

24 Annex - Justice, freedom and security

167. LAW ON PUBLIC PROSECUTION OFFICE

LAW ON public prosecution office

(Official Gazette of the Republic of Montenegro 69/2003 and Official Gazette of Montenegro 40/2008)

I. GENERAL PROVISIONS

Subject matter of the Law

Article 1

This Law shall regulate establishing, organisation, jurisdiction and other issues relevant to the work of the Public Prosecution Office, as well as issues relevant to the work of the Special prosecutor for suppressing organised crime, corruption, terrorism and war crimes.

Constitutionality and legality

Article 2

The Public Prosecution Office shall perform its functions on the basis of the Constitution, laws and ratified international treaties.

Autonomy and independence

Article 3

A public prosecutor must not exercise his/her office under anybody's influence and nobody may influence a public prosecutor in the exercise of his/her office, except in cases provided by this Law.

Public prosecutor

Article 4

The Supreme Public Prosecutor, high public prosecutor and basic public prosecutor (hereinafter referred to as the "public prosecutor") shall exercise the functions of the Public Prosecution Office.

The Special Prosecutor shall exercise certain functions of the Public Prosecution Office, in accordance with law.

Deputy

Article 5

The public prosecutor shall have a deputy.

A deputy public prosecutor (hereinafter referred to as the "deputy") shall have the power to take all actions during the proceedings before a court or another state body that the public prosecutor he/she is deputy of is empowered by law to take.

The deputy shall also take other actions in accordance with this Law and instructions of the public prosecutor he/she is deputy of.

Impartiality and objectivity

Article 6

The public prosecutor shall exercise his/her office in the public interest in order to ensure the application of law, while ensuring the respect for and protection of human rights and freedoms.

The public prosecutor must exercise his/her office in an impartial and objective manner.

Code of Ethics

Article 7

The public prosecutor and the deputy shall abide by the Code of Ethics for Prosecutors in performance of their offices.

The Code of Ethics for Prosecutors shall be adopted by the Prosecutorial Council, following prior opinion from public prosecutors and deputies.

Openness

Article 8

The work of the Public Prosecution Office shall be open to the public, unless otherwise provided by law.

Professional development

Article 9

The public prosecutor and the deputy shall have the right and duty to develop their professional skills in order to perform their offices more successfully.

Funding

Article 10

Montenegro shall provide funding and working conditions for the Public Prosecution Office.

Salaries

Article 11

The public prosecutor and the deputy shall have the right to salaries and other income, in accordance with law.

Professional association

Article 12

Public prosecutors and deputies shall have the right to form professional associations.

II. ESTABLISHING AND JURISDICTION

1. Establishing

Structure of the Public Prosecution Office

Article 13

The Supreme Public Prosecutor's Office, high public prosecutors' offices, and basic public prosecutors' offices shall be established within the Public Prosecution Office.

The Supreme Public Prosecutor's Office shall be established for the territory of Montenegro and shall have its seat in Podgorica.

A high public prosecutor's office shall be established for the territory of high court and commercial court.

A basic public prosecutor's office shall be established for the territory of one or more basic courts.

Supreme Public Prosecutor

Article 14

The Supreme Public Prosecutor's Office shall act before the Supreme Court of Montenegro, the Appellate Court of Montenegro and the Administrative Court of Montenegro, other courts and other state bodies, in accordance with law.

The Supreme Public Prosecutor's Office shall, in accordance with law, file a petition for the protection of legality.

The Supreme Public Prosecutor's Office shall also perform other duties which are not defined as falling within the competence of the high public prosecutor's office or the basic public prosecutor's office.

High Public Prosecutor's Office

Article 15

High public prosecutors' offices are established as:

- 1) The High Public Prosecutor's Office in Bijelo Polje, to act before the High Court in Bijelo Polje and the Commercial Court in Bijelo Polje.
- 2) The High Public Prosecutor's Office in Podgorica, to act before the High Court in Podgorica and the Commercial Court in Podgorica.

High public prosecutor's office shall have jurisdiction to act in criminal matters before a high court, and in matters of economic offences before a commercial court.

Basic Public Prosecutor's Office

Article 16

Basic Public Prosecutors' Offices are established as:

- 1) The Basic Public Prosecutor's Office in Bar, for the territory of the Basic Court in Bar;
- 2) The Basic Public Prosecutor's Office in Berane, for the territory of the Basic Court in Berane;
- 3) The Basic Public Prosecutor's Office in Bijelo Polje, for the territory of the Basic Court in Bijelo Polje;
- 4) The Basic Public Prosecutor's Office in Kolašin, for the territory of the Basic Court in Kolašin;
- 5) The Basic Public Prosecutor's Office in Kotor, for the territory of the Basic Court in Kotor;
- 6) The Basic Public Prosecutor's Office in Nikšić, for the territory of the Basic Court in Nikšić;
- 7) The Basic Public Prosecutor's Office in Plav, for the territory of the Basic Court in Plav;

- 8) The Basic Public Prosecutor's Office in Pljevlja, for the territory of the Basic Court in Pljevlja and the Basic Court in Žabljak;
- 9) The Basic Public Prosecutor's Office in Podgorica, for the territory of the Basic Court in Podgorica and the Basic Court in Danilovgrad;
- 10) The Basic Public Prosecutor's Office in Rožaje, for the territory of the Basic Court in Rožaje;
- 11) The Basic Public Prosecutor's Office in Ulcinj, for the territory of the Basic Court in Ulcinj;
- 12) The Basic Public Prosecutor's Office in Herceg Novi, for the territory of the Basic Court in Herceg Novi;
- 13) The Basic Public Prosecutor's Office in Cetinje for the territory of the Basic Court in Cetinje.

Basic Public Prosecutor's Office shall also act before misdemeanour bodies and other state bodies from its territory.

The Basic Public Prosecutor's Office shall have the power to take all actions falling within its jurisdiction before the court having subject-matter jurisdiction and territorial jurisdiction, a misdemeanour body or another state body, except for those actions which fall within the exclusive jurisdiction of the Supreme Public Prosecutor or a high public prosecutor and actions they took over.

2. Jurisdiction

General jurisdiction

Article 17

The Public Prosecution Office shall perform the tasks of prosecution of perpetrators of criminal offences and other punishable offences prosecuted *ex officio*, file legal remedies falling within its jurisdiction and perform other duties laid down by law.

Subject-matter jurisdiction and territorial jurisdiction

Article 18

The Public Prosecution Office shall act within the limits of its subject-matter jurisdiction and territorial jurisdiction, unless otherwise provided by law.

Power to undertake measures

Article 19

In order to exercise the function of prosecution of perpetrators of criminal offences and other offences punishable by law, the Public Prosecution Office shall have the power to adopt and undertake measures necessary for revealing of criminal and other offences punishable by law and perpetrators of those offences, in co-operation with the competent authorities.

Representation

Article 20

- repealed -

Settlement of disputes by mutual agreement

Article 21

- repealed -

Informing the Government

Article 22

- repealed -

Postponing or suspending enforcement of judicial decisions

Article 23

- repealed -

III. REQUIREMENTS AND PROCEDURE FOR APPOINTMENT OF PUBLIC PROSECUTOR AND DEPUTY

1. General and special requirements

General requirements

Article 24

A person may be appointed as a public prosecutor or deputy if he/she:

- is a national of Montenegro;
- is medically fit and possesses capacity to exercise rights;
- has a university degree in the field of law and has passed bar examination.

Special requirements

Article 25

A person may be appointed as a public prosecutor or deputy if he/she, in addition to the general requirements, possesses work experience of the following duration in the field of law:

- for the Supreme Public Prosecutor and his/her deputy – 15 years;
- for a high public prosecutor and his/her deputy – 10 years;
- for a basic public prosecutor – six years, and for his/her deputy – three years.

Appointment

Article 26

The public prosecutor shall be appointed and dismissed from office by the Parliament of Montenegro (hereinafter referred to as the "Parliament") on a proposal from the Prosecutorial Council.

Deputies shall be appointed and dismissed from office by the Prosecutorial Council.

Number of deputies

Article 27

The Prosecutorial Council shall determine the number of deputies on a proposal from the Minister of Justice and on the basis of the initiative of the Supreme Public Prosecutor.

The decision on the number of deputies shall be published in the Official Gazette of Montenegro.

Term of office

Article 28

The office of the deputy shall be permanent.

By way of exception from paragraph 1 of this Article, a deputy basic public prosecutor shall be appointed for a term of three years when appointed for the first time.

Functional immunity

Article 29

- repealed -

Incompatibility of offices

Article 30

- repealed -

2. Appointment procedure

Public announcement

Article 31

The public prosecutor and the deputy shall be appointed on the basis of public announcement.

The Prosecutorial Council shall announce vacancies for the positions of the public prosecutor and the deputy.

Vacancy announcements shall be published in the Official Gazette of Montenegro and in a daily newspaper issued in Montenegro.

Procedure upon applications

Article 32

The candidates' applications shall be submitted to the Prosecutorial Council no later than 15 days from the date of announcement.

The Prosecutorial Council shall reject late or incomplete applications.

The applicant shall have the right to file a complaint with the Prosecutorial Council against decision to reject late or incomplete application no later than three days from the date of receipt of decision.

The decision of the Prosecutorial Council on the complaint shall be final and administrative dispute proceedings may be instituted against it.

Standard application form

Article 32a

The application referred to in Article 32 paragraph 1 of this Law shall be submitted on a form adopted by the Prosecutorial Council.

Opinion on candidates' professional and work qualities

Article 33

The Prosecutorial Council shall request the opinion on professional and work qualities of all candidates from:

- bodies, companies and other legal persons where the candidates performed legal tasks;
- the public prosecutor's office the candidate is to be appointed to;
- the immediate superior public prosecutor's office.

Criteria

Article 33a

The criteria for the appointment of the public prosecutor and the deputy public prosecutor shall be as follows:

- 1) professional knowledge, work experience and work results;
- 2) published research papers and other professional activities;
- 3) professional training;
- 4) ability to perform the office for which he/she applies impartially, conscientiously, diligently, determinedly and responsibly;
- 5) communication skills;
- 6) relationship with colleagues, conduct outside of work, professionalism and reputation.

In addition to the criteria referred to in paragraph 1 of this Article, special account shall be taken of organisational skills as criterion for the appointment of the public prosecutor.

More detailed criteria for the appointment of the public prosecutor and the deputy shall be laid down by the Rules of Procedure of the Prosecutorial Council.

Insight into the opinion on candidates' professional and work qualities

Article 34

- repealed -

Interview with candidates

Article 35

The Prosecutorial Council shall arrange interview with the applicants who meet the requirements for appointment.

An applicant does not need to be interviewed:

- 1) if an interview which served as a basis for his/her assessment was conducted with him/her in the last twelve months;
- 2) if he/she was given negative assessment several times when interviewed for a position of the public prosecutor or deputy, regardless of when he/she was last interviewed.

Based on the interview and documentation received, the Prosecutorial Council shall assess each candidate taking into account the criteria referred to in Article 33a of this Law.

The Prosecutorial Council shall decide on the assessment of candidates by a majority vote of a total number of members.

Immediately after the interview, the Prosecutorial Council shall fill in a standard candidate assessment form which shall contain the assessment of each candidate and reasons for such assessment.

Testing of candidates

Article 35a

The Prosecutorial Council may conduct written testing of candidates prior to the interview.

In the case referred to in paragraph 1 of this Article, based on test results, the Prosecutorial Council shall make a ranking list of applicants which may be modified based on success the candidates achieve during interview.

The method of candidate assessment and the contents of the assessment form, as well as more detailed conditions of written testing of candidates shall be laid down by the Rules of Procedure of the Prosecutorial Council.

Candidate list

Article 35b

Based on the interview, the assessment of candidates and documentation received as referred to in Article 35 of this Law, the Prosecutorial Council shall draw up a list of candidates who achieved satisfactory results.

The list of candidates shall contain the assessment of each candidate who was interviewed and/or who was tested, as well as a short summary of assessment results.

Adopting proposal for appointment

Article 36

The Prosecutorial Council shall adopt the proposal for the appointment of a public prosecutor in closed session.

The Prosecutorial Council shall submit to the Parliament a reasoned proposal for the appointment of a public prosecutor which contains the list of candidates referred in Article 35b of this Law.

The manner of adopting the proposal of candidates to be appointed as public prosecutors shall be regulated in more detail by the Rules of Procedure of the Prosecutorial Council.

Appointment of deputy

Article 36a

The Prosecutorial Council shall pass the decision on the appointment of a deputy in closed session based on the list of candidates.

The decision on appointment of a deputy must contain a written statement of reasons.

The Prosecutorial Council shall notify its decision on appointment to the candidate appointed, the public prosecutor's office to which he/she has been appointed and the Ministry of Justice.

The decision on the appointment of a deputy shall be published in the Official Gazette of Montenegro.

Candidate's rights

Article 36b

A candidate shall have the right to examine his/her documentation and documentation of other candidates and to deliver a written statement thereon to the Prosecutorial Council, within three days from the date of such examination.

Protection of the law

Article 36c

Decision of the Prosecutorial Council on the appointment of the deputy public prosecutor shall be final and administrative dispute proceedings may be instituted against it.

3. Taking up office

Oath and taking up office

Article 37

The public prosecutor and the deputy shall take up office on the day he/she takes the oath.

The Supreme Public Prosecutor shall take the oath before the Parliament on the day of appointment.

The high public prosecutor and basic public prosecutor shall take the oath before the Speaker of the Parliament or a person designated by him/her, no later than 30 days from the day of appointment.

Deputy public prosecutor shall take the oath before the Prosecutorial Council no later than 15 days from the day of appointment.

Wording of the oath

Article 38

The wording of the oath shall read:

"I swear upon my honour that I will exercise prosecutorial office in accordance with the Constitution and law."

The oath shall be taken by saying the words of the oath and signing the text of the oath.

If a public prosecutor or a deputy refuses to take the oath, it shall be deemed that he/she has withdrawn from appointment.

IV. DISCIPLINARY RESPONSIBILITY

Disciplinary responsibility

Article 39

A public prosecutor or a deputy shall be subject to disciplinary proceedings if he/she exercises his/her office in a negligent manner or harms the reputation of prosecutorial office.

Disciplinary measures

Article 40

Disciplinary measures shall comprise reprimand or salary reduction.

The salary reduction may not exceed 20% or a period of six months.

Grounds for disciplinary responsibility

Article 41

The public prosecutor or deputy shall be deemed to exercise prosecutorial office in a negligent manner if he/she without justified reason:

- 1) fails to take up cases in the order they have been received,
- 2) rejects to perform duties and tasks entrusted to him/her without justified reason,
- 3) fails to appear or is late for scheduled hearings in cases allocated to him/her,
- 4) is absent from the sessions of the prosecutor's office;
- 5) is absent from work;
- 6) in other cases when this Law prescribes that certain acts or omissions to act amount to negligent performance of tasks.

The public prosecutor or deputy shall be deemed to harm the reputation prosecutorial office in particular if:

- 1) he/she appears at work and comes into contact with parties in a state that is inappropriate to the exercise of prosecutorial office (under the influence of alcohol or narcotic drugs etc.),
- 2) he/she behaves improperly in public places or disturbs law and order by his/her behaviour,
- 3) behaves in an inappropriate or insulting manner towards individuals, state bodies or legal persons in connection with the exercise of his/her office.

Initiating disciplinary proceedings

Article 42

A proposal for establishing responsibility of a public prosecutor or deputy public prosecutor shall be submitted to the Prosecutorial Council.

The proposal referred to in paragraph 1 of this Article may be submitted: by the Minister of Justice with respect to the Supreme Public Prosecutor; by the Supreme Public Prosecutor, high public prosecutor and basic public prosecutor with respect to their respective deputies; by the Supreme Public Prosecutor with respect to high public prosecutor and basic public prosecutor; and by high public prosecutor with respect to basic public prosecutor, within 15 days from the day they learn of the reasons referred to in Article 41 of this Law and no later than 60 days from the day the reasons for establishing disciplinary responsibility emerge.

The Prosecutorial Council shall deliver the proposal for establishing responsibility to the public prosecutor or the deputy whose responsibility is examined along with the information that he/she has the right to retain a defence counsel.

Dismissal of the proposal

Article 43

The Prosecutorial Council shall dismiss late proposal for establishing responsibility as well as proposal submitted by an unauthorised person.

Disciplinary body

Article 44

The proceedings for establishing responsibility of a public prosecutor or a deputy shall be conducted by the Disciplinary Committee of the Prosecutorial Council (hereinafter referred to as the "Disciplinary Committee").

The Disciplinary Committee shall have a chairperson and two members appointed by the Prosecutorial Council from among their own number.

Disqualification

Article 45

The submitter of proposal and those members of the Prosecutorial Council in respect of whom there are circumstances which give rise to reasonable doubt as to their impartiality may not participate in the work of bodies conducting disciplinary proceedings.

The President of the Prosecutorial Council shall decide on disqualification of a member of the Prosecutorial Council, while the Prosecutorial Council shall decide on disqualification of the President of the Prosecutorial Council.

Statement and absence

Article 46

A proposal to initiate disciplinary proceedings shall be defended at the Disciplinary Committee meeting by the submitter thereof.

In the proceedings for establishing responsibility the Disciplinary Committee shall hear the public prosecutor or deputy whose responsibility is examined.

The Disciplinary Committee shall adduce such evidence as it deems necessary for proper and complete determination of facts.

Should the submitter of proposal fail to appear at the meeting of the Disciplinary Committee, the proceedings shall be discontinued and should the public prosecutor or deputy whose responsibility is established fail to appear without justified reason, the Disciplinary Committee shall conduct the proceedings in his/her absence.

Decision of the Disciplinary Committee

Article 47

In the proceedings for establishing responsibility of public prosecutor or deputy, the Disciplinary Committee may:

- 1) dismiss the proposal as ill-founded;
- 2) accept the proposal and impose disciplinary measure;
- 3) discontinue the proceedings if it finds that there are reasons for dismissal from office and refer the case to the Prosecutorial Council.

Decision made by the Disciplinary Committee shall be delivered to the submitter of proposal, to the public prosecutor or deputy whose responsibility is examined and to the Prosecutorial Council.

Second-instance proceedings

Article 48

A complaint against the decision of the Disciplinary Committee may be filed with the Prosecutorial Council within eight days from the day of receipt of decision.

The complaint may be filed by the submitter of proposal and the public prosecutor or deputy whose responsibility is examined or his/her defence counsel.

When acting upon complaint, the Prosecutorial Council may:

- 1) dismiss the complaint as late or inadmissible,
- 2) dismiss the complaint as ill-founded,
- 3) reverse decision and remand the case to the Disciplinary Committee for reconsideration
- 4) amend the decision of the Disciplinary Committee.

The members of the Disciplinary Committee may not participate in the work of the Prosecutorial Council when the latter is deciding on complaint.

Protection of the law

Article 48a

The decision of the Prosecutorial Council establishing disciplinary responsibility of a public prosecutor or a deputy shall be final and administrative dispute proceedings may be instituted against it.

Statute of limitations

Article 49

The proceedings for establishing disciplinary responsibility must be completed within three months after the date when the proposal was submitted.

If the proceedings have not been completed within the period of time specified in paragraph 1 of this Article, the proceedings shall be deemed discontinued.

V. TERMINATION OF OFFICE AND DISMISSAL FROM OFFICE

Termination of office

Article 50

The office of a public prosecutor or a deputy shall terminate:

- 1) on the expiry of the term of office,
- 2) on resignation,
- 3) on reaching legal retirement age,
- 4) on termination of nationality,
- 5) if he/she becomes a member of a political party body,
- 6) if he/she exercises office of a Member of the Parliament and other public office or a professional activity incompatible with prosecutorial office,
- 7) if he/she was sentenced to unsuspended imprisonment.

Decision on termination of office

Article 51

When a reason for the termination of office emerges, the Prosecutorial Council shall be notified thereof immediately: by the Supreme Public Prosecutor for his/her deputy and high public prosecutor, by a high public prosecutor for his/her deputy and basic public prosecutor, and by a basic public prosecutor for his/her deputy. The Minister of Justice shall notify the Prosecutorial Council of the reasons for the termination of office of the Supreme Public Prosecutor.

The Prosecutorial Council shall notify the Parliament without delay that the requirements for termination of office of a public prosecutor have been fulfilled.

Should the Parliament not reach decision on termination of office of a public prosecutor within 30 days from the day of receipt of notification, it shall be deemed that the office of a public prosecutor terminated on expiry of such period.

The office of a public prosecutor shall terminate on the day the Parliament adopts the decision on termination of office or on expiry of the time period specified in paragraph 3 of this Article.

The decision on termination of office of a deputy shall be adopted by the Prosecutorial Council within 30 days from the day of receipt of notification at latest.

The office of a deputy shall terminate on the date of adoption of the Prosecutorial Council's decision on termination of office.

The decision on termination of office of a deputy shall be delivered by the Prosecutorial Council to the deputy whose office terminated and to the public prosecutor's office in which he/she exercised the office of the deputy.

The decision on termination of office of a public prosecutor and a deputy shall be published in the Official Gazette of Montenegro.

Dismissal from office

Article 52

A public prosecutor or a deputy shall be dismissed from office if:

- 1) he/she has been convicted of a criminal offence that makes him/her unfit for prosecutorial office,
- 2) he/she exercises the prosecutorial office unprofessionally or unconscientiously,
- 3) he/she has permanently lost the ability to exercise prosecutorial office.

A public prosecutor shall also be dismissed from office if:

- 1) he/she fails to achieve satisfactory results in managing the functions through which prosecutorial office is exercised,
- 2) he/she fails to initiate procedure for dismissal of a public prosecutor or a deputy or disciplinary proceedings against a public prosecutor or a deputy when he/she is so authorised and is aware of or ought to have been aware of the reasons for dismissal.
- 3) he/she was imposed disciplinary measure twice in the course of his/her term of office.

Initiative for dismissal from office

Article 53

A substantiated initiative for dismissal of a public prosecutor or deputy may be submitted by: the Supreme Public Prosecutor, at least three members of the Prosecutorial Council, Disciplinary Committee, high public prosecutor for dismissal of his/her deputy or basic public prosecutor, basic public prosecutor for dismissal of his/her deputy, and the Minister of Justice for dismissal of the Supreme Public Prosecutor.

Time limits

Article 54

The initiative for dismissal from office shall be submitted to the Prosecutorial Council.

Within 30 days from the day of receipt of initiative, the Prosecutorial Council shall decide whether there are grounds to conduct the procedure for establishing the proposal for dismissal from office, or for adopting the decision on dismissal from office.

The Prosecutorial Council shall deliver the initiative to the public prosecutor or deputy concerned, together with notification that he/she has the right to retain a defence counsel in the proceedings conducted before the Prosecutorial Council.

The public prosecutor or deputy shall have the right to make oral or written response to the initiative for his/her dismissal from office within eight days from the day of receipt of initiative.

Setting up the Commission

Article 55

The Prosecutorial Council shall dismiss the initiative if it finds that there are no grounds to conduct the proceedings or that the initiative was submitted by an unauthorised person.

If the Prosecutorial Council finds that there are grounds to conduct the proceedings, it shall set up a Commission for examination of conditions for dismissal from office (hereinafter referred to as the "Commission").

Composition of the Commission

Article 56

The Commission shall have a chairperson and two members appointed by the Prosecutorial Council from among their own number.

Impartiality

Article 57

The submitter of the initiative for dismissal from office and those members of the Prosecutorial Council in respect of whom there are circumstances which give rise to doubt as to their impartiality may not be appointed to the Commission.

Report of the Commission

Article 58

The Commission shall gather information and evidence relevant to determination whether or not the initiative is founded.

The public prosecutor or deputy whose dismissal from office is sought shall have the right to be present during the work of the Commission.

The Commission shall submit a report on its work to the Prosecutorial Council within a time limit specified by the Prosecutorial Council.

A copy of the Commission's report shall be delivered to the public prosecutor or deputy whose dismissal from office is sought.

Opinion

Article 58a

If the proposal for dismissal of the Supreme Public Prosecutor from office has been filed on account of incompetent or negligent exercise of his/her office, the Prosecutorial Council shall request the opinion from the prosecutors' session of the Supreme Public Prosecutor's Office.

If a proposal for dismissal of a public prosecutor or a deputy from office has been filed on account of permanent loss of the ability to exercise prosecutorial office, the Prosecutorial Council shall request the opinion from the competent authority.

Session of the Prosecutorial Council

Article 59

The submitter of initiative shall be present at the Prosecutorial Council session.

The public prosecutor or deputy whose dismissal from office is sought shall have the right to be present at the session of the Prosecutorial Council.

The Prosecutorial Council shall make decisions in closed session.

Decision

Article 60

When deciding on the initiative, the Prosecutorial Council may:

- 1) dismiss the initiative as ill-founded,
- 2) adopt proposal for dismissal of a public prosecutor from office,
- 3) pass decision to dismiss a deputy from office.

Right to defence counsel

Article 61

- repealed -

Time limits

Article 62

The initiative for dismissal from office may not be submitted on expiry of three years from the day of emergence of the reasons to initiate the proceedings for dismissal.

Submitting proposal to the Parliament

Article 63

The Prosecutorial Council shall submit a substantiated proposal for dismissal of the public prosecutor from office to the Parliament within 60 days from the day of receipt of initiative.

The decision on dismissal of a deputy from office must be passed by the Prosecutorial Council within three months from the date of submission of initiative.

The public prosecutor or deputy shall be deemed dismissed from office on the day the decision on his/her dismissal is adopted.

Suspension

Article 64

The public prosecutor or deputy shall be suspended from office if an order was issued that he/she be detained on remand or is subject to investigation for a criminal offence that makes him/her unfit to exercise his/her office.

The public prosecutor or deputy may be suspended from office after the Prosecutorial Council has adopted decision to initiate proceedings for dismissal.

The Prosecutorial Council shall decide on suspension from office of public prosecutor or deputy.

***Mutatis mutandis* application of disciplinary proceedings**

Article 64a

The provisions of this Law relating to disqualification in disciplinary proceedings shall apply *mutatis mutandis* to the proceedings for dismissal from office.

Protection of the law

Article 64b

The decision of the Prosecutorial Council on dismissal of deputy from office shall be final and administrative dispute proceedings may be instituted against it.

Delivery of decision

Article 65

The Parliament shall deliver the decision on dismissal from office to the public prosecutor who has been dismissed from office, to the Prosecutorial Council and to the Ministry of Justice.

The Prosecutorial Council shall deliver the decision on dismissal from office to the deputy who has been dismissed from office and to the public prosecutor's office in which he/she exercised his/her office.

The decision on dismissal of public prosecutor from office shall be published in the Official Gazette of Montenegro.

VI. SPECIAL PROSECUTOR FOR SUPPRESSING ORGANISED CRIME, CORRUPTION, TERRORISM AND WAR CRIMES

Special Prosecutor

Article 66

A Division for suppressing organised crime, corruption, terrorism and war crimes (hereinafter referred to as the "Division"), headed by the Special Prosecutor, shall be established within the Supreme Public Prosecutor's Office to carry out activities aimed at suppression of organised crime, corruption, terrorism and war crimes.

The Special Prosecutor shall, within the limits of his/her competence, have the same rights and duties as public prosecutor, unless otherwise provided by this Law as regards certain issues.

Deputy special prosecutor

Article 67

The Special Prosecutor shall have a deputy.

The number of deputy special prosecutors shall be determined by the Prosecutorial Council on a proposal from the Supreme Public Prosecutor and on the basis of an initiative of the Special Prosecutor.

Jurisdiction

Article 68

The Special Prosecutor shall take actions he/she is empowered to take before the court having subject-matter jurisdiction and territorial jurisdiction or another state body before which he/she acts, in accordance with law.

Taking over cases

Article 69

When a high public prosecutor and a basic public prosecutor in the course of performance of tasks falling within their jurisdiction learn that a criminal case is one of organised crime, corruption, terrorism and war crimes, they shall have a duty to inform the Supreme Public Prosecutor thereof without delay and to defer the case on his/her request.

When, in the manner specified in paragraph 1 of this Article, or in any other manner, the Supreme Public Prosecutor learns of an offence of organised crime, corruption, terrorism and war crimes he/she shall immediately assign the case to the Special Prosecutor.

When the Special Prosecutor in the course of proceedings learns that the criminal offence committed does not have the elements of organised crime, corruption, terrorism and war crimes, he/she shall continue to act in the case until such time as the proceedings are completed.

The Special Prosecutor shall inform the body in charge of internal affairs on taking over prosecution for the offences of organised crime, corruption, terrorism and war crimes.

Accountability

Article 70

The Special Prosecutor shall be accountable to the Supreme Public Prosecutor for his/her work and for the work of the Division he/she is head of.

Requirements for appointment

Article 71

A person meeting the requirements for appointment of the Supreme Public Prosecutor may be appointed as Special Prosecutor.

A person meeting the requirements for appointment of high public prosecutor may be appointed as deputy special prosecutor.

Appointment

Article 72

The Supreme Public Prosecutor shall appoint the Special Prosecutor with the written consent of the latter, from among public prosecutors and deputies, following a prior opinion from the Prosecutorial Council.

The Supreme Public Prosecutor shall appoint deputy special prosecutor with the written consent of the latter, from among public prosecutors and deputies, on a proposal from the Special Prosecutor.

The Special Prosecutor and a deputy special prosecutor shall be appointed for a term of five years and shall be eligible for reappointment.

Opinion on performance

Article 73

Prior to the appointment of the Special Prosecutor or deputy special prosecutor, the Supreme Public Prosecutor shall obtain the opinion on his/her performance.

The Supreme Public Prosecutor shall request the opinion referred to in paragraph 1 of this Article from the immediate superior public prosecutor with respect to public prosecutor or from the public prosecutor with respect to deputy.

The opinion referred to in paragraph 1 of this Article shall contain in particular the assessment of his/her performance in pre-trial procedures and criminal proceedings as well as in complex cases.

Dismissal

Article 74

The Special Prosecutor shall be dismissed if he/she failed to demonstrate competency in the performance of the duties entrusted to him/her or if the Division fails to achieve satisfactory results.

The deputy special prosecutor shall be dismissed if he/she failed to demonstrate competency in the performance of duties entrusted to him/her within the Division.

The decision on dismissal of the Special Prosecutor from office shall be made by the Supreme Public Prosecutor.

The decision on dismissal of the deputy special prosecutor shall be made by the Supreme Public Prosecutor on a proposal from the Special Prosecutor.

Rights upon dismissal

Article 75

The Special Prosecutor or deputy special prosecutor shall have the right to return to work in the public prosecutor's office in which he/she exercised the office prior to the appointment, if he/she was dismissed from the office of the Special Prosecutor or deputy special prosecutor upon expiry of the term of office and upon resignation.

Should the Special Prosecutor or deputy special prosecutor following the expiry of the term of office, resignation or dismissal decline to return to work in the public prosecutor's office in which he/she exercised the office prior to the appointment, his/her office of a public prosecutor or deputy public prosecutor shall terminate.

Procedure for dismissal

Article 76

Should the reasons for dismissal referred to in Article 52 of this Law exist, the Special Prosecutor or deputy special prosecutor shall be dismissed from the office of public prosecutor or deputy public prosecutor in the manner and according to procedure prescribed by this Law for dismissal of public prosecutor or deputy public prosecutor.

Secondment of prosecutorial office holders to the Division

Article 77

The Supreme Public Prosecutor may, on the request of the Special Prosecutor, second a public prosecutor or deputy to the Division for a specified period of time in order to carry out urgent tasks or to act in specific cases.

The secondment referred to in paragraph 1 of this Article shall be subject to a written consent of the person being seconded to the Division.

The secondment to the Division shall last no longer than one year but it may be extended under the same conditions.

By way of exception, the Supreme Public Prosecutor may second a public prosecutor or deputy, without his/her consent, to the Division if regular performance of tasks has been put at risk due to the fact that the Special Prosecutor or deputy special prosecutor has been disqualified or prevented from exercising his/her office or for other justified reasons, while these circumstances last and for a maximum period of one year.

During the period of work within the Division, the seconded person shall be entitled to a salary equal to that of the deputy supreme public prosecutor.

Salary and other costs incurred by the secondment to the Division shall be borne by the Supreme Public Prosecutor.

Secondment to the Division from other bodies

Article 78

The Special Prosecutor may request a state body or another institution to second an employee of that body or institution to the Division to carry out professional or administrative tasks for a specified period of time.

The head of a state body or institution shall decide without delay on the request of the Special Prosecutor.

The secondment to the Division shall be subject to a written consent of the employee and shall last no longer than one year.

During the period of work within the Division, the seconded employee shall be entitled to a salary equal to that of an employee in the Division.

Salary and other costs incurred by the secondment to the Division shall be borne by the Supreme Public Prosecutor's Office.

Official secret

Article 79

The Special Prosecutor, deputy special prosecutor, officers and the administrative staff of the Division, employees of courts, police and other bodies that have taken certain actions on the request of the Special Prosecutor shall have a duty to keep confidential, as official secret, the information designated as confidential under the law or other regulations regardless of the manner in which they became privy to such information.

In addition to the information designated as official secret under the law or other regulations, the information from pre-trial procedures for criminal offences falling within the jurisdiction of the Division shall also be deemed official secret.

Handling cases

Article 80

Case files, documents and records of investigative actions undertaken during the pre-trial procedures for criminal offences falling within the jurisdiction of the Division must be designated as confidential in accordance with the provisions of the special law.

For justified reasons, the Special Prosecutor may determine that a certain case is specially protected and the content thereof shall be accessible solely to the deputy he/she designates.

The officers of the Division may be informed about the case referred to in paragraph 2 of this Article only to the extent that is necessary for the performance of their tasks, whereof special official records shall be kept.

In order to protect confidentiality, the Special Prosecutor may determine that such case be entered under a special code into the registers and other records during the pre-trial procedures.

Salaries

Article 81

The Special Prosecutor and deputy special prosecutor shall be entitled to monthly salary equal to that of the Supreme Public Prosecutor and deputy supreme public prosecutor respectively.

The Special Prosecutor and deputy special prosecutor shall be entitled to a special bonus payment due to onerous working conditions and specific nature of the tasks they perform.

Direct application of the Law

Article 82

Unless otherwise provided by the provisions of Title VI hereof, other provisions of this Law shall apply directly to the Special Prosecutor.

VII. PROSECUTORIAL COUNCIL

Jurisdiction

Article 83

The Prosecutorial Council shall:

- 1) adopt the proposal for appointment and dismissal from office of public prosecutors, appoint, dismiss from office and confirm termination of office of deputy public prosecutors,
- 2) determine the number of deputy public prosecutors,
- 3) conduct the proceedings for establishing disciplinary responsibility of public prosecutors and deputy public prosecutors,
- 4) be responsible for the training of prosecutorial office holders in cooperation with the Judicial Council;
- 5) adopt the proposal for the section of the budget intended for the financing of the work of the Public Prosecution Office and the Prosecutorial Council,
- 6) deliver opinions of draft laws and secondary legislation in the field of justice and initiate enactment of relevant laws and other regulations in this field;
- 7) ensure implementation, sustainability and uniformity of the Judicial Information System in the part related to the prosecution service;
- 8) maintain records containing information about public prosecutors and deputy public prosecutors;

- 9) propose framework criteria on the necessary number of public prosecutors and deputy public prosecutors and of other officers and administrative staff in public prosecutors' offices;
- 10) adopt methodology for development of work reports of the Public Prosecution Office and annual allocation of tasks;
- 11) adopt the Code of Ethics for Prosecutors,
- 12) adopt its Rules of Procedure,
- 13) perform other duties laid down by law.

Composition of the Prosecutorial Council

Article 84

The Prosecutorial Council shall have a president and ten members.

The Supreme Public Prosecutor shall be the President of the Prosecutorial Council by virtue of his/her office.

The members of the Prosecutorial Council shall be elected as follows:

- six from among public prosecutors and deputy public prosecutors,
- one from among the professors of the Faculty of Law in Podgorica,
- two from among eminent lawyers in Montenegro, one of whom shall have experience in the field of protection of human rights and freedoms, on a proposal from the President of Montenegro, following a prior opinion from the Protector of Human Rights and Freedoms (Ombudsman);
- one representative of the Ministry of Justice.

Term of office of the Prosecutorial Council

Article 85

The members of the Prosecutorial Council shall be elected by the Parliament for a term of four years. The members of the Prosecutorial Council may be re-elected.

The term of office of a member of the Prosecutorial Council who has been subsequently elected to a vacant position in the Prosecutorial Council shall expire upon the expiry of the term of office of the Prosecutorial Council.

Proposing members of the Prosecutorial Council

Article 86

The Parliament shall elect the members of the Prosecutorial Council from among public prosecutors and deputies on a proposal from the enlarged session of the Supreme Public Prosecutor's Office; from among the professors of the Faculty of Law in Podgorica on a proposal from the Faculty of Law in Podgorica; from among eminent lawyers in Montenegro on a proposal from the President of Montenegro; and the representative of the Ministry of Justice on a proposal from the Minister of Justice.

Proposing candidates for membership in the Prosecutorial Council

Article 87

The proposal for candidates for membership in the Prosecutorial Council from among public prosecutors and deputies shall be adopted by the enlarged session of the Supreme Public Prosecutor's Office by secret ballot.

The enlarged session of the Supreme Public Prosecutor's Office, in addition to the Supreme Public Prosecutor and his/her deputies, shall also comprise high public prosecutors.

Prior to the adoption of proposal for membership in the Prosecutorial Council from among public prosecutors and deputies, the enlarged session of the Supreme Public Prosecutor's Office shall request initial proposals from each public prosecutor and deputy public prosecutor in Montenegro in such manner as to ensure confidentiality of initiative.

Decision on selection of candidates for membership in the Prosecutorial Council

Article 88

The proposal for election of members of the Prosecutorial Council from among public prosecutors and deputies shall be adopted by a majority vote at the enlarged session of the Supreme Public Prosecutor's Office.

Should there be more candidates proposed than the number of vacancies to be filled by way of election, and insufficient numbers have been selected, there shall be a repeated vote on the candidates who have won the closest number of votes to the number necessary for election and should a third round fail, the procedure shall be repeated with new candidates.

Termination of office in the Prosecutorial Council

Article 89

Membership in the Prosecutorial Council shall terminate prior to the expiry of the period for which a member was elected, on his/her own request or if prosecutorial office or employment that made him/her eligible for the election has terminated.

Termination of membership in the Prosecutorial Council shall be confirmed by the Parliament, on the basis of a notification by the President of the Prosecutorial Council.

Method of work and decision-making of the Prosecutorial Council

Article 90

The Prosecutorial Council shall adopt the Rules of Procedure of the Prosecutorial Council which shall regulate the issues laid down by this Law, the method of work and decision-making of the Prosecutorial Council, and other issues relevant to its work.

The Prosecutorial Council shall also adopt other acts relevant to its work, in accordance with this Law.

The Rules of Procedure of the Prosecutorial Council shall be published in the Official Gazette of Montenegro and posted on the web page of the Prosecutorial Council.

VIII. ORGANISATION OF WORK OF THE PUBLIC PROSECUTION OFFICE

1. Prosecutorial administration

Organisation of work

Article 91

The organisation of work of the Public Prosecution Office shall mean the management, organisation of the prosecutors' session and prosecutorial administration activities.

Management

Article 92

A public prosecutor shall organise work, allocate tasks and take measures aimed at orderly and timely performance of the tasks of a public prosecutor's office.

The public prosecutor shall be responsible, within the limits of his/her powers, for orderly and timely performance of tasks.

Duty of the Supreme Public Prosecutor

Article 93

The Supreme Public Prosecutor shall be responsible for performance of the tasks of the Public Prosecution Office and shall take measures and actions aimed at efficient performance of the tasks of the Public Prosecution Office.

Substitute

Article 94

When a public prosecutor is absent or prevented from performing his/her duties, he/she shall be substituted by his/her deputy designated at the prosecutors' session for each calendar year, on a proposal from the public prosecutor.

Allocation of tasks

Article 95

The annual allocation of tasks shall be established by the public prosecutor by 15 January for the current year at latest. The annual allocation shall ensure balanced distribution of tasks and required specialisation of deputies.

Prosecutors' session

Article 96

The public prosecutor shall convene a prosecutors' session for the purpose of consideration of certain issues relevant to his/her work.

The prosecutors' session shall be composed of the public prosecutor and his/her deputies.

The prosecutors' session shall be convened and chaired by the public prosecutor.

The public prosecutor shall convene the prosecutors' session on the request from at least one third of his/her deputies.

The decisions shall be made at the prosecutors' session if at least two thirds of deputy public prosecutors are present and decision shall be valid if a majority of those present at the session voted in favour of decision, unless otherwise provided by this Law as regards certain issues.

The manner of work of the session shall be regulated in more detail by the Rules of Procedure of the prosecutors' session.

Scope of work of the prosecutors' session

Article 97

The prosecutors' session shall:

- 1) deliver opinion on candidates for the positions of prosecutorial office holders,
- 2) consider the work programme and work report,
- 3) take positions regarding general issues falling within the scope of work of the public prosecutor's office,
- 4) adopt its Rules of Procedure,
- 5) consider issues relevant to professional training, organisation of work and overall work of the public prosecutor's office,
- 6) consider proposed annual allocation of tasks.

Prosecutorial administration

Article 98

The public prosecutor shall perform prosecutorial administration activities.

The prosecutorial administration shall include the activities which ensure orderly and timely work of a public prosecutor's office, and in particular: internal allocation of tasks; examining complaints and applications; managing information system; maintaining prescribed records and reports; work of registry office and archive office; financial and material operations.

The prosecutorial administration activities and the manner in which they are performed shall be regulated in more detail by the Rulebook on Internal Operations of the Public Prosecution Office.

The supervision over the performance of prosecutorial administration activities shall be carried out by the Ministry of Justice.

Professional training

Article 99

- repealed -

Submission of data to the competent ministry

Article 100

The Supreme Public Prosecutor shall, on a request from the Ministry of Justice, provide such data and information as may be required for the purpose of monitoring the organisation and work of the Public Prosecution Office, application of the Rulebook on Internal Operations of the Public Prosecution Office, handling citizens' applications and complaints, as well as general data on prosecution of perpetrators of criminal offences and other offences punishable by law.

Supervision by the competent ministry

Article 101

The Ministry of Justice shall, through an authorised officer, exercise supervision over the work of the Public Prosecution Office, with respect to:

- 1) organisation of work of the Public Prosecution Office in accordance with the Rulebook on Internal Operations of the Public Prosecution Office,
- 2) handling applications and complaints;

- 3) work of registry office and archive office;
- 4) maintaining prescribed official records;
- 5) other activities relating to proper functioning and discharge of prosecutorial administration activities.

Secondary legislation

Article 102

The Ministry of Justice shall:

- 1) adopt the Rulebook on Internal Operations of the Public Prosecution Office which shall regulate issues laid down by this Law and other issues relevant to the organisation of work of the Public Prosecution Office, following a prior opinion from the Prosecutorial Council,
- 2) prescribe form, manner, procedure for and records on issuance of official identity cards of public prosecutors and deputies,
- 3) adopt other acts relevant to the work of the Public Prosecution Office.

Annual work report

Article 103

The Supreme Public Prosecutor shall submit to the Parliament the annual report on the work of the Public Prosecution Office which shall contain description and the analysis of the situation in prosecution service, detailed information on each prosecutor's office relating to the number of cases received and resolved in the year for which the report is made, as well as problems and deficiencies in their work.

The annual work report shall also contain information on the work of the Prosecutorial Council and proposed measures aimed at improvement of performance of the Public Prosecution Office and the Prosecutorial Council.

The annual work report shall be submitted to the Parliament by 31 March of the current year for the preceding year at latest.

The report shall be published on the web page of the Prosecutorial Council.

The Supreme Public Prosecutor shall present the annual report in the Parliament.

Special report

Article 104

- repealed -

Relations with the public

Article 105

Information on the work of the Public Prosecution Office shall be disclosed by the Supreme Public Prosecutor or a person authorised by him/her.

Information that could affect the conduct of the proceedings may not be made available to the public.

Disclosure of information referred to in paragraph 2 of this Article shall be considered as harming the reputation of prosecutorial office.

2. Working methods

Temporary secondment

Article 106

A deputy may, with his/her consent, be temporarily seconded to another public prosecutor's office.

By way of exception, a deputy may be temporarily seconded to another public prosecutor's office, without his/her consent, if regular performance of tasks in that prosecutor's office has been put at risk due to the fact that public prosecutor or his/her deputy has been disqualified or prevented from exercising his/her office or for other justified reasons, while these circumstances last and for a maximum period of one year.

The decision on temporary secondment to another public prosecutor's office in the case referred to in paragraph 1 of this Article shall be passed by immediate superior public prosecutor, while in the case referred to in paragraph 2 of this Article the decision shall be passed by the Supreme Public Prosecutor.

A deputy may file an appeal against the decision on temporary secondment to another public prosecutor's office without his/her consent to the Prosecutorial Council within three days from the day of receipt of decision. The appeal shall not stay the enforcement of decision.

Salaries and other costs incurred by secondment of deputy to another public prosecutor's office shall be borne by the public prosecutor's office to which the deputy is being seconded.

Secondment of the public prosecutor and deputy to another prosecutor's office without their consent

Article 106a

In case of reorganisation of the public prosecutor's office whereby the number of prosecutorial posts is reduced or abolished, the Prosecutorial Council may transfer or second a public prosecutor or his/her deputy to another prosecutor's office without his/her consent.

Salaries and other costs incurred by transfer or secondment referred to in paragraph 1 of this Article shall be borne by the public prosecutor's office to which a public prosecutor or his/her deputy is transferred or seconded.

Secondment to immediate superior public prosecutor's office

Article 106b

The Prosecutorial Council may temporarily second a deputy, with his/her consent, to the immediate superior public prosecutor's office, if the workload in that public prosecutor's office increases or if there is large backlog of cases which cannot be resolved by the existing number of deputies. The seconded deputy must meet the requirements prescribed for the appointment of a deputy to the public prosecutor's office he/she is being seconded to.

Expert assistance

Article 107

A public prosecutor's office may engage a person who possesses required expertise or set up a team of experts or an expert working body in order to clarify specific issues arising in the course of its work.

A public prosecutor's office may decide that the persons referred to in paragraph 1 of this Article be remunerated for the services rendered.

Duty hours and standby hours

Article 108

Public prosecutor shall organise continuous duty hours or standby hours in order to ensure efficient performance of tasks, and in particular for crime scene investigations and other non-deferrable tasks in connection with a potential perpetration of criminal offences and other punishable acts.

The method and duration of duty hours or standby hours shall be determined by public prosecutor.

Allocation of cases

Article 109

The cases shall be allocated in such manner as to ensure impartiality, independence and efficiency in the performance of tasks.

Instructions for work

Article 110

The Supreme Public Prosecutor shall issue mandatory instructions for work to high public prosecutor and basic public prosecutor.

High public prosecutor shall issue mandatory instructions for work to the basic public prosecutor from his/her scope of activity.

Within the meaning of this Law, mandatory instructions for work shall be deemed to mean instructions of general character and instructions to be followed in individual cases.

The instructions of general character shall be issued by the Supreme Public Prosecutor, while the high public prosecutor and the basic public prosecutor may initiate the issuance thereof when they find it necessary.

The instructions to be followed in individual cases shall be issued by the Supreme Public Prosecutor for his/her deputies, high public prosecutors and basic public prosecutors; by a high public prosecutor for his/her deputies and basic public prosecutors from his/her scope of activity; and by a basic public prosecutor for his/her deputies.

Issuing instructions for work

Article 111

The public prosecutor or deputy who has been issued an instruction to be followed in an individual case shall have the right to point out that the instruction is unlawful or ill-founded and to request to be issued the instruction in writing if it was communicated orally, or to be issued written instruction anew if the instruction was issued in writing in the first place.

Should the instructions to be followed in an individual case be issued anew pursuant to paragraph 1 of this Article, and the public prosecutor or deputy still considers that such instruction is unlawful or ill-founded, the public prosecutor may, upon reasoned written request, release him/her from taking further actions in the case and assign another public prosecutor or deputy to handle the case, provided there is no risk of postponement.

The instructions to be followed in an individual case shall be issued in writing and accompanied by a statement of reasons. By way of exception, in so far as circumstances allow, the instructions may be communicated orally, however they must be issued in writing within a reasonable time.

3. Relations and co-operation

Relations between public prosecutors

Article 112

The Supreme Public Prosecutor may directly exercise all powers and take all actions vested in high public prosecutor or basic public prosecutor by law.

The Supreme Public Prosecutor may, for justified reasons, entrust individual cases or certain actions in those cases falling within the jurisdiction of high public prosecutor or basic public prosecutor to another public prosecutor who has subject-matter jurisdiction.

The high public prosecutor may directly exercise all powers and take all actions vested in basic public prosecutor by law.

The high public prosecutor may, for justified reasons, entrust individual cases or certain actions in those cases falling within the jurisdiction of a basic public prosecutor from his/her territory to another public prosecutor from his/her territory.

The decision on taking over the powers and actions or entrusting them to another public prosecutor shall be made in writing.

Disqualification

Article 113

- repealed -

Relations with courts and other state bodies

Article 114

The public prosecutor or deputy shall have the power to request from courts and other state bodies to deliver such files, information and notifications as may be required for taking the actions falling within his/her jurisdiction, while the courts or other state bodies shall have duty to act on such request.

On a request from court or another state body, the public prosecutor or deputy shall deliver files, information and notifications when these are required for the performance of the functions of the court or another state body.

International co-operation

Article 115

The Public Prosecution Office may co-operate directly with prosecutors' offices of other countries within the framework of international agreements and other international instruments.

The manner of and conditions for the co-operation referred to in paragraph 1 of this Article shall be determined by the Prosecutorial Council.

Official attire

Article 116

A public prosecutor or a deputy shall exercise his/her office wearing official attire (gown).

The appearance of the gown and the rules for wearing the gown shall be prescribed by the Rulebook on Internal Operations of the Public Prosecution Office.

4. Supervision

Competence

Article 117

The Supreme Public Prosecutor's Office shall supervise the work of high public prosecutor's offices and basic public prosecutor's offices.

High public prosecutor's offices shall supervise the work of basic public prosecutor's offices.

Forms of supervision

Article 118

The supervision over the work of public prosecutor's office shall be carried out by way of annual work reports, special work reports, direct insight into work or in another appropriate way.

Direct insight into the work of a public prosecutor's office shall be carried out, as a rule, once a year by the immediate superior public prosecutor's office.

The assessment of performance of public prosecutors' offices, public prosecutors and their deputies shall be submitted to the Prosecutorial Council and the Supreme Public Prosecutor's Office.

5. Internal organisation and job descriptions

Officers and administrative staff

Article 119

A public prosecutor's office shall have an adequate number of advisors, other officers, administrative staff members and trainees.

Entering into employment and termination of employment of officers and administrative staff and their titles, salaries and other rights, obligations and responsibilities related to employment, duration of traineeship, undergoing traineeship, requirements for taking professional examination and other related issues, shall be governed by legislation relating to civil servants and state employees, unless otherwise provided by this Law.

Advisors

Article 120

Advisors shall assist public prosecutor or his/her deputy in their work, draft documents, make record of citizens' complaints, petitions and statements, perform other specialised tasks prescribed by law and regulations adopted on the basis of the law, independently or under the supervision of and on the instructions of the public prosecutor or his/her deputy.

A person who meets general and special requirements for a specific post in state bodies, in accordance with law and the act on organisation and job descriptions, shall be eligible for the position of an advisor.

By way of exception, a basic public prosecutor may authorise the advisor to represent bills of indictment in judicial proceedings.

Expert assistants

Article 120a

A public prosecutor's office may have officers with associate's degree or university degree in defectology, sociology, pedagogy, economics, accounting and finance or other relevant discipline and having prescribed experience in those disciplines.

The officers referred to in paragraph 1 of this Article shall, as expert assistants, assist public prosecutor or deputy in the work in matters requiring specific expertise.

Trainee

Article 121

A law graduate meeting general requirements for work in state bodies shall be eligible to be a trainee.

A trainee shall be employed for a period of two years.

Trainees shall be trained in accordance with a special programme adopted by the public prosecutor.

Should a trainee, as evaluated by the prosecutors' session, distinguish himself through outstanding performance during the course of the training, his/her employment may be extended after the expiry of the training period for an additional year, provided that he/she passes the bar examination within three months.

Volunteer

Article 122

A law graduate may be admitted to practice in a public prosecutor's office as a volunteer for the purpose of acquiring the required knowledge and meeting conditions for the taking of bar examination.

Secretary

Article 123

The Supreme Public Prosecutor's Office shall have a secretary who shall assist the Supreme Public Prosecutor in the performance of prosecutorial administration tasks.

High public prosecutor's office and basic public prosecutor's office, having at least ten deputies, may have a secretary who shall assist public prosecutor in the performance of prosecutorial administration tasks.

The secretary must meet the same requirements as the advisor referred to in Article 120 of this Law.

Principles of internal organisation and nomenclature of tasks

Article 124

A person who meets general and special requirements prescribed for the performance of specific tasks in accordance with law and the act on organisation and job descriptions may be employed to carry out administrative and other tasks in a public prosecutor's office.

The act on internal organisation and job descriptions shall be passed by the public prosecutor with the consent of the Government, following a prior opinion from the competent authorities and from the Prosecutorial Council.

IX. OFFICIAL SECRET AND PROTECTION OF CONFIDENTIALITY OF DATA

Official secret

Article 125

A public prosecutor, deputy, officer and an administrative staff member shall have a duty to keep official secret, regardless of the manner in which they became privy thereto.

The official secret shall mean in particular the following:

- 1) all that has been classified as official secret by law or other regulations,
- 2) all that has been classified as official and/or business secret by general acts of legal persons and other organisations and institutions,
- 3) data and documents specifically classified as official and/or business secret by state bodies or legal persons and other organisations and institutions,
- 4) data and documents classified as official secret by a public prosecutor or a deputy public prosecutor.

In pre-trial procedures, the content of a written document may not be made public, instead, the public may only be disclosed information about undertaken official actions.

The manner of designating and handling confidential data and documents shall be laid down by the Rulebook on Internal Operations of the Public Prosecution Office.

Duty to keep official secret

Article 126

The duty to keep official secret shall survive the termination of employment in a public prosecutor's office.

A public prosecutor may release deputy public prosecutor, officer and administrative staff member from duty to keep official secret, provided there are justified reasons to do so in individual cases. The decision on releasing a public prosecutor from duty to keep official secret shall be made by immediate superior public prosecutor, while the Supreme Public Prosecutor shall be released from such duty by the decision of the Prosecutorial Council.

Confidentiality of data

Article 127

A public prosecutor, deputy public prosecutor, officer and administrative staff member must not disclose to unauthorised persons data which they have learned during the course of the proceedings and which relate to private, family and financial circumstances of natural persons or financial circumstances of legal persons.

X. FUNDS FOR THE WORK OF THE PUBLIC PROSECUTION OFFICE

Funds

Article 128

Funds for the work of the Public Prosecution Office and of the Prosecutorial Council shall be provided from a special section of the Budget of Montenegro, within which the funds for the work of the Prosecutorial Council shall be stated separately.

The proposal for the section of the budget referred to in paragraph 1 of this Article shall be adopted and submitted to the Government by the Prosecutorial Council.

The President of the Prosecutorial Council shall have the right to participate in the sitting of the Parliament discussing the proposal for the Budget.

XI. TRANSITIONAL AND FINAL PROVISIONS

Article 129

Upon the entry into force of this Law, the Public Prosecutor of the Republic of Montenegro and high and basic prosecutors appointed in accordance with the Law on Public Prosecutor (Official Gazette of the Republic of Montenegro 30/93) shall continue their work until the expiry of their terms of office: the Public Prosecutor of the Republic of Montenegro as the Supreme Public Prosecutor, High Prosecutor as High Public Prosecutor and Basic Prosecutor as Basic Public Prosecutor.

Article 130

Upon the entry into force of this Law, Deputy Public Prosecutors of the Republic of Montenegro, Deputy High Prosecutors and Deputy Basic Prosecutors appointed in accordance with the Law on Public Prosecutor (Official Gazette of the Republic of Montenegro 30/93) shall continue their work until the expiry of their terms of office: Deputy Public Prosecutors of the Republic of Montenegro as Deputy Supreme Public Prosecutors, Deputy High Prosecutors as Deputy High Public Prosecutors and Deputy Basic Prosecutors as Deputy Basic Public Prosecutors.

Article 131

The Supreme Public Prosecutor shall appoint the Special Prosecutor no later than one month from the day of appointment of the Prosecutorial Council.

Article 132

The members of the Prosecutorial Council shall be appointed in accordance with the provisions of this Law no later than three months from the day of entry into force of this Law.

Article 133

Until the members of the Prosecutorial Council are appointed, public prosecutors and their deputies shall be appointed in accordance with the Law on Public Prosecutor (Official Gazette of the Republic of Montenegro 30/93).

Article 133a

Public prosecutors and deputy public prosecutors, as well as the members of the Prosecutorial Council, appointed in accordance with the Law on Public Prosecutor (Official Gazette of the Republic of Montenegro 69/03) shall remain in office until the expiry of the term of office for which they have been appointed.

Article 133b

The cases of corruption, terrorism and war crimes received before the special division in the high court becomes operational, shall be completed by the public prosecutors' offices having jurisdiction according to the previous legislation.

Article 133c

The provisions of this Law relating to the representation of Montenegro in civil and commercial matters shall be repealed on the day of appointment of the Agent of Montenegro in civil and commercial matters.

Article 134

The cases dealt with by the Basic Prosecutor in Nikšić before the Basic Court in Žabljak before the entry into force of this Law, shall be completed by the Basic Prosecutor in Nikšić.

Article 135

Regulations for the implementation of this Law shall be adopted no later than one year from the day of entry into force of this Law.

Secondary legislation currently in force shall apply until the regulations referred to in paragraph 1 of this Article are adopted.

Article 136

The Law on Public Prosecutor (Official Gazette of the Republic of Montenegro 30/93) shall be repealed on the day of entry into force of this Law, except for the provisions specified to be applicable until such time as laid down by this Law.

Article 137

This Law shall enter into force on the eighth day following that of its publication in the Official Gazette of the Republic of Montenegro.