of criminal prosecution is compulsory, unless the law provides otherwise.

Article 6
Independence of Prosecutors

1. Prosecutors shall, in assuming their functions, act, submit requests and make decisions independently based on the principle of legality, objectivity and impartiality.
2. Prosecutors shall be subject to higher prosecutors' general instructions in writing, in accordance with the provisions of this Law.
3. The law guarantees the independence and the autonomy required by prosecutors to make decisions during the assumption of their constitutional and legal functions, regardless of the unlawful internal or external influence of any of the public or private authorities.

Article 7
Protection and Status of a Prosecutor

1. The status of prosecutors is defined by the law "On the Status of Judges and Prosecutors in the Republic of Albania".
2. The State shall guarantee special protection to prosecutors and their families in case their life, health, family or property is threatened because of their duty.

Article 8
Objectivity and Equality

Prosecutors shall ensure equal, objective and unbiased treatment to all persons regardless of gender, race, religion, ethnicity, language, political, religious or philosophical beliefs, gender identity, sexual orientation, economic status, property, education, birth, disability, social origin, parental affiliation, or for other reasons.

Article 9
Confidentiality of Data

1. Prosecutors and all the Prosecution Office personnel shall, in the course of performing their duty, as well as after its termination, be obliged to maintain the confidentiality and the state secret on those facts that they became aware of, unless the law provides otherwise.

2. The Prosecution Office is not permitted to make public or provide third parties with data which could harm the case under investigation or trial, which violate the dignity and privacy of individuals, the rights of minors, as well as the data of confidential or restricted nature.

3. Prosecutors shall be prohibited from making statements or providing opinions on the activity of other bodies.

Article 10

Observing Rules of Ethics and Professional Behaviour

Prosecutors should, at all times, maintain the honour and dignity of their profession and behave in a professional manner, in accordance with the law and the rules of ethics.

Article 11

Assumption of Prosecutorial Functions only by Prosecutors

1. Prosecutorial functions shall be assumed only by prosecutors of the Republic of Albania appointed in accordance with the law.

2. Delegation of prosecutorial functions to other authorities is prohibited, unless the law provides otherwise.

3. The assumption of prosecutorial functions by other authorities shall be prohibited.

CHAPTER III

STRUCTURE AND ORGANISATION OF PROSECUTION OFFICE

Article 12

Structure of the Prosecution Office

The Prosecution Office is organized and functions attached to the judicial system. The Special Prosecution Office shall be governed by a special law. No permanent or temporary Prosecution Office branches shall be established at court branches.

Article 13
Organization and Management of the Prosecution Office

1. The Prosecution Office consists of:

- a) The General Prosecution Office;
- b) The Special Prosecution Office, under the special Law.
- c) Prosecution offices attached to appeal courts of general jurisdiction;
- ç) Prosecution offices attached to first instance courts of general jurisdiction.

2. The management and representation of the Prosecution Office under this organization is made respectively by:

- a) The Prosecutor General;
- b) Chief Special Prosecutor of the Special Prosecution Office;
- c) Heads of the prosecution offices attached to the appeal courts of general jurisdiction;
- ç) Heads of the prosecution offices attached to the first instance courts of general jurisdiction.

Article 14
General Prosecution Office

1. The General Prosecution Office has jurisdiction over the entire territory of the Republic of Albania and has its seat in Tirana.

2. The General Prosecution Office represents the cases before the High Court and the Constitutional Court, with the exception of cases of the jurisdiction of the Special Prosecution Office, and performs other duties provided for by law.

3. Functions of the General Prosecution Office shall be assumed by the prosecutors of the General Prosecution Office.

Article 15
Special Prosecution Office

1. The Special Prosecution Office exercises criminal prosecution and represents accusation in the name of the State for criminal offences of corruption, organized crime, and criminal cases, according to Article 135 paragraph 2 of the Constitution.
2. The way of organization and functioning of the Special Prosecution Office, additional requirements that the prosecutors, civil servants and its other employees must fulfill, as well as its relations with other State institutions and other public or private entities are governed by the special Law on the organization and functioning thereof.
3. Potential conflicts of competences between the Special Prosecution Office and the Prosecution Offices of general jurisdiction shall be resolved by the criminal procedure law.

Article 16
Prosecutors Attached to Courts of Appeal

The functions of the Prosecution Office attached to each court of appeal of general jurisdiction shall be assumed by the prosecutors attached to the courts of appeal. The jurisdiction thereof extends over the territory of the jurisdiction of the respective court.

Article 17
Prosecution Offices Attached to First Instance Courts

The functions of the Prosecution Office attached to each first instance court of general jurisdiction shall be assumed by the prosecutors attached to the first instance courts. The jurisdiction thereof extends over the territory of the jurisdiction of the respective court.

Article 18
Overall Number of Prosecutors

1. The overall number of the prosecutors of general jurisdiction and of the Special Prosecution Office shall be proposed respectively by the Prosecutor General and the Chief Special Prosecutor of the Special Prosecution Office and it shall be approved by the Assembly.
2. The overall number of prosecutors shall be proposed based on:

- a) The prosecutors' workload report, taking into account the recommendations of the Council of Ministers on the fight against criminality over the last three years;
 - b) Ensuring the activity of the Prosecution Office and at the same time access of citizens to the prosecution service, enhancing the quality of these services, reduction of costs and the efficient use of incomes.
3. The Prosecutor General and the Chief Special Prosecutor of the Special Prosecution Office shall, in proposing the number of prosecutors, preliminarily take into account the opinion of the High Prosecutorial Council, Ministry of Justice and Ministry of Finance.

Article 19

The Number of Prosecutors per Prosecution Office

1. The Prosecutor General shall, within March of each year, publish the annual report on the workload of prosecution offices for the preceding calendar year, as well as recommendations for improving and increasing the efficiency of the activity thereof.
2. The Prosecutor General in cooperation with the High Prosecutorial Council shall, at least every five years, assess the number of prosecutors per prosecution office and, if appropriate, shall redefine the number of prosecutors, after having received the opinion of the heads of respective prosecution offices.
3. The decision to determine the number of prosecutors per each prosecution office attached to the courts of general jurisdiction and to the Special Prosecution Office shall take into account the objectives as set out in paragraph 2 of Article 18 of this Law and shall aim at ensuring a balanced workload for all prosecutors and prosecution offices in Albania.

Article 20

Structure of Prosecution Offices

The structure of prosecution offices shall be provided in the regulation on internal organization of each prosecution office, according to the standard structure approved by the Prosecutor General, within the number of prosecutors adopted by the Assembly and the total number of employees approved in the annual budget law.

Article 21
Sections of Prosecution Offices

1. The head of each prosecution office shall, when possible and necessary, establish sections consisting of not less than three prosecutors for certain categories of criminal offences, after having received the opinion of the General Meeting of prosecutors. The establishment of these sections shall inter alia be based on the number and specialization of the prosecutors, on the type, distribution and category of criminal offences, on the subjects, as well as on the recommendations of the Council of Ministers on the fight against criminality.

The special section for minors shall be established in any case, at the prosecution offices attached to the courts in which respective sections for adjudication of minors have been established.

2. The head of the section is nominated by the head of the prosecution office from among the prosecutors of the section who have at least 5 years of experience as prosecutors, good performance at work as well as organization skills.

CHAPTER IV
PROSECUTOR GENERAL

SECTION I
REQUIREMENTS AND CRITERIA FOR THE ELECTION OF PROSECUTOR GENERAL

Article 22
Legal Requirements for the Appointment of Prosecutor General

1. Candidates for Prosecutor General must meet the requirements set out in Article 148/a, paragraph 3 of the Constitution.

2. The candidates must, to the effect on moral and professional integrity, meet the requirements as following:

- a) Successfully pass the full asset and background assessment under the law;
- b) Meet the requirements of the law “On ensuring the integrity of the persons elected, appointed or assuming public functions”;
- c) Have not been members, collaborators or favoured by the State Security before

1990;

ç) Not to be collaborators, informants or agents of any secret services;

d) Have not been convicted by a final court decision for commission of a criminal offence;

dh) Have not been dismissed from office for disciplinary reasons and have no disciplinary measure in force.

Article 23 **Candidate Evaluation Criteria**

1. Candidates who meet the legal requirements provided for in Article 22 of this law are evaluated and ranked by the High Prosecutorial Council based on these criteria:

a) Results of professional evaluation of the candidate in the field of criminal justice;

b) Moral and professional integrity of the candidate;

c) Organizational and managerial skills;

ç) Evaluation of additional criteria, under Article 27 of this Law.

2. In cases where candidates have equal merits, the seniority in profession and professional experience shall be assessed.

3. The High Prosecutorial Council shall, in order to ensure a transparent, public and based on merits procedure, and applying the provisions of this section, approve by decision more detailed rules on:

a) The manner of organization of the evaluation process of candidates, under the criteria provided for by this law;

b) Selection and scoring of candidates, including also the rules on the procedure of assessment of assets, integrity and their personal and professional background;

c) The procedure to be followed in case of equal scores of candidates in the evaluation process.

Article 24
Professional Criteria for the Ranking of Candidates

1. The High Prosecutorial Council shall conduct the professional evaluation of candidates based on their professional skills, legal knowledge and qualifications, as follows:

- a) Work experience for the position for which the candidate competes;
- b) Results of professional and ethical evaluation of candidates for the works they have done in the past, if any, or the results achieved during their work experiences regarding the assumption of functions in the field of criminal justice;
- c) Results achieved during the higher education cycle of studies, during the initial and continuous training in the School of Magistrates, and in certified training and courses, domestically and abroad;
- ç) Results achieved during postgraduate studies in the field of criminal law;
- d) Academic papers, scientific studies, professional writings and lectures, publications, participation in scientific activities, participation in the process of drafting or consulting of legislation and any other professional commitment of the candidate during the last 5 years in the field of law.

Article 25
Moral Criteria for the Ranking of Candidates

1. The High Prosecutorial Council carries out the evaluation of moral and professional integrity of candidates based on:

- a) The reputation, the candidate enjoys in society and among colleagues as a result of his conduct in assuming his functions, and in activities carried out when not assuming his functions;
- b) Moral qualities such as honesty, punctuality in performing duties, fairness in decision making, accountability, trustworthiness, impartiality and dignity;

2. Further arrangements to apply these criteria shall be defined in the regulation adopted by the High Prosecutorial Council, pursuant to Article 23 of this Law.

Article 26

Organizational and Managerial Criteria for the Ranking of Candidates

1. The High Prosecutorial Council carries out the evaluation of organizational and managerial skills of the candidate according to these criteria:

- a) Quality of the platform and vision they present;
- b) Proven skills in decision making and in taking responsibilities, based as well as on the previous professional and social experiences;
- c) Communication skills;
- ç) The ability to work in a team and in multi-disciplinary and / or multi-cultural environments;
- d) The ability for public representation.

Article 27

Additional Evaluation Elements for the Ranking of Candidates

In addition to the criteria set out in Article 24, 25 and 26 of this law, for the evaluation of candidates shall also be taken into consideration:

- a) The academic titles held;
- b) The long-term studies and training conducted abroad;
- c) Mastering of foreign languages.

SECTION II
PROCEDURE FOR THE SELECTION AND APPOINTMENT OF THE PROSECUTOR
GENERAL

Article 28
The Body Responsible for Selection

1. The High Prosecutorial Council shall select the candidatures for Prosecutor General among those candidates who meet the requirements set out in this law.
2. The Council shall, in selecting the candidatures, implement the rules of this section. More detailed rules for the procedure of selection shall be approved by decision of the High Prosecutorial Council.

Article 29
Call for Submission of Expression of Interest

1. The High Prosecutorial Council shall, at the latest four months prior to the expiry of the mandate of the Prosecutor General, announce the call for submission of expression of interest for the position of the Prosecutor General. In the event of the premature termination of the mandate of the Prosecutor General, the procedure shall begin immediately.
2. The call shall be announced on the official website of the High Prosecutorial Council, as well as in two newspapers of national distribution and adequate circulation and on national audio visual media.
3. The call for submission of expression of interest shall contain the information regarding:
 - a) The deadline to submit the expression of interest;
 - b) The documentation to support the expression of interest;
 - c) The criteria, procedure and methodology of evaluation of candidacies;
 - ç) The manner and place of submission of candidacy applications.

Article 30
Submission of Expression of Interest

1. The interested candidates shall, within 30 days from the launch of the call for submission of expression of interest, express their interest through a written request addressed to the High Prosecutorial Council, supported by the documentation that verifies the fulfilment of the requirements and criteria provided by law.

2. The expression of interest may be sent to the electronic address mentioned in the call for submission of expression of interest or to the mailing address of the High Prosecutorial Council. The applications submitted by candidates shall be immediately published on the official website of the Council.

3. The interested persons shall, in addition to the request in writing, attach the following documents:

a) An updated Curriculum Vitae;

b) A personal platform of goals and objectives that the candidate will propose to pursue, if elected;

c) A statement of legal liability of not having been a member, collaborator or favoured by the State Security before 1990;

ç) A statement of legal liability of not being a collaborator, informant or agent of secret services;

d) A self-declaration under the Law No. 138/2015 "On ensuring the integrity of persons elected, appointed or assuming public functions".

4. The High Prosecutorial Council shall, when deemed necessary, require further information from the candidates, public bodies or the employer of the candidate.

Article 31
Verifying the Fulfilment of Legal Criteria

1. The committee responsible for appointments/career at the High Prosecutorial Council shall, within 45 days from the expiry of the period for submission of expression of interest, verify the requirements met by the candidates in accordance with Article 22 of this Law, on

the basis of the principle of equality before the law, prohibition of discrimination and fairness in evaluation.

2. The Committee shall examine the documentation submitted by the candidates and shall request the competent institutions to report on the asset assessment and background assessment, or on any other disqualifying reasons, by the High Inspectorate for the Declaration and Audit of Assets and Conflict of Interest, the Prosecution Office, tax and customs administration bodies, the National Bureau of Investigation, State Informative Services, the Authority for Information on documents of the former State Security, as well as any disciplinary body that has supervised the discipline in the labour relations of candidates. The High Prosecutorial Council shall, if needed, request additional information from the institutions mentioned in this paragraph. Every public institution, natural or legal entity, must meet the requirements of the Council for information, documents or other materials in connection with an investigation, unless restricted by law, within reasonable legal deadlines set by the Council in its request.

3. The Committee shall, at the end of the preliminary evaluation, compile the list of candidates who meet the legal requirements and the list of disqualified candidates and shall submit it to the High Prosecutorial Council, together with a report on the results of the preliminary evaluation based on the documentation submitted by each candidate and collected according to paragraph 2 of this Article.

4. The High Prosecutorial Council shall make a decision to disqualify the candidates who do not meet the legal requirements provided for by Article 22 of this Law and to allow the nomination of candidates who meet these requirements.

5. The disqualified candidates shall be notified in a particular and reasoned manner on the causes of disqualification.

6. Appeals against decisions for the disqualification of candidates shall be made to the Administrative Court of Appeal no later than 3 days from the date of notification of the decision. The Administrative Court of Appeal shall decide within 7 days from the day of filing the complaint. Its decision is final and irrevocable.

Article 32

Hearing Session

1. The High Prosecutorial Council shall organize a hearing session for the candidates who meet the legal requirements, in accordance with Article 31 of this law.

2. Candidates are notified in writing by the High Prosecutorial Council at the latest 10 days before the hearing session.

Article 33

Ranking of Candidates

The High Prosecutorial Council shall make a decision to approve the ranking of candidates based on the results of the evaluation of their merits, in accordance with Article 23 of this law and the hearing session and shall publish it on its website together with the relevant explanatory report. The report shall explain the analysis and the extent of each criterion met by each candidate, as well as the methodology followed-up for the simultaneous and comparative evaluation of the extent of the criteria met by the candidates.

Article 34

Appeal

1. Candidates have a right to appeal the decision of the High Prosecutorial Council for the proposal of their ranking in the list, within three (3) days from the date of its publication. The complaint may be based only on the grounds that factual or procedural errors have occurred, which might have affected the outcome of the ranking of the candidates. The Administrative Court of Appeal shall decide within seven (7) days from the date of the submission of the complaint. The Administrative Court of Appeal shall assess only factual and procedural errors, which might have affected the outcome of the ranking and shall not substitute the assessment of the criteria with its own assessment. The decision of the Administrative Court of Appeal shall be final and no recourse shall be permitted.

2. The decision of the High Prosecutorial Council on the ranking of candidates becomes final when:

- a) No appeal is filed within the appeal deadline;
- b) An appeal is filed within the deadline and the court has decided its dismissal or rejection;
- c) An appeal is filed within the deadline and, based on it, the decision of the Council has been repealed by final decision.

3. Where the court admits the appeal by final decision and repeals the decision of the High Prosecutorial Council, the latter shall revise the decision on the ranking of candidates within

two weeks from receiving the court decision, to the extent necessary to comply with the court findings.

4. The High Prosecutorial Council shall publish the final decision on the website, including the reasoning of the decision, referring to the verification of legal requirements, evaluation and ranking of candidates qualified in the nomination proposal.

Article 35 **Appointment of Prosecutor General**

1. The High Prosecutorial Council shall submit to the Assembly of Albania the proposal to appoint as Prosecutor General one of the three candidates ranked highest in the list. The proposal shall include the reasoned decision of the High Prosecutorial Council.

2. The Prosecutor General shall be appointed in compliance with Article 148/a of the Constitution.

Article 36 **Oath Taking and Assumption of Office**

The Prosecutor General prior to assuming office shall take the oath before the Assembly of Albania in a public ceremony according to the formula: "I solemnly swear that during the performance of duty I will always be faithful to the Constitution of the Republic of Albania, the laws in force and I will respect the rules of professional ethics".

Article 37 **Status of the Prosecutor General**

1. The status of the Prosecutor General is established by this law and the law "On the status of judges and prosecutors in the Republic of Albania".

SECTION III COMPETENCES

Article 38 Powers of the Prosecutor General

1. The Prosecutor General is the head of the General Prosecution Office and is responsible for the work of the General Prosecution Office and for the prosecution offices attached to courts of general jurisdiction of appeal and first instance.

2. The Prosecutor General exercises these competences:

- a) Represents accusation in the High Court and cases in the Constitutional Court, except for the cases where the representation is made by the Special Prosecution Office;
- b) Issues general instructions in writing for prosecutors of the prosecution offices of general jurisdiction and oversees their implementation;
- c) Ensures the progress of work in the administration of the Prosecution Office of general jurisdiction;
- ç) Proposes and administers the budget of the Prosecution Office of general jurisdiction;
- d) Reports to the Assembly on the situation of crime;
- dh) Issues general instructions in writing for Judicial Police officers in compliance with this law;
- e) Defines the general structure, and standard rules of the organization and functioning of the prosecution offices of general jurisdiction and approves the organogram and the internal rules of procedure on the functioning of the General Prosecution Office, in accordance with the provisions of Article 20 of this Law;
- ë) Represents the Prosecution Office in relations with third parties and mutual assistance in criminal matters of general jurisdiction;
- f) Ensures the exercise of legal and constitutional powers of the Prosecution Office;
- g) Directs, coordinates and supervises the activities of Judicial Police;

- gj) Requires the initiation of investigations on disciplinary misconducts and complaints against-judicial police officers;
- h) Sends statistical data on criminal prosecution to the Ministry of Justice for the drafting of unified statistics in the field of justice;
- i) Requests the High Justice Inspector to carry out thematic inspections or investigations of individual misconducts;
- j) Administrates the interception system in accordance with the legislation in force;
- k) Performs other duties provided for by law.

3. The Prosecutor General may, while assuming his functions, delegate in writing certain competencies to the directors of directorates, to the heads of sections or to the prosecutors of the General Prosecution Office in accordance with the provisions in this law or special laws.

Article 39

Deputy Prosecutor General

1. The Deputy Prosecutor General shall represent the General Prosecution Office in the absence of and by authorization of the Prosecutor General, or when the position of the Prosecutor General is temporarily vacant.
2. The Deputy Prosecutor General shall perform only those duties that are necessary for:
 - a) The functioning of the General Prosecution Office, prosecution offices attached to courts of general jurisdiction and the Judicial Police;
 - b) Representing the Prosecution Office with third parties.
3. The Deputy Prosecutor General shall be elected within 30 days after the appointment of the Prosecutor General from among the ranks of prosecutors of the General Prosecution Office with at least 10 years of work experience as prosecutor, who have been evaluated "very good" in the last 3 assessments on the ethical and professional performance.
4. The Deputy Prosecutor General shall be appointed by the Prosecutor General for a two-year term with the right to reappointment, after having received the opinion of the meeting of prosecutors of the Prosecution Office. The opinion of the meeting of the prosecutors of the

General Prosecution Office is not mandatory for the Prosecutor General.

5. The Prosecutor General shall, in case the Deputy General Prosecutor faces obstacles in performing his duties or for any reason ceases to be as a prosecutor of that prosecution office, substitute him/her in compliance with the criteria provided for in paragraph 3 of this Article.

6. The Prosecutor General shall approve by decision more detailed rules on the procedure of election of the Deputy Prosecutor General of the General Prosecution Office.

Article 40

Budget

1. The Prosecution Office has an independent budget as a part of the State Budget provided in its special chapter.

2. The budget of the Prosecution Office, which includes the budget of the General Prosecution Office, the budget of the prosecution offices attached to the courts of general jurisdiction and the budget for Judicial Police sections attached to the Prosecution Office, shall be prepared by the Prosecutor General and shall be implemented in compliance with the relevant legislation on the budget and financial management.

3. Where the proposition of the budget of the Prosecution Office by the Council of Ministers is different from the one proposed by the Prosecutor General, the latter shall be entitled to take part in the parliamentary procedures to defend the draft budget proposed.

4. The budget of the Prosecution Office includes income from donations and any other legitimate income.

5. The budget of the Special Prosecution Office, the manner it is prepared and implemented shall be governed by the relevant law.

CHAPTER V

HEADS OF PROSECUTION OFFICES

Article 41

Leadership in Prosecution Office

1. Prosecution offices are headed by the heads of prosecution offices.

2. The head of a prosecution office shall take office and exercise the competences under the law "On the Status of Judges and Prosecutors in the Republic of Albania".

Article 42

Competences of the Head of a Prosecution Office in Heading the Prosecution Office

The head of a prosecution office shall perform these duties:

- a) Organises the work and takes necessary measures on the well-functioning of the prosecution office;
- b) Represents the prosecution office in relations with third parties;
- c) Organizes the allocation of cases to prosecutors based on the objective and transparent criteria set out by the Prosecutor General, in compliance with this law;
- ç) Establishes investigative teams for special cases;
- d) Organizes discussion on issues of professional nature;
- dh) Monitors the prosecutors' work discipline and requests the High Justice Inspector to initiate inspections on prosecutors' disciplinary misconducts;
- e) Coordinates the work with the relevant directorates at the General Prosecution Office and Judicial Police;
- ë) Coordinates the work with the High Prosecutorial Council and the School of Magistrates on issues related to prosecutors' career and professional development;
- f) Oversees the organisation and functioning of the prosecution office administration in regard to non-prosecutorial activities, unless otherwise provided by this law;
- g) Ensures the enforcement of decisions of the High Prosecutorial Council and instructions of the Prosecutor General;
- gj) Leads, coordinates and supervises the activities of the Judicial Police under jurisdiction;
- h) Ensures the use of case management system in the prosecution office;

- i) Takes care of protection and security matters in the prosecution office;
- j) Approves the internal rules of procedure for the organisation and functioning of the prosecution office and, in justified cases, adapts the standard structure approved by the Prosecutor General to the needs of the prosecution office and the specialisation of the incumbents.
- k) Monitors the observance of ethics by prosecutors and their work planning, as well as meets the legal commitments for the professional assessment of prosecutors and Judicial Police officers;
- l) Informs the Prosecutor General on the situation of crime, every three months.

Article 43
Competences in Exercising Criminal Prosecution

The head of a prosecution office has the following competences relating to the exercise of criminal prosecution:

- a) Coordinates activities with other prosecution offices on concrete cases;
- b) Requires information on the progress of proceedings and, if needed, issues instructions in writing in accordance with this law;
- c) Gives binding orders to Judicial Police in connection with the assumption of functions;
- ç) Verifies the progress and outcome of cases and, where needed, in accordance with Article 48 of this Law, gives instructions in writing to carry out further procedural actions, before the decision on the way of concluding the preliminary investigation is made;
- d) Takes measures to substitute the prosecutor of a case in cases specified by law;
- dh) Ensures the correct implementation of instructions issued by the Prosecutor General.

Article 44
Deputy Head of a Prosecution Office

1. The deputy head of a prosecution office shall represent the prosecution office in the

absence of and by authorization of the head of the prosecution office, or when the position of the latter remains temporarily vacant.

2. The deputy head of a prosecution office shall perform only those duties that are necessary for:

- a) The functioning of the prosecution office;
- b) Representing the prosecution office in relations with third parties;
- c) Any other tasks as set forth in the instructions of the Prosecutor General.

3. The deputy head of a prosecution office is elected, from among the heads of sections who:

- a) Have been evaluated “very good” in the last 3 assessments of the ethical and professional performance;
- b) Have at least five years of professional experience as prosecutors, from which at least three years at the same level.

4. The deputy head of a prosecution office shall be appointed by the head of the prosecution office for a two-year term with the right to reappointment, after having received the opinion of the Meeting of Prosecutors of the Prosecution Office. The opinion of the Meeting of Prosecutors is not binding on the head of the prosecution office.

5. Where the deputy head of a prosecution office cannot perform the duties or for any other reason ceases to function as prosecutor of that prosecution office, he or she shall be substituted in compliance with the criteria set out in paragraph 3 of this Article.

6. The Prosecutor General shall approve more detailed rules on the appointment of the deputy head of a prosecution office.

CHAPTER VI
INTERNAL ORGANISATION OF THE PROSECTUTION OFFICE ACTIVITY

SECTION I
RELATIONS WITHIN THE PROSECUTION OFFICE STRUCTURE

Article 45
Prosecutors' procedural independence

1. Prosecutors assume their functions independently during the investigation and representation of accusation in court.
2. Substitution of the prosecutor of the case shall be allowed only for cases provided for by law.

Article 46
General Binding Instructions

1. Higher prosecutors may issue general and reasoned instructions in writing, which shall be binding on lower prosecutors. Prosecutors of the Special Prosecution Office shall only be subject to instructions of the Chief Special Prosecutor of the Special Prosecution Office.
2. General instructions, pursuant to this Article, may be of administrative or procedural nature.
3. The Prosecutor General may issue general instructions for:
 - a) The coordination of work between different prosecution offices or between them and the Judicial Police, involved in common investigations, in compliance with the provisions of the Criminal Procedure Code;
 - b) Ensuring the uniform application of law and criminal prosecution, based on judicial decisions;
 - c) Ensuring the implementation of recommendations of the Council of Ministers on the fight against crime;
 - ç) Other issues not related to concrete cases.

4. Heads of prosecution offices can issue general instructions on matters of organization and functioning of the prosecution office headed by them, as well as to facilitate the implementation of instructions of the Prosecutor General, in accordance with Article 43, letter “dh” of this Law.

The Chief Special Prosecutor of the Special Prosecution Office cannot issue instructions that obviously contradict the instructions issued by the Prosecutor General.

5. The general instructions of the Prosecutor General and of the heads of the prosecution offices shall be published on the website of the Prosecution Office.

Article 47

Challenging the General Instructions

1. The prosecutor can challenge the unlawfulness or lack of grounds of general instructions by an appeal to the High Prosecutorial Council.

2. The prosecutor is obliged to follow the instructions appealed, except for the case when he/she deems that they are manifestly violating the law.

3. The prosecutor assumes no responsibility for the appeal and for the failure to implement the instructions, unless he/she acts manifestly against the law and with malice or gross negligence.

Article 48

Non Binding Instructions for Concrete Cases

1. Instructions in a concrete case may be given by:

a) The Prosecutor General to prosecutors of the General Prosecution Office;

b) The Head of a prosecution office of appeal attached to a court of appeal of general jurisdiction to prosecutors of the relevant prosecution office;

c) The Head of a prosecution office attached to a court of first instance of general jurisdiction to prosecutors of the relevant prosecution office;

ç) The Chief Special Prosecutor of the Special Prosecution Office to prosecutors of the Special Prosecution Office;

d) The Head of a section to prosecutors assigned to the respective section.

2. Instructions in concrete cases are not mandatory.

3. Instructions related to concrete proceedings, under paragraphs 1 and 2 of this Article, may be given ex officio at the moment of assigning the case to the prosecutor, or later, when deemed necessary for the progress of the proceedings.

4. Instructions, pursuant to this Article, shall be given in writing and shall be reasoned. Exceptionally, when circumstances do not permit, instructions may be given verbally and, within a reasonable time, be confirmed in writing.

5. Where the prosecutor does not agree with or has uncertainties regarding the instructions given, he/she is entitled to request in writing further explanations related to them. The head of the prosecution office or the head of the section is obliged to provide explanations on the instructions and to repeat them in the same way, otherwise the instruction is deemed withdrawn. In case the prosecutor to whom the instruction has been repeated in writing decides not to abide by the instructions, he/she shall notify the head of the prosecution office or the head of the section in writing, as appropriate.

6. The prosecutor's instructions in writing and eventual answers in writing shall be attached to the acts of the proceedings.

Article 49 **Substitution of a Prosecutor**

1. A prosecutor may be substituted in the cases and conditions stipulated by the criminal procedural law.

2. A prosecutor may also be substituted when, due to the lack of or temporary physical incapacity to work, he/she is unable to assume the functions or observe legal deadlines.

3. The head of the prosecution office shall make a decision in writing regarding the substitution of the prosecutor. The decision to withdraw the case shall be submitted to the relevant prosecutor. The concerned prosecutor shall, in the cases provided for in paragraph 1 and 2 of this Article, be entitled to file a complaint with the High Prosecutorial Council in writing against the decision of substitution, within 5 days of receipt of the notice. The decision in writing and the relevant complaint shall be part of the file.

4. The decision on the complaint must be made within 5 days from receipt of the complaint.

5. The complaint shall not suspend the execution of the decision. In case the complaint is accepted, the case will again be assigned to the prosecutor from whom it has been withdrawn.

6. The High Justice Inspector shall carry out on a regular basis, at least annually, a thematic inspection on the practices and the causes of substitution of prosecutors.

Article 50

Annual Reporting to the Prosecutor General

1. The Prosecutor General can periodically take data and information from prosecution offices on the progress of their activities.

2. The heads of the prosecution offices attached to the courts of general jurisdiction of appeal and first instance shall, within February of each year, prepare the annual report on the progress of work in the relevant prosecution office during the preceding year and shall submit it to the Prosecutor General. The report shall be published on the internet website of the General Prosecution Office.

3. The heads of the prosecution offices are responsible for the accuracy of the data contained in the annual report.

4. In case the report gives a reason to believe that a disciplinary misconduct has been committed, the Prosecutor General can file a complaint with the High Justice Inspector to investigate the disciplinary misconduct.

5. The content of the annual report prepared by the heads of prosecution offices shall be approved by order of the Prosecutor General.

Article 51

Avoiding Conflicts of Interest

Prosecutors shall, while carrying out their activities, be obliged to avoid any conflict of interest, in accordance with the rules provided for in the legislation in force.

SECTION II
ADMINISTRATION OF WORK IN THE PROSECUTION OFFICE

Article 52
Prosecution Office Administrative Management

1. The head of a prosecution office shall be responsible for the progress of work and for taking measures and actions to ensure the effectiveness and legality of the activity of the prosecution office he/she directs.
2. Prosecutors have an obligation to inform the head of the prosecution office, whenever requested by the latter, regarding the work on certain cases and the decision-making as well as, in certain cases, on problems faced in the progress of proceedings.
3. The head of a prosecution office shall take measures to ensure the fulfilment of the administrative functions of the prosecution office, including the keeping of registry books and reports, maintenance of protocol and archive, financial and material administration, IT management, the internal division of tasks, the review of complaints and other tasks related to the activities of the prosecution office.

Article 53
Allocation of Cases

1. The Prosecutor General shall establish more detailed rules about:
 - a) The procedures on the allocation of cases, which shall ensure transparency and sufficient verification possibilities;
 - b) The criteria for the allocation of cases, based on the prosecutors' caseload and specialization;
 - c) The cases and criteria on the re-allocation of cases;
 - ç) The manner of case monitoring and documentation.
2. The rules provided for in paragraph 1 of this Article predict that a case is preliminarily assigned to at least three prosecutors, while the final assignment shall be done electronically by lot.

3. The head of a prosecution office shall lead and supervise the process of allocation of cases, based on the rules approved by the Prosecutor General.
4. The head of a prosecution office shall ensure impartiality, independence and efficiency of work of the prosecution office, taking into account the need for a fair distribution of workload among the prosecutors.
5. The Special Prosecution Office shall establish its own rules on the allocation of cases, based on the principle of transparency and objectivity, in accordance with paragraph 1 of this Article.
6. The High Justice Inspector shall carry out regular inspections on the assignment of cases.

SECTION III MEETINGS OF PROSECUTORS

Article 54

The Meeting of the Prosecutors of the General Prosecution Office

1. The meeting of the General Prosecution Office consists of the Prosecutor General and the prosecutors of the General Prosecution Office.
2. The meeting of the prosecutors of the General Prosecution Office:
 - a) Examines the work plan and the work report of the Prosecution Office;
 - b) Refers to and discusses on administrative issues relating to the functioning of the institution;
 - c) Gives opinions on the rules of procedure on the internal organization of the General Prosecution Office;
 - ç) Discusses on issues related to personnel, vocational training, discipline, safety, organization of work and other important issues related to the activity of the Prosecution Office;
 - d) Gives opinions on the draft instructions of the Prosecutor General;

dh) Identifies and discusses problems on the implementation of laws and normative acts, important for the activities of the Prosecution Office;

e) Gives opinions about the report on the work of the General Prosecution Office.

ë) Discusses any other issues important for the activities of the Prosecution Office, including those related to the discipline, career, and training of the prosecutors and prosecution office employees.

3. The meeting of the General Prosecution Office is convened upon the request of the Prosecutor General. The Prosecutor General has an obligation to convene the meeting of prosecutors, when it is requested by at least one third of the prosecutors of the General Prosecution Office.

Article 55

The Meeting of the Prosecutors of Other Prosecution Offices

1. The head of a prosecution office shall call and chair the meeting of the prosecutors of the relevant structure, to discuss issues important for the activities of the prosecution office.

2. The Meeting of prosecutors has the following tasks:

a) Gives opinions about the internal rules of procedure on the organization and functioning of the prosecution office;

b) Gives opinions regarding job descriptions of all categories of civil servants and prosecution office employees and adaption of the standard structure issued by the Prosecutor General to the needs of the prosecution office and the capabilities of the incumbents;

c) Gives opinions on the establishment of sections, on the structure and composition thereof.

ç) Gives opinions on the draft budget of the respective prosecution office, prior to its submission to the General Prosecution Office;

d) Discusses any other issues important for the activities of the prosecution office, including those related to the discipline, career, and training of the prosecutors and prosecution office employees;

- dh) Carries out any other tasks assigned by law.
3. The heads of prosecution offices have an obligation to convene the meeting of prosecutors, when requested by at least one third of the prosecutors.

Article 56

Holding the Meeting of Prosecutors and the Procedure Thereof

1. The date, venue, and the agenda shall be notified to the members at least three days before the meeting takes place, accompanied by the documentation necessary for review.
2. In special cases, at the request of each member, the meeting may discuss on topics which are not included in the agenda.
3. Summarized minutes in writing shall be kept for all the meetings of prosecutors.
4. Where the general meeting discusses on the annual report of the prosecution office, the Prosecutor General shall be notified on the meeting and the draft report, at least one week before the meeting takes place. The Prosecutor General is entitled to participate in the meeting or to sent a representative on his behalf.

CHAPTER VII

INTERNAL ORGANISATION OF THE PROSECUTION OFFICE

SECTION I

THE PROSECUTION OFFICE ADMINISTRATION

Article 57

Organization of the Prosecution Office Administration

1. The Prosecution Office administration fulfils its mission through the following services:
 - a) Prosecutorial services, directly supporting prosecutorial activities, including the documentation and the activities performed by the chancellor and secretaries;
 - b) Administrative services, including finance and budgeting, public relations, information

technology, the prosecution office archive, security, and human resources;

c) Support services, in particular ensuring the performance of notification services, transport services, sanitary maintenance of the prosecution offices, and maintenance of the premises of the prosecution office.

2. The activities to be regularly carried out for each of these services shall be listed in the standard regulations on the organisation and functioning of the Prosecution Office, approved respectively by the Prosecutor General or the Chief Special Prosecutor, in compliance with the respective area of responsibility.

Article 58 **Chancellor**

1. The Chancellor of the prosecution office shall assist the head of the prosecution office to fulfil the obligations for the administration of the prosecution office.

2. The Chancellor shall, in assuming his functions, carry out these tasks:

a) Organizes, directs and controls the activity of the administrative staff, administers work environments, financial and material resources of the prosecution office, under the authority of the head of the prosecution office;

b) Carries out the function of the second tier authorizing officer for the prosecution office and shall be responsible for the preparation, implementation, internal financial control, monitoring, reporting, accounting and internal auditing of the budget of the prosecution office, in accordance with the provisions of this law and the legislation on budget and financial management;

c) Directs and organizes the activities of the secretary office;

ç) Monitors the implementation of the rules of ethics and the internal rules of procedure by employees of the prosecution office, informs the head of the prosecution office in case of misconducts and recommends necessary measures;

d) Monitors the activity for security and maintenance of the building;

dh) Takes measures and ensures that prosecutors and judicial police officers be supplied with stationary items, literature from the fields of justice and other items necessary for a normal functioning of the prosecution office;

- e) Prepares, together with the secretary office, the statistical information to be sent to the head of the prosecution office;
- ë) Proposes the needs to improve the structure and organization of the administration to the head of the prosecution office, according to the organic limits approved by the Prosecutor General;
- f) Takes measures and ensures the maintenance of registry books and other books of the prosecution office;
- g) Supervises the daily activity of the administration in order to identify and inform the head of the prosecution office on issues and problems encountered;
- gj) Informs the head of the prosecution office in relation to any problem encountered in the prosecution office and gives opinions for resolving them;
- h) Implements the orders and instructions of the head of the prosecution office relating to the progress of activities in the institution;
- i) Keeps the registry book of personnel and the documentation for the administration personnel in accordance with the legal acts in force;
- j) Performs other tasks assigned by the head of the prosecution office.

Article 59

The Prosecution Office Secretary

1. The prosecution office secretary shall carry out administrative and procedural functions, in accordance with the legislation in force.
2. The prosecution office secretary shall carry out in particular the following functions:
 - a) Certifies the prosecution office acts and issues certificates or copies unified with the original. When using recording devices or devices that perform similar functions, the secretary shall ensure that the recording or the reproduction be original and intact;
 - b) Assists with the keeping and administration of files;

c) Assists with the keeping of registry books and the registrations thereof and assists with the maintenance and use of technical devices, auto visual and computer devices, where they are available;

ç) Cooperates with competent authorities on taxes and tariffs matters;

d) Helps create the prosecution office statistics, according to the criteria established for this purpose and for the accuracy of data; and

dh) Carries out any other tasks assigned by law.

3. Other activities, to be carried out regularly by the prosecution office secretary shall be listed in standard rules on the organization and functioning of the prosecution office, adopted by the Prosecutor General.

Article 60 Financial Service

The Financial service shall perform and enforce the obligations arising from the law on the management of the budget system and the law on financial management and control, and their implementing acts.

Article 61 Public Relations

1. Public relations services in the prosecution offices of general jurisdiction shall inform the public and media on the prosecution office activities and on specific issues, implementing legal requirements for ensuring the confidentiality and progress of investigations.

2. Public relations services shall be performed under the direction and supervision of the prosecutor assigned for public relations.

3. Public relations services shall be performed by observing the principle of the right to information, taking into consideration the protection of human dignity, privacy and personal data, reputation and presumption of innocence.

4. The head of the prosecution office shall appoint a civil servant for public relations as a coordinator, in accordance with the law "On the right to information".

Article 62
Information Technology Service

The information technology services shall ensure:

- a) The maintenance and administration of the database in the prosecution office, kept in an electronic form through computer systems, applying the legislation in force on the protection of personal data; and
- b) The maintenance of prosecution office statistics on a regular basis.

Article 63
The Prosecution Office Archives Services

1. The prosecution office archives services shall keep and administer the prosecutorial documentation, which includes files, registry books and other prosecutorial acts, as well as acts related to the administrative activities of the prosecution offices in compliance with the legislation in force on State archives.
2. The prosecution office archives services shall cooperate with the State Archives of the Judicial System for the storage, processing, and administration of prosecutorial documentation, which is subject to archiving procedure.

Article 64
Prosecution Office Order and Security

1. Order and security in prosecution offices shall be regulated under the provisions of the legislation in force.
2. The Council of Ministers, after having received the opinion of the High Prosecutorial Council, shall establish the criteria and procedures for ensuring order and security to the prosecution office.
3. Security to the Special Prosecution Office shall be regulated under the provisions of a special law.

SECTION II
GENERAL PROSECUTION OFFICE STRUCTURE

Article 65
The General Prosecution Office Structure

1. The General Prosecution Office structure consists of:
 - a) General Secretary;
 - b) Cabinet,
 - c) Directorates;
 - ç) Sectors, including those of expertise and assistance to special entities, in accordance with the criminal procedure law, etc.
 - d) Prosecutors seconded under Article 69 of this Law.
2. The Prosecutor General shall establish the structure and organogram of the General Prosecution Office in its internal rules of procedure.

Article 66
The Secretary General

1. The Secretary General of the General Prosecution Office is the most senior civil servant of the General Prosecution Office and of all prosecution offices attached to the courts of general jurisdiction.
2. The Secretary General shall carry out the function of the authorizing officer for the General Prosecution Office and shall be responsible for the preparation, implementation, internal financial control, monitoring, reporting, accounting and internal auditing of the budget of the prosecution office, in accordance with the provisions of this law and the legislation on budget and financial management.
3. The Secretary General shall direct the administrative activity of the General Prosecution Office and other prosecution offices attached to the courts of general jurisdiction, under the authority of the Prosecutor General.

4. The Secretary General of the General Prosecution Office shall be elected through an open and transparent procedure. The High Prosecutorial Council shall establish detailed rules concerning the Secretary General appointment process.

Article 67 **Expertise Sectors**

1. The expertise sectors, which assist prosecutors and have at their disposal special technical tools and experts specialized in certain fields of science, can be established and function attached to the General Prosecution Office and, when possible, attached to other prosecution offices.

2. The experts must have minimally completed the studies at a “Masters” degree in their field of expertise and shall have at least five years of experience in their field of expertise.

3. The High Prosecutorial Council shall establish the rules and procedures for the selection and regulation of labour relations for the experts.

4. The experts shall act under the direction and supervision of the head of the prosecution office, where they assume their functions.

Article 68 **Assistance to Entities with Special Status**

1. Prosecution offices shall ensure the services required for the treatment of the entities enjoying a special status, under the Criminal Procedure Code.

2. Each prosecution office shall have in its structure at least one coordinator, with a degree in psychology, sociology, or other relevant fields.

Article 69 **Prosecutors Seconded to the General Prosecution Office**

1. The prosecutors seconded to the General Prosecution Office are assigned by the High Prosecutorial Council, in accordance with the law “On the Status of Judges and Prosecutors”.

2. The sector of the prosecutors seconded is an auxiliary and advisory structure which examines the complaints, criminal files, prepares the explanatory report on cases under the scope of adjudication of the Constitutional Court and High Court, prepares draft-acts, conducts legal research, and performs any other task assigned by the Prosecutor General.

3. The head of the prosecution office shall assess the work of the prosecutor seconded, based on the opinion given by the prosecutor to whom he/she has been seconded.

4. The status of the prosecutors seconded is regulated by the law "On the Status of Judges and Prosecutors".

SECTION III

THE STATUS OF PROSECUTION OFFICE CIVIL SERVANTS

Article 70

The Categories of Prosecution Offices Civil Servants

1. The categories of the prosecution office civil servants are as follows:

a) The Secretary General in the General Prosecution Office;

b) The Chancellor;

c) Finance and budget officers;

ç) Prosecution office secretary;

d) Other civil servants working in the field of legal research and documentation, human resources, information technology, archives, and public and media relations.

2. The status of the civil servants in the prosecution offices of general jurisdiction is governed by this law. The status of the civil servants in the Special Prosecution Office is governed by this law, unless otherwise provided by the special law.

Article 71
Other Prosecution Office Employees

The labor relations for other employees in the prosecution office shall be governed by the Labor Code.

Article 72
Professional Education

1. The professional education of the prosecution office civil servants shall be ensured through the inclusion of the civil servants in the following programs:

- a) The initial training program, on the basis of which the civil servants of the prosecution office recruited in the civil service, as regulated under this law, shall be trained within their probation period;
- b) The continuous training program, whereby the incumbent civil servants of the prosecution office shall be trained.

2. The School of Magistrates, in cooperation with the High Prosecutorial Council, the General Prosecution Office and the Special Prosecution Office shall conduct the initial and continuous training of chancellors and shall prepare the curricula for the initial training of chancellors for at least a period of three months, under the conditions set out in the law "On Governance Institutions of the Justice System".

3. The High Prosecutorial Council, in cooperation with the School of Magistrates, shall conduct the initial and continuous vocational training of other civil servants of prosecution offices and shall prepare the curricula for their initial training for at least a period of one month.

4. The School of Magistrates shall adopt detailed rules on the initial and continuous training of chancellors and, the High Prosecutorial Council shall adopt more detailed rules on the initial and continuous training of all other civil servants of the prosecution offices.

Article 73
Qualification Assessment of Chancellors

1. The School of Magistrates shall offer initial training for chancellors at least every three Years.

2. The Prosecutor General shall, after having received the opinion of the heads of

prosecution offices, determine the number of vacancies for chancellors for the upcoming three years and shall notify the High Prosecutorial Council and the School of Magistrates.

3. The School of Magistrates shall notify interested candidates to submit requests for the initial training, through notifications posted at all prosecution offices, on the websites of the prosecution offices, the High Prosecutorial Council and the School of Magistrates.

4. The High Prosecutorial Council has a task to:

- a) Verify whether the candidates meet the general and specific criteria for the position;
- b) Establish the list of candidates qualified to participate in the admission exam.

5. The School of Magistrates:

- a) Conducts the admission exam;
- b) Evaluates and publishes the results of the admission exam;
- c) Determine the candidates with the highest scores who shall be admitted to the initial training programme.
- ç) Organizes and delivers the initial training program.

6. The candidates admitted for the initial training are obliged to regularly attend the programme and to abide by the regulation of the School of Magistrates.

7. Upon completion of the initial training, the School of Magistrates will conduct the final exam. Candidates who receive not less than 70 percent of the total scores in the final exam shall be considered to have successfully passed the initial training course.

8. The School of Magistrate shall list the successful candidates, in compliance with paragraph 7 of this Article, according to the scores received. The list of successful candidates shall be approved by the School of Magistrates, shall be published on the official website of the School of Magistrates and submitted to the High Prosecutorial Council.

9. The High Prosecutorial Council shall approve by decision more detailed rules on how to estimate the number of candidates to be admitted to the initial training course and the verification of candidates to be admitted to the admission exam.

10. The School of Magistrates shall establish more detailed rules on the procedure and evaluation of the admission exam and the final exam.

11. A civil servant of the Special Prosecution Office must meet the additional requirements and conditions stipulated in the law "On the organization and functioning of institutions for combating corruption and organized crime".

Article 74

Qualification Assessment of the Prosecution Office Civil Servants

1. The recruitment of other employees in the prosecution office civil service is made in accordance with the provisions of this Article, through an open competition.

2. Upon completion of the lateral transfer and promotion procedure, in the sense of Article 77 of this law, the Prosecutor General, not later than three weeks from the receipt of notification on a vacancy, shall announce the open competition on its official internet website and shall request the chancellor to announce it on the official website of the Prosecution Office.

3. The notice shall contain information on the vacant position, the deadline for submission of application, the accompanying documentation, the application procedure and the place where the application and the documentation have to be submitted. The deadline for submission of the application may not be less than two weeks from the date of notification.

4. The competition consists of two phases:

a) Preliminary screening whether the candidates meet the general and special requirements, as published in the announcement;

b) Evaluation of the candidates.

5. The preliminary screening is made by the chancellor, while the evaluation of the candidates is done by the Admission Committee at the Prosecution Office.

6. The Admission Committee shall rank the successful candidates with the highest scores, who have received more than 70% of the total evaluation points, in the list of successful candidates, hereinafter referred to as "the list of candidates".

7. The Prosecutor General shall, by decision, approve detailed rules on the preliminary screening, the establishment, composition and competences of the Admission Committee, including the evaluation procedures.

Article 75
General recruitment requirements

1. In order to be eligible for the recruitment into the civil service of the prosecution office, as established by this law, and for the admission exam for chancellor to the School of Magistrates, the candidates must meet the general requirements for admission to the civil service, provided for in the law "On Civil Servant" and the specific requirements set out by this law.

2. In order to be eligible for the recruitment in the services of the Special Prosecution Office, the candidates have to comply with the security conditions established in a special law and consent to periodic control of their bank accounts and personal telecommunications, signed by the candidate and the candidate's immediate family members.

Article 76
Special Requirements for the Civil Servants's Recruitment to Prosecution Office

1. The candidates shall, in order to be eligible for the admission exam for the initial training as chancellor, additionally meet the following special criteria:

a) Have a university degree in law or economics at "Master of Science" degree or an equivalent degree to it, in accordance with the higher education legislation;

b) Have professional experience of not less than eight years, out of which at least three years in a managing positions or five years in the prosecutorial system.

2. The candidates shall, for secretarial staff position, meet the following special criteria:

a) Have a university degree in law;

b) Have an experience of at least one year as intern at a court or any other professional experience related to a court.

3. The candidates shall, for the position of financial and budget officer, meet the criteria set out in the relevant legislation on financial management and control:

4. The candidates shall, for the position of chief budget officer, meet the following special criteria:

- a) Have a university degree in economics at least at “Master of Science” degree or an equivalent degree to it, in accordance with the higher education legislation;
 - b) Have professional experience of not less than three years in the area of accounting and/or budget management.
5. The candidates shall, for managerial positions as civil servants in other areas of the prosecution office administrative services, meet the following special criteria:
- a) Have a university degree in law, economics or information technology, in journalism/communication sciences, or other relevant fields in compliance with the job description, at least a “Master of Science” degree or an equivalent degree to it, in accordance with the higher education legislation;
 - b) Have an experience of at least one year as intern at a prosecution office or any other professional experience related to a prosecution office.

SECTION IV
RECRUITMENT OF PROSECUTION OFFICE CIVIL SERVANTS

Article 77
Lateral Transfer and Promotion

1. The vacancies in the prosecution office civil services shall be filled in the following order:
- a) Initially, the vacancy shall be offered to a civil servant registered in a list of civil servants in the prosecution offices, or to those who are entitled to return or be transferred in the sense of the provision on the effects of suspension of the law “On Civil Servant” if that is applicable;
 - b) In case the vacant position cannot be filled under the provisions provided in letter “a” the vacancy shall be filled under a lateral transfer procedure;
 - c) In case the vacant position cannot be filled under the provisions provided in letter “a” and “b”, the vacancy shall be filled under the promotion procedure.
2. Civil servants of a certain category are entitled to apply for transfer to positions of the same category of another prosecution office.

3. Civil servants of a certain category are entitled to apply through the procedure of promotion to a higher category to the same prosecution office or to another prosecution office.

4. The Secretary General of the General Prosecution Office or the chancellor of the prosecution office shall immediately and without delay inform the High Prosecutorial Council or the head of the relevant prosecution office, as appropriate, on the vacancy created in the prosecution office or that might be created in the future, in any case, not later than two weeks after having received the information.

5. The High Prosecutorial Council shall, in the case of chancellors, or the head of the prosecution office in the case of other employees, offer the position to the candidate registered in the relevant list of civil servants of the prosecution office, in accordance with paragraph 1 of this article.

6. In case the vacancy cannot be filled through such a procedure, the High Prosecutorial Council shall, for chancellors, or the Prosecutor General, for other employees, announce the initiation of procedures for lateral transfers and promotion procedures by notifying all civil servants of the same category, the civil servants of lower categories who meet the requirements for the respective higher category, for the vacant position and the initiation of procedures for lateral transfers and promotion procedures.

7. The notification shall be published at all prosecution offices, including the Special Prosecution Office. It shall contain information on the vacant position, the deadline for submission of application, accompanying documentation, application examination procedure and the place where the application and the documentation have to be submitted. The deadline for submission of application may not be less than two weeks from the date of notification.

8. The application for candidacy shall be submitted to the authority that has made the notification on the vacancy.

9. The Admission Committee at the prosecution office shall examine applications, based on the documentation submitted. In the case of lateral transfer, the Admission Committee may conduct an interview. In the case of promotion, the interview with the candidates is mandatory.

10. The Admission Committee shall, in the case of the appearance of two or more applications for the same position, rank the candidates in the order of the following criteria:

- a) Results of performance evaluation: in the case of equal grades, the Admission Committee shall create a ranking within the group of candidates with the highest grades;

b) Years of professional experience in the relevant position;

c) Total years of professional experience in the justice sector or the professional experience relevant to the field of the respective position.

11. The Admission Committee shall select and notify the applicant within two weeks after the deadline for submission of application.

12. The Admission Committee of the prosecution office in which a new civil servant is recruited under this article shall, within five days from the selection of the candidate, notify the Prosecutor General on the outcome of the procedure of the lateral transfer or promotion.

13. In the case of lateral transfer or promotion to the position of chancellor, the examination of applications and the selection shall be performed by the High Prosecutorial Council, in accordance with the procedures laid down in paragraph 9, 10 and 11 of this article.

14. The High Prosecutorial Council and the Prosecutor General shall, as appropriate, approve by decision more detailed rules for procedures of lateral transfer and promotion of chancellors and other civil servants of the prosecution office.

Article 78

Appointment in the Prosecution Office Civil Service

1. The High Prosecutorial Council shall, upon completion of the lateral transfer and promotion procedure, open the recruitment procedures for the appointment of candidates to the vacant positions for chancellors, while the relevant prosecution office shall open the recruitment procedures for the appointment of candidates to the vacant positions for other civil servants.

2. The successful candidates, determined in compliance with the list of the School of Magistrates on the ranking of chancellors, or in compliance with the ranking list made by the Admission Committee, starting with the best ranked, have the right to be considered for appointment in any position within the category for which the competition was organized. The High Prosecutorial Council and the relevant prosecution office shall appoint the candidates to the position selected, in accordance with Articles 79 and 80 of this law.

3. The list of successful candidates established by the School of Magistrates, in accordance with Article 73, paragraph 7 of this law, not yet appointed under paragraph 2 of this Article, shall be valid for a four-year period after the announcement of winners. The list of successful

candidates established by the Admission Committee, in accordance with Article 77, paragraph 6 of this law, not yet appointed under paragraph 2 of this Article, shall be valid for a two-year period after the announcement of winners. If another competition procedure will be organized in the meantime for the same group, the successful candidates of the lists, who are not appointed yet, are re-ranked accordingly referring to the final result.

4. The vacancies, created temporarily, may be filled by the winning, not yet appointed candidates, following their ranking in the list as set out in paragraph 3 of this Article. In any case, this process shall be carried out with the consent of the winning candidates and it shall not affect the rights they enjoy under paragraph 3 of this Article. The High Prosecutorial Council and the Prosecution Office shall in such a case make the temporary appointment of these prosecution office civil servants, after obtaining their consent.

5. Any appointment to a civil service position in the prosecution office, contrary to this Article, is absolutely invalid.

6. The High Prosecutorial Council shall adopt by a decision more detailed rules on the procedure of this Article.

Article 79 **Appointment of the Chancellor**

1. The High Prosecutorial Council is the competent body for the appointment of the chancellor.

2. The candidates ranked in the list of candidates for the position of chancellor, issued by the School of Magistrates, are entitled to submit the request to the High Prosecutorial Council for the vacant position for chancellor, following the completion of the lateral transfer and promotion procedures.

3. The High Prosecutorial Council shall elect the candidate for chancellor considering the following criteria, in the following order:

- a) Ranking in the list of candidates;
- b) Any special knowledge or experience of the candidate, which makes him/her particularly qualified for the vacancy; and
- c) Total years of professional experience in the justice sector or in management positions.

4. The High Prosecutorial Council shall reason and publish the decision on the results of the appointment process on its website. The reasoned decision shall be delivered to all the candidates. Candidates who are not selected shall have the right to appeal against the decision to the competent court.

Article 80

Appointment of Other Civil Servants

1. The head of the prosecution office is the competent authority for the appointment of other civil servants in respective prosecution offices.

2. The candidates ranked in the list of candidates by the Admission Committees are entitled to submit the request to the head of the prosecution office for vacant positions for other civil servants, following the completion of the lateral transfer and promotion procedures.

3. The Admission committee shall invite the candidates for an interview and shall elect the candidate for the respective vacant position in the civil service, considering the following criteria in the following order:

a) Ranking in the list of candidates;

b) Any specificities of the candidate linked to the vacancy;

c) Years of professional experience in the justice sector or other professional experience relevant for the respective position.

4. The Admission Committee shall reason and publish the decision on the results of the appointment process. The reasoned decision shall be delivered to all the candidates. Candidates who are not selected shall have the right to appeal against the decision to the competent court.

Article 81

Preliminary Appointment

1. The civil servant shall be appointed preliminarily to the prosecution office civil service provided that the appointment decision is not reversed by a court decision.

2. In case where no appeal is lodged in due time against the decision of the competent authority on the appointment of the civil servant, the decision becomes final and the

appointment shall be considered as final appointment as of the date of the end of the appeal period against this decision.

3. In case where an appeal is lodged and a final court decision acknowledges the appointment decision, the appointment becomes final, starting with the date of the notification of final court decision to the appointed civil servant.

4. In case where a court reverses the appointment decision, the respective competent authority shall, under the rules of evaluation, re-evaluate all applications in accordance with this law and shall take a new decision following the final court decision. The preliminary appointment shall be considered as completed on the date of the decision of the competent authority revising the appointment decision in the light of the final court decision. The preliminarily and the newly appointed candidates have to be notified on the date of the decision.

5. The first year of service within the period of the preliminary appointment shall be considered as probation period in the sense of Article 82 of this law.

6. The General Prosecution Office shall notify without delay the High Prosecutorial Council on the result of the recruitment process, including appeals lodged, and any final court decisions.

7. In case the competent authority decides to terminate the employment relationship according to Article 82 of this law within the probation period of a preliminarily appointed civil servant, it shall notify the other candidates who had applied for the respective position. These candidates may uphold their application even in cases where the candidates' list on which they were included, expired. Where candidates have filed an appeal, their appeal shall be considered as withdrawn. The competent authority shall invite all other candidates from the respective candidates' list to apply for the position.

Article 82

Probation Period

1. The person, who at the moment of appointment does not enjoy the status of a civil servant, shall be subject to a probation period of one year from the date of the receipt of the decision on the preliminary appointment.

2. During the probation period, the civil servant shall perform tasks under the auspices of a senior civil servant of the same or higher category.

3. At the end of the probation period, the competent authority, where the civil servant is appointed shall decide on:

a) the confirmation of the civil servant;

b) the extension of the probation period for only one single time, up to another six months, if for justified reasons a full evaluation of the civil servant was not possible; or

c) the non-confirmation of the civil servant.

4. The decision, according to paragraph 3 of this Article, is based in any case on the evaluation of individual results at work.

5. The General Prosecution Office and the Special Prosecution Office shall forward the decision on appointments under its authority to the High Prosecutorial Council within three days. The High Prosecutorial Council shall register any appointment decision issued pursuant to this Article in the Central Staff Registry within ten days upon receipt of the notification.

Article 83

Personnel File and Central Staff Registry

1. The Secretary General and the chancellor of every prosecution office shall create and administer the individual file for every civil servant and employee of the administration in the prosecution office. The individual file shall contain the professional data for every civil servant of the prosecution office and employees of the administration, as well any other data concerning the civil service or work relationship.

2. The Secretary General and the chancellor of every prosecution office shall reflect in the Central Staff Registry, established and administered by the Public Administration Department in accordance with the provisions of the law "On Civil Servant" and other sub legal acts thereof, the professional data for every civil servant of the prosecution office and the employees of the administration, as well any other data concerning the civil service or work relationship, and the information on the relevant prosecution office structure and organogram.

3. The Public Administration Department shall, in the quality of the administrator of the Central Staff Registry, be obliged to provide the High Prosecutorial Council and prosecution offices with the required access to the data of the prosecution offices contained in this registry.

4. The High Prosecutorial Council shall adopt by decision detailed rules on the content, procedure, and administration of the staff files, in accordance with paragraph 1 of this Article,

the data kept therein, as well as the manner of keeping, inserting, updating and using the data.

5. All civil servants of the prosecution office and other employees of the administration shall have unlimited access to their personal file, defined in accordance with paragraph 1 of this Article, which contains data in compliance with the law on protection of personal data.

SECTION V RIGHTS, DUTIES, PERFORMANCE EVALUATION, TRANSFER

Article 84 Rights and Duties of the Prosecution Office Civil Servants

1. The civil servants shall enjoy the rights and are subject to the obligations as established in the chapter on rights and duties in the civil service of the law "On Civil Servant" unless otherwise provided by this law.

2. The civil servants shall have the right to appeal a decision of Admission Committee to the Administrative Court of Appeal. The Administrative Court of Appeal shall only examine the factual and procedural errors, which may have affected the outcome of ranking and it does not substitute the evaluation of the criteria with its own evaluation. The decision of the Administrative Court of Appeal shall be final and no legal remedy may be filed against it.

3. The decisions of the High Prosecutorial Council regarding the appointment of chancellors and seconded prosecutors shall be appealed in accordance with the law governing the organisation and functioning of the High Prosecutorial Council.

4. The Council of Ministers shall set by decision the:

a) Rules on the salary structure and salary progression for civil servants, whereby the salary scheme shall be at least equivalent to the salary scheme of respective categories of judicial civil servants;

b) Rules on the duration of the work, holidays and leaves, overtime work and its compensation, as well as the compensation of the expenditure for the performance of the duty outside the working place. When determining such rules, it shall be ensured that civil servants are treated in an equivalent manner to judicial civil servants.

5. The candidate for chancellor shall be entitled to a scholarship fee of 50 % of the initial salary as chancellor during the initial training course.

6. The candidates for chancellors shall be obligated to reimburse the total of the received scholarship fee within three years in case the candidate is expelled or leaves the School; or in case the candidate does not apply for being assigned to a position within one year upon completion of the education at the School of Magistrates. The candidate shall be obligated to reimburse 50% of the total of the received scholarship fee within three years upon completion of the education at the School of Magistrates in case the candidate did not reach the requirements for being appointed as according to Article 76 of this law; or the chancellor's mandate is terminated before having completed at least five years in assuming the function. The obligation to reimburse the scholarship fee received shall not apply in cases which are resulting from health reasons or other justified reasons as approved by the High Prosecutorial Council.

7. The chancellor's salary grade shall be determined within the structure approved by the Prosecutor General, based on three levels of remuneration, in accordance with the workload in the relevant prosecution office. The highest salary grade of the chancellor in the prosecution office shall be equivalent to the salary of director general and the lowest salary grade shall be equivalent to the salary of the function of the chief of sector in the ministry.

8. The civil servants of the Special Prosecution Office shall benefit a salary bonus of 10% of the respective salary.

Article 85

Civil Servant Performance Evaluation

1. The performance of any civil servant shall be evaluated at least every two years, starting from the date of his/her assumption of function in the respective position, against the following criteria:

- a) professional knowledge and technical skills;
- b) commitment to work;
- c) work ethics.

2. The head of the prosecution office shall notify the civil servant on the initiation of the evaluation proceeding and requests him a self-evaluation two months before the end of the two-year performance evaluation. The civil servant shall make a self-evaluation within two

weeks upon notification. The civil servant shall describe in the self-evaluation the activities, identify training needs, suggest improvement to work conditions and measures for his/her professional development, identify weaknesses and strengths in regard to each evaluation criterion.

3. The head of the prosecution office shall notify all supervisors to provide a written opinion on the performance of the civil servant towards the evaluation criteria, within two weeks upon notification.

4. The civil servant under evaluation and the supervisor shall submit the evaluation acts to the head of the prosecution office, who is responsible to establish a draft evaluation report within four weeks following the notification of the civil servant. Upon completion of the draft evaluation report, the civil servant shall be notified and shall have the right to access to the evaluation file.

5. The civil servant shall have the right to object the draft evaluation report in writing within two weeks upon receiving the draft evaluation report.

6. In the case of evaluation of the civil servants in the prosecution offices of general jurisdiction, the head of the prosecution office shall submit to the Secretary General the draft decision on the evaluation, the draft evaluation report together with the self-evaluation, the written opinion of all supervisors and, if applicable, any objection according to paragraph 5 of this Article. In the case of evaluation of the civil servants of the Special Prosecution Office, it is the Chief of the Special Prosecution Office who conducts the evaluation.

7. The Secretary General or the Chief of the Special Prosecution Office may decide to hear the civil servant under evaluation and shall deliberate on the work evaluation by assigning one of the following evaluation grades:

a) Very good

b) Good

c) Satisfactory

ç) Non-satisfactory

8. The decision taken shall be duly justified in written and notify the evaluated civil servant within three days upon taking the decision.

9. In case where an evaluation decision determines an evaluation grade less than 'good' the civil servant shall have the right to appeal against the decision to the competent court, within 15 days from the notification of the decision, only regarding questions of law with the argument of non-uniform application of the law.

10. In case of a civil servant on probation period, the evaluation shall cover a period of six months.

11. The High Prosecutorial Council shall establish by decision further rules on the evaluation indicators relating to the evaluation criteria, sources and evaluation procedure.

Article 86

Transfer of Civil Servants

1. The provisions of the law "On Civil Servant" on the temporary and permanent transfer shall be applicable *mutatis mutandis*, unless otherwise provided in this law.

2. The transfer may apply only within the civil service in the prosecutorial system. A civil servant can also be temporarily transferred, in the interest of the state or prosecutorial system, to a position in an international organisation or institution that fits to the profile of the job to which the Republic of Albania is member.

3. The head of the prosecution office to which the civil servant is to be transferred is competent for the decision on the transfer. In case of a transfer to an institution other than the prosecution office, the head of the prosecution office in which the civil servant is serving, is the competent authority to decide on the transfer. In case of the chancellor, the High Prosecutorial Council is the competent authority to decide on the transfer.

4. The head of the prosecution office shall inform the High Prosecutorial Council in case where a civil servant requests the transfer to another civil service institution because of:

- a) Medical grounds or during the pregnancy;
- b) Health incapacity; or
- c) Avoiding a situation of continuous conflicts of interest.

5. The High Prosecutorial Council shall register the civil servant on a list until his/her appointment to an appropriate position. The provisions on the effects of suspension shall be applicable case by case.

6. In case of a closure or reorganisation of prosecution office structure, the High Prosecutorial Council shall establish a Restructuring Committee in the sense of the law "On Civil Servant". The Restructuring Committee shall be chaired by a representative of the High Prosecutorial Council and shall include the heads and chancellors of the prosecution offices which are subject to the restructuring procedures.

7. The High Prosecutorial Council shall issue by decision more detailed rules on the procedure of transfer.

SECTION VI SUSPENSION AND DISCIPLINARY LIABILITY

Article 87 Suspension from Civil Service

1. The provisions on the suspension from civil service as set out in the Law "On Civil Servant" shall be applicable *mutatis mutandis* also to the civil servants in prosecution offices, unless otherwise provided by this law.

2. The competent authority for declaring the suspension is the High Prosecutorial Council for the chancellor and the head of the prosecution office for other civil servants.

3. In case of a suspension, upon a justified request because of another lawful interest of the civil servant, the competent authority may grant the suspension for a period up to two years in accordance with the provisions issued by the High Prosecutorial Council.

Article 88 Effects of Suspension

1. The civil servant shall, during the suspension period, not receive a salary, unless otherwise provided by this law.

2. The civil servant shall benefit the full salary during the period of suspension in the cases of:

a) A disciplinary proceeding;

b) Suspension by a court decision as a preventive measure;

- c) Emerging of a continuous conflict of interest, which is properly and timely declared, in accordance with the law on the prevention of the conflict of interest, until the permanent transfer to another position;
 - ç) Attending the initial training program;
 - d) During the period of waiting for transfer to an appropriate position in the civil service in the sense of this law.
3. The civil servant shall reimburse an amount of 50 % of the salary benefitted during the suspension period based on a pending disciplinary or criminal procedure in case that:
- a) The final decision in the respective disciplinary matter establishes the dismissal from office; or
 - b) He/she is found guilty by a final court decision for a criminal offence in the respective case.
4. The High Prosecutorial Council shall establish by a decision more detailed rules on the effects of suspension.

Article 89

Disciplinary Liability

1. The competent authority to propose disciplinary sanctions is:
- a) The chancellor of the prosecution office for the civil servants who perform their duties in the relevant prosecution office, except for the chancellor;
 - b) The head of the prosecution office for the chancellor.
2. The competent authority to determine disciplinary sanctions is:
- a) The High Prosecutorial Council for the chancellor; and
 - b) The head of the prosecution office for other civil servants.
3. The provisions on the disciplinary liability as set out in the law "On Civil Servant" shall be applicable mutatis mutandis also to civil servants, unless otherwise provided by this law.

Article 90
Statute of Limitations

1. No investigation regarding misconduct shall be initiated against the civil servant upon a lapse of time of two years from the date on which the alleged misconduct occurred.
2. The limitation period shall start to run at the time of the termination of misconduct.
3. The limitation period is interrupted, if there is a reasonable basis to believe that the civil servant may have engaged in another misconduct of the same nature committed within the statute of limitation. In this case, the limitation period shall start at the time of completion of the new misconduct. In any case, the statute of limitation shall not be extended more than one year.
4. Notwithstanding paragraphs 1, 2 and 3 of this Article, misconducts which are simultaneously criminal offences, have the same limitation period as set out in the Criminal Code.
5. The lapse of time is suspended during the time of a criminal procedure, a civil procedure or an administrative procedure regarding the same civil servant, if the same misconduct is the subject of those procedures.
6. Upon initiation of the investigation the limitation period shall not lapse any more. The investigation is initiated in the sense of this Article at the date of the receipt of the complaint or of the receipt of the information justifying the opening of an ex-officio investigation by the high investigating body.

Article 91
Limitations for Opening an Investigation

1. The competent authority for proposing disciplinary measures shall decide on the archiving of a complaint or opening of an investigation on an alleged misconduct within six months upon the receipt of the complaint or upon receipt of substantial factual information.
2. The competent authority shall submit a proposal to the authority competent for imposing the disciplinary measure or issue a decision on the closure of the investigation, within six months upon the decision on opening the investigation.

3. The competent authority for proposing disciplinary measures may decide to extend the six-month investigation period as set out in paragraph 2 of this Article to further six months in the following cases:

- a) Illness or non-availability of the civil servant for justified reasons;
- b) When determining the expansion of the investigation or when changing the legal causes of the investigation; or
- c) In other complex cases.

4. In cases where new evidence becomes available after the lapse of time set out in paragraph 2 or 3 of this Article, which lead to the conclusion that there is a reasonable basis to believe that a misconduct may have occurred, the competent authority shall reopen the investigation, provided that the statute of limitation as set out in paragraph 1 and 4 of Article 90 of this Law did not lapse. The competent authority shall submit a proposal to impose a disciplinary measure or issue a decision on the closure of the investigation, within six months upon the decision on reopening the investigation.

5. In case where the competent authority for proposing a disciplinary measure does not comply with the time periods set out in paragraph 2 to 4 of this Article, the civil servant shall have the right to appeal the administrative omission to the High Prosecutorial Council.

6. The time periods set forth in paragraph 1 and 2 of this Article may be suspended in accordance with Article 96 of this law.

Article 92

Initiation of a Disciplinary Investigation

1. Anybody may lodge a complaint against a civil servant in the prosecution office.

2. Any supervisor of a civil servant or any public body with administrative control or financial inspection or audit competencies may request the competent authority in writing in the sense of paragraph 1 of Article 89 of this Law to initiate a disciplinary investigation, submitting allegations for a breach of judicial civil servant obligations together with evidence to the competent authority.

3. The competent authority shall verify the allegations in the sense of paragraph 1 of Article 89 of this Law. If there is a reasonable basis to believe that misconduct has occurred, the

competent authority shall open an investigation into the alleged misconduct. If appropriate, the competent authority shall collect further evidence, interview witnesses or ask supervisors for their observations.

4. If there is no reasonable basis to believe that misconduct may have occurred, the competent authority shall archive the complaint or the obviously unfounded request.

5. The competent authority, defined in the sense of paragraph 1 Article 89 of this Law shall establish an investigation report, containing a resume of the facts, a list of evidence and the significance of evidence as well as the conclusions presenting the reasons why such facts might constitute a breach of civil servants obligations in the prosecution office in the sense of the law "On Civil Servant".

6. The competent authority, designated in the sense of paragraph 1 Article 89 of this Law, shall submit a proposal to the competent authority, designated in the sense of paragraph 2 of Article 89 of this Law, to impose a disciplinary sanction or a proposal to close the investigation

Article 93

The Rights of a Civil Servant during a Disciplinary Investigation

1. The competent authority, in the sense of paragraph 1 Article 89 of this Law, shall notify the civil servant on the archiving or opening of the disciplinary investigation, by providing him/her the information on the allegations and relevant evidence and by informing the civil servant on his/her rights.

2. The civil servant shall have the right to have access to the disciplinary file, to be represented by a representative in the sense of the law "On Civil Servant", to submit a statement and evidence within one month upon receiving the notification on the decision on archiving and opening the investigation.

3. The competent authority shall notify the civil servant and the complainant or the requesting body on the decision to close an investigation.

Article 94

Disciplinary Proceedings

1. The competent authority, in the sense of paragraph 2 of Article 89 of this Law, shall dismiss the request to initiate a disciplinary proceeding without a hearing, if no reasons are provided for

the request, there are grounds for closing the investigation or if the statute of limitation had expired at the time of opening the investigation.

2. The competent authority, in other cases, in the sense of paragraph 2 of Article 89 of this Law shall schedule a hearing not later than one month after receiving the proposal to impose a disciplinary sanction.

3. The civil servant shall have the right to be heard, to submit statements and further evidence and to be represented.

4. The competent authority, in the sense of paragraph 1 Article 89 of this Law, shall present the investigation findings during the disciplinary sessions.

5. The competent authority, in the sense of paragraph 2 Article 89 of this Law, shall review and decide on the proposal.

Article 95 **The Criteria to Determine Disciplinary Measures**

1. In case a disciplinary misconduct is established, the competent authority in the sense of paragraph 2 of Article 89 of this Law shall impose a disciplinary sanction as set out in the Law "On Civil Servant" by taking into account the mitigating and aggravating circumstances and the principle of proportionality.

2. When determining the sanction the following aggravating factors shall be taken into account:

(a) Repetitive misconduct;

(b) Lengthy instances or courses of misconduct;

(c) Discriminatory motives;

(ç) Other weak motives appearing to the competent authority to be especially deserving a censure;

(d) Instigating others to a misconduct or unlawful behavior;

(dh) Exploiting weaknesses or vulnerabilities of others; and

(e) Any other feature of the case that in the opinion of the competent authority makes it

deserving of special punishment or condemnation.

3. When determining the sanction the following mitigating circumstances shall be taken into account:

- (a) The misconduct is a first incident for the civil servant;
- (b) The civil servant acted under the influence of a third person through loyalty or fear;
- (c) The civil servant misconduct played a minor part in the overall circumstances;
- (ç) The civil servant cooperated with the investigation and disciplinary proceedings, including where relevant by providing admissions and helpful information;
- (d) The civil servant attempted to repair loss or damage caused by the misconduct or otherwise to limit its consequences;
- (dh) The misconduct occurred a long time ago;
- (e) Any other feature of the case that in the opinion of the competent authority makes it deserving of special leniency.

Article 96

Suspension of Investigations and Disciplinary Proceedings

1. The competent authority, in the sense of this Law, shall suspend an investigation or a disciplinary proceeding if any criminal, administrative or civil proceeding is pending, in which:

- a) One of the parties is the reported civil servant, and
- b) The alleged misconduct relates to the same facts.

2. The investigation or the disciplinary proceeding shall be suspended pending final court decision.

3. The complainant, the concerned civil servant, courts and prosecution offices shall be notified in writing on the decision of suspension. The concerned courts and prosecution offices shall submit without delay any decision taken in respective proceedings.

4. The final decision of acquittal or of quashing the inquiry against the civil servant in the context of criminal, administrative or civil proceedings does not preclude the investigation or the determining of disciplinary liability for the civil servant.

5. The competent authority shall be bound only to the facts established by that decision and not by the sanction respectively acquittal foreseen therein.

6. The suspension of an investigation or a disciplinary proceeding interrupts the status of limitation as set out in Article 90 and the time limitations for the competent authority as set out in Article 91 of this Law.

7. The decision on the suspension of investigation shall not be appealable.

Article 97

Suspension from Duty during an Investigation or Disciplinary Proceeding

1. If there are reasons to believe that the continuation of performing the duties by the civil servant against whom a disciplinary investigation or proceeding has been started, would impede the disciplinary investigation or would seriously impede the proper performance of duties by the civil servant, the competent authority in the sense of paragraph 1 Article 89 shall lodge a request for suspension to the competent authority.

2. The competent authority, in the sense of paragraph 2 Article 89 of this Law, shall suspend the civil servant ex officio or upon the request in the sense of paragraph 1 of the Article 89 of this law or shall take any other appropriate and proportionate measure.

3. The suspension may be imposed for a maximum of 90 days only in cases of very serious offences and the continuation in office may be prejudicial to the investigation of the case, to the service or to the prestige and dignity of the function.

4. The enforcement of the suspension has to be carried out in a manner that ensures the safeguard of personal and professional dignity of the civil servant.

Article 98

The Right to Appeal

The concerned civil servant as well as the competent authority in the sense of paragraph 1 Article 89 of this Law shall have the right to appeal the decision in disciplinary matters.

Article 99
Disciplinary Records

1. The final decisions on a disciplinary sanction shall be kept in the personal file of the civil servant and registered in the Central Staff Registry.
2. The final decision on the disciplinary sanction and its recording shall be eliminated from the file and expunged from the registry by the head of the prosecution office and by the High Prosecutorial Council ex officio or upon request of the concerned civil servant within the timelines set out in the law "On Civil Servant".

SECTION VII
TERMINATION OF CIVIL SERVICE RELATIONSHIP

Article 100
Termination of Civil Service Relationship in the Prosecution Office

1. The termination of civil service relationship shall be subject to the rules foreseen in the law "On Civil Servant", unless otherwise provided in this Law.
2. The civil servant relationship, except for the cases listed in the law "On Civil Servant", ends by way of a release in case of an appointment to a position of a minister, deputy minister, official appointed by the Assembly, President of the Republic or Council of Ministers or cabinet functionaries.
3. The competent authority relating to the termination of the civil service relationship for chancellors shall be the High Prosecutorial Council, and for other civil servants shall be the head of the prosecution office, where the latter perform their duties.

Article 101
Registration in Central Staff Registry

The head of the prosecution office, within three days upon receiving the resignation notice or receiving the notice on an occurrence which is the basis for a termination of the civil service relationship due to the law, shall notify the High Prosecutorial Council, which ensures the registration of the decision in the Central Staff Registry.

Article 102

Detailed Rules on the Termination of Civil Service Relationship

The High Prosecutorial Council shall establish more detailed rules of procedures for the termination of the civil service relationship.

CHAPTER VIII

RELATIONS WITH OTHER INSTITUTIONS

Article 103

Relations with the Council of Ministers

1. The Council of Ministers, not later than 31st of March of each year, approves and forwards to the Prosecutor General the priority recommendations to be followed during the current year in the fight against crime.
2. The recommendations are approved in the meeting of the Council of Ministers. The recommendations shall also include information about budget changes necessary for their implementation.
3. The Minister of Justice shall make known the Council of Ministers' recommendations to the heads of prosecution offices of all levels in a joint meeting not later than one month from the date of their approval by the Council of Ministers.
4. In the relations of the Prosecutor General and the Chief of the Special Prosecution Office with the Council of Ministers, it is forbidden to give recommendations whether to prosecute or not a concrete case.
5. The Council of Ministers, through the Minister of Justice, follows the way of implementation of the recommendations given.

Article 104
Relations with the Assembly of Albania

1. The Prosecutor General and the Chief of the Special Prosecution Office, referring to their specific jurisdiction, report to the Assembly on the state of crime in the country at least once per year. The reporting includes data and explanations on the number, type, territorial extension, intensity and forms of crime in the Republic of Albania.

2. The Prosecutor General reports on the implementation of the priority recommendations of the Council of Ministers as follows:

a) Whether the Prosecutor General has issued general instructions based on the periodical recommendations given by the Council of Ministers;

b) Whether the instructions issued by the Prosecutor General according to letter “a” of this Article are implemented and how they impacted on the state of crime in the recommended fields;

c) Whether the Prosecutor General has monitored the observance of these instructions by prosecutors;

3. The Prosecutor General and the Chief of the Special Prosecution Office also submit to the Assembly detailed data related to effectiveness of criminal prosecution, the quality of representation of accusation in court as well as to other essential elements in the activity of the respective institutions. Notification on specific cases is not allowed, with the exception of cases sent by decision of the Assembly.

4. The Prosecutor General and the Chief of the Special Prosecution Office shall cooperate with the inquiry Parliamentary committees in accordance with the legal provisions in force. In each case, the criminal investigation is independent from the inquiries of the parliamentary committees.

Article 105
Relations with the High Prosecutorial Council

1. The relations of the Prosecution Office with the High Prosecutorial Council are determined by special legislation in force.

2. The Prosecutor General and the Chief of the Special Prosecution Office report at least once a year before the High Prosecutorial Council on the progress of the activity of the respective structures.

Article 106

Relations with the High Justice Inspector

1. The Prosecutor General and the Chief of the Special Prosecution Office have an obligation to collaborate with the High Justice Inspector for cases which are under its jurisdiction and to inform in relation to disciplinary misconducts and problems they notice in exercising their activity.

2. Special rules on the functioning of the High Justice Inspector are established in the special laws in force.

Article 107

Relations with the Minister of Justice

1. The Minister of Justice collaborates with the Prosecutor General, the Chief of the Special Prosecution Office and the Chairperson of the High Prosecutorial Council, about the preliminary examination of their budget needs and presents and defends them at the meeting of the Council of Ministers.

2. The Minister of Justice has an obligation to submit to the High Justice Inspector complaints lodged against prosecutors.

Article 108

Relations with Judicial Police

1. Prosecutors lead and control the investigation activity of Judicial Police in compliance with the criminal procedural legislation and provisions of the Judicial Police organic law.

2. Orders and instructions of general and special nature related to criminal proceedings are mandatory for Judicial Police.

CHAPTER IX

TRANSITIONAL AND FINAL PROVISIONS

Article 109

Transitional Provisions on the Powers of the Incumbent Prosecutor General

1. The incumbent Prosecutor General remains in office until the end of the mandate, in case there is no reason to terminate his mandate under Chapter VIII of the law "On the Status of Judges and Prosecutors in the Republic of Albania" or due to the re-evaluation process under the law "On the Transitional Re-evaluation of Judges and Prosecutors in the Republic of Albania".
2. In the event the mandate of the Prosecutor General ends prematurely, before the establishment of the High Prosecutorial Council, the functions of the Prosecutor General shall be temporarily assigned, by a decision of the Assembly, to be performed by one of the most experienced prosecutors from the ranks of the prosecutors who meets the requirements and criteria of Chapter IV, Section I of this law.
3. Transitional powers of the incumbent Prosecutor General are provided for in the transitional provisions of the law "On the Status of Judges and Prosecutors in the Republic of Albania".

Article 110

Transitional Provisions for the Incumbent Prosecutors and Legal Assistants

The incumbent prosecutors and incumbent legal assistants are subject to the provisions of the law "On the Status of Judges and Prosecutors in the Republic of Albania".

Article 111

Transitional Provisions for the Secretary General and the Chancellor

- 1 The High Prosecutorial Council shall, within four months of its establishment, carry out the background and asset assessment for the incumbent Secretary General and incumbent chancellors, as well as the verification of requirements and procedures met by them, as provided for in the law "On Civil Servant".
2. The High Prosecutorial Council shall submit a request for information to verify the judicial status and any other disqualifying cause to the High Inspectorate for the Declaration and Audit of Assets and Conflict of Interests, Prosecution Office, public finance authorities, National Bureau of Investigation, State Intelligence Services, and any disciplinary authority that has

overseen the chancellors' discipline in their employment relations in the past. If deemed necessary, the High Prosecutorial Council may request additional information from other institutions.

3. The High Prosecutorial Council shall establish a report on the outcome of the asset declaration and background assessment. The incumbent Secretary General and incumbent chancellors shall have the right to be heard, to submit statements and further evidence, and to be represented.

4. The High Prosecutorial Council shall decide to terminate the contract or confirm the civil service relationship, based on the information received and notify the incumbent on the reasoned decision.

6. The decision of the High Prosecutorial Council may be appealed within two weeks of notification in the sense of paragraph 4 of this Article.

Article 112

Transitory Provision for Incumbent Position Holders in the Inspection and Human Resources Directorate in the General Prosecution Office

1. Incumbent position holders in the Inspection and Human Resources Directorate at the General Prosecution Office, on the date of the entry into force of this law, shall be considered seconded to the General Prosecution Office, until the establishment of the High Prosecutorial Council. The High Prosecutorial Council shall, within four months of its establishment, decide in compliance with this law in relation to their position.

2. Upon the establishment of the High Justice Inspector, the incumbent position holders who are currently assigned to carry out investigations of disciplinary offences, upon their request, shall be seconded to the High Justice Inspector.

Article 113

Special Provision for Serious Crime Prosecution Office Employees

1. The incumbent civil servants and employees of the Serious Crimes Prosecution Office of First Instance and Serious Crimes Prosecution Office of Appeal shall be considered civil servants and employees of the Special Prosecution Office in case they comply with the security conditions established in a special law, including a waiver of the right to privacy in telecommunications and financial accounts, signed by the candidate and his or her immediate family members.

2. In cases where the incumbent civil servant or employee does not meet the requirements as per paragraph 1 of this Article, the incumbent employee may be transferred as civil servant to a vacant position in another prosecution office, the High Prosecutorial Council, or the High Justice Inspector, in compliance with the criteria and rules set forth in this law.

Article 114
Central Staff Registry

The Secretary General and the chancellor of each prosecution office shall reflect the data specified in paragraph 2, Article 83 of this Law in the Central Staff Registry, within three months upon the entry into force of this law.

Article 115
Sub-legal acts

1. The High Prosecutorial Council shall, unless otherwise provided by this law, establish and adopt sub-legal acts in accordance with this law.
2. The High Prosecutorial Council shall adopt the necessary sub-legal acts on legal assistants at the latest within ten months upon its establishment.
3. Any sub-legal act adopted before the entry into force of this law shall apply to the extent that it does not conflict with this law.

Article 116
Repeal

1. The provisions in force for salaries, bonuses and financial treatment of prosecutors and the administration of prosecution offices shall be repealed following the implementation of the new system of salaries and bonuses in accordance with the provisions of this law and the law "On the Status of Judges and Prosecutors in the Republic of Albania".
2. Upon the entry into force of this law, the provisions of the law no. 8737, dated 12.02.2001 "On the Organization and Functioning of the Prosecution Office in the Republic of Albania", as amended, and any other legal or sub legal act that conflict with this law shall be repealed.

Article 117

Entry into force

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

SPEAKER OF PARLIAMENT

Ilir Meta

Adopted on 06 October 2016.