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ON AMENDMENTS AND ADDENDA TO THE LAW
ON PUBLIC PROSECUTOR'S OFFICE
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Note: Amendments and addenda tracked in the original text of the enacted Law.

L A W
ON PUBLIC PROSECUTOR'S OFFICE

Chapter One

PRINCIPLES

Public Prosecutor's Office

Article 1

Public prosecutor's office is an autonomous state authority that shall prosecute perpetrators of criminal and other punishable offences, and shall, through instrumentalities created by law, protect constitutionality and legality and shall undertake other actions as empowered by law.

The public prosecutor's office shall only be subject to the Constitution and law.

Jurisdiction of Public Prosecutor's Office

Article 2

The jurisdiction of the public prosecutor's office shall be administered by the Republic Public Prosecutor, the District Public Prosecutor and the Municipal Public Prosecutor.

The Republic Public Prosecutor shall administer jurisdiction of the public prosecutor's office within the scope of powers and responsibilities of the Republic of Serbia.

Prohibition of Influence on Public Prosecutor's Office

Article 3

Use of public office, media and any public appearance that may influence the public prosecutor's office shall be prohibited.

Any other form of influence on the public prosecutor's office shall also be prohibited.

Mandatory Delivery of Documents to the Public Prosecutor's Office

Article 4

The Courts, other government authorities and legal entities shall deliver to the public prosecutor's office, at its request, documents and information necessary for instituting actions from its jurisdictional authority.

When the public prosecutor's office is bound by a statutory limitations period for filing of extraordinary remedy, the courts and other government authorities shall deliver the documents without delay.

Mandatory Delivery of Data and Explanations to the Public Prosecutor's Office

Article 5

Everyone shall be required to forward all data and explanations necessary to file motions authorised by law directly to the public prosecutor's office, at its request.

The public prosecutor's office shall receive submissions and statements in respect of matters falling within its jurisdiction, and may request supplements and explanations pertinent to the received submissions and statements.

Informing the Public

Article 6

The public prosecutor's office shall inform the general public on the state of crime and other events observed in the course of its work.

Unless adverse to the interests of the proceeding and if there is a social implication, the public prosecutor's office may inform the public on the ongoing matters.

Chapter Two

ORGANISATION OF PUBLIC PROSECUTOR'S OFFICE

I. PUBLIC PROSECUTOR'S OFFICES

Concept

Article 7

The public prosecutor, deputy public prosecutors and staff shall comprise the public prosecutor's office.

All persons in the public prosecutor's office shall be subordinate to the public prosecutor.

Types of Public Prosecutor's Offices

Article 8

There shall be the Republic Public Prosecutor's Office, District Public Prosecutor's Offices and Municipal Public Prosecutor's Offices in the Republic of Serbia.

The Republic Public Prosecutor's Office shall be established for the territory of the Republic of Serbia with its seat in Belgrade.

A district public prosecutor's office shall be established for the territory of a district court, and a municipal public prosecutor's office for the territory of one or more municipal courts.

Relations Between Public Prosecutor's Offices

Article 9

A lower-ranking public prosecutor shall be subordinate to a higher-ranking public prosecutor and a lower-ranking public prosecutor's office to a higher-ranking public prosecutor's office.

Every public prosecutor shall be subordinate to the Republic Public Prosecutor and every public prosecutor's office to the Republic Public Prosecutor's Office.

Assignment of Seat and Territorial Jurisdiction of District and Municipal Public Prosecutor's Offices

Article 10

Establishing, seat and territorial jurisdiction of district and municipal Public prosecutor's offices shall be regulated by separate law.

II. SUPERIOR AUTHORITY

1. External Superior Authority

Mandatory Instructions

Article 11

~~A higher ranking public prosecutor may issue a lower ranking public prosecutor mandatory written instructions to proceed.~~

~~A lower ranking public prosecutor who considers an instruction contrary to law shall be entitled to file objection with directly higher ranking public prosecutor, through the public prosecutor issuing the instructions.~~

~~A complaint against the instruction of the Republic Public Prosecutor shall not be allowed.~~

In the Law on Public Prosecutor's Office ("Official Gazette of RS", No. 63/2001) Article 11 is changed to read:

"A higher ranking public prosecutor may issue a lower ranking public prosecutor mandatory instructions to proceed.

Mandatory instructions shall be issued in writing.

A lower ranking public prosecutor who considers mandatory instructions contrary to law may file an objection with the Republic Public Prosecutor via the public prosecutor issuing the mandatory instructions.

Objection against mandatory instructions of the Republic Public Prosecutor shall not be allowed".

Devolution and Substitution

Article 12

A higher-ranking public prosecutor may undertake all actions from the scope powers of the lower-ranking public prosecutor.

A higher-ranking public prosecutor may authorise a lower-ranking public prosecutor to proceed in a matter within the competence of another lower-ranking public prosecutor.

Instructions of the Republic Public Prosecutor

Article 13

The Republic Public Prosecutor shall issue mandatory instructions to proceed to all public prosecutors.

The purpose of such instructions is aimed at securing legality and consistency in proceedings.

2. Internal Superior Authority

Concept

Article 14

A public prosecutor shall exercise the authority vested in the public prosecutor's office directly or through a deputy.

A deputy public prosecutor may without a special authorisation institute any action within the competence of the public prosecutor.

A deputy public prosecutor shall execute all actions assigned by the public prosecutor.

Mandatory Instructions

Article 15

A public prosecutor may issue mandatory instructions to his deputy on how to proceed.

"The public prosecutor shall issue mandatory instructions in writing"

A deputy public prosecutor who considers an instruction to be contrary to law shall, prior to its implementation, request an opinion of the directly higher-ranking public prosecutor.

The opinion shall be requested through the public prosecutor issuing the instruction.

III. JURISDICTION

1. General Jurisdiction

Procedure Before a Court and Other Bodies

Article 16

In prosecuting criminal offences, commercial offences and misdemeanours, a public prosecutor shall institute actions, so authorised by law, before a court and other government authorities.

A public prosecutor shall proceed in civil, administrative, executive, special litigation and other proceedings by instituting actions so authorised by law.

A public prosecutor shall proceed within the limits of his/her subject and territorial jurisdiction¹, within the confines of competent jurisdiction of the authority before which he is proceeding.

Motion to Postpone and Discontinue Execution

Article 17

A public prosecutor may move to postpone or discontinue execution of decision when of the opinion that grounds exist to refute by extraordinary remedy a decision passed in a court or other proceeding.

The motion shall be filed with the authority approving execution of the decision, and if execution has commenced – with the enforcing authority.

Effects of Adopting the Motion

Article 18

¹ Transl. remark: Serbian law recognises two kinds of jurisdiction – *mesna* (territorial) limited geographically, and *stvarna* (subject) defining jurisdiction by type of offence.

If a public prosecutor's motion is adopted, postponement or discontinuation of execution shall be in effect until passing of decision on the public prosecutor's extraordinary legal remedy.

The decision on postponement or discontinuation shall cease to be effective if the public prosecutor fails to give an extraordinary legal remedy within thirty days of receiving such decision.

2. Jurisdiction of Particular Public Prosecutors

Jurisdiction of the Republic Public Prosecutor

Article 19

The Republic Public Prosecutor shall have jurisdiction to proceed before all courts and other bodies in the Republic of Serbia, and to institute all actions within the competence of a public prosecutor's office.

He/she shall have competence to ensure execution of mandatory instructions of the Federal State Prosecutor, to select among the public prosecutors the invited members of the High Judicial Council, issue guideline criteria for determination of number of deputy public prosecutors and staff in a public prosecutor's office, criteria for evaluation of diligence and successful performance of duties of public prosecutor and deputy public prosecutor, prescribe which acts are contrary to the dignity and independence of a public prosecutor and deputy public prosecutor and damaging to the reputation of a prosecutor's office, shall decide on initiating proceedings to determine constitutionality of laws and legality of regulations and other general acts, shall determine forms and manner of professional training of public prosecutors and deputy public prosecutors, shall supervise the work of public prosecutor's office and implementing of instructions, shall follow and study the practise of public prosecutor's offices and courts and shall perform other tasks determined by law.

Jurisdiction of District and Municipal Public Prosecutor

Article 20

A district public prosecutor shall have jurisdiction to proceed before a district court and to supervise and direct municipal prosecutor's offices within his territorial jurisdiction.

~~A district public prosecutor at the seat of a commercial court shall proceed before the commercial court.~~

A municipal public prosecutor shall proceed before a municipal court.

A municipal public prosecutor in the seat of a commercial court shall also proceed before that court, while a municipal public prosecutor in the seat of a department of a commercial court shall also proceed the department of such court".

Delegation of Jurisdiction

Article 21

If a public prosecutor's office is unable to administer its jurisdiction, the Republic Prosecutor may delegate its jurisdiction to another public prosecutor's office of same or higher rank.

Delegation of jurisdiction shall last until conditions are established for the work of the competent public prosecutor's office.

Deliberation on Motion to Disqualify

Article 22

A motion to disqualify a deputy public prosecutor shall be decided by the public prosecutor, and a motion to disqualify a public prosecutor by the next higher-ranking public prosecutor.

The High Judicial Council shall deliberate on the motion to disqualify the Republic Public Prosecutor if proceedings are instituted for a criminal offence or other punishable offence stipulated in regulations of the Republic of Serbia.

IV. ADMINISTRATION IN PUBLIC PROSECUTOR'S OFFICES

Management of Public Prosecutor's Office

Article 23

A public prosecutor shall exercise administrative authority in the public prosecutor's office and as such shall be responsible for proper, accurate and timely work of the public prosecutor's office.

He/she shall determine organisation and work of the public prosecutor's office, decide on employment relations of deputy public prosecutors and staff, rectify irregularities and procrastination in work, maintain independence and reputation of the public prosecutor's office and perform other tasks as authorised by law or other regulations.

Managing Deputy Public Prosecutor

Article 24

When a public prosecutor is absent or otherwise prevented from management, a deputy of his choice shall manage the public prosecutor's office.

In absence of appointment or conditions for appointing of the managing deputy public prosecutor, the directly higher-ranking public prosecutor shall appoint the managing officer from the ranks of deputy public prosecutors.

Acting Public Prosecutor

Article 25

In case of termination of office of a public prosecutor, the Republic Public Prosecutor shall appoint an acting public prosecutor until a new public prosecutor takes office, and at most up to one year.

The High Judicial Council shall appoint the Acting Republic Public Prosecutor.

Assignment of Deputy Republic Prosecutors

Article 26

The Republic Public Prosecutor may assign his deputy outside the seat of the public prosecutor's office, without establishing particular organisational units.

Assigning shall be of same duration as secondment to a public prosecutor's office.

Personal Record

Article 27

The Ministry in charge of judiciary shall keep a personal record on each public prosecutor, deputy public prosecutor and employee in public prosecutor's office.

The data contained in the personal record shall be delivered to the Ministry by a public prosecutor, who shall be responsible for accuracy thereof, as well as the party to which the information relates, if stated by such party.

The data contained in the personal record shall be an official secret and may be used only for the purpose of implementation of this Law.

The Minister in charge of judiciary shall prescribe the responsibilities of public prosecutors when delivering data required for keeping of personal records.

Contents of Personal Record

Article 28

The personal record of a staff member of a public prosecutor's office shall include name and surname, date of birth, ethnicity, residence, education, title or profession, evaluation, service record, foreign languages and other data as prescribed by the Minister in charge of judiciary.

The personal record of a public prosecutor and deputy public prosecutor shall include the name, surname, father's name, place, day, month and year of birth, ~~ethnicity~~, data on residence, Law School attended, average grade during studies, internship, Bar Exam, service record, date of retirement, ~~list of blood relatives in direct and lateral line up to fourth degree and in laws in direct line working within the judiciary, state administration or private law practise, data on service record of spouse~~, fulfilment of quota, secondment to another public prosecutor's office, suspension from duty, disciplinary actions, instituted criminal proceedings, termination of office, published professional or scientific papers, serious deterioration of health, foreign languages, material status, ~~members of family household~~ and type of accommodation.

Bodies having data that is required for the personal record shall deliver such data to the Ministry in charge of judiciary.

Rules of Administration of Public prosecutor's office

Article 29

The Rules of Administration of public prosecutor's office shall more closely regulate administration in public prosecutor's offices, and shall include, but will not be limited to the following: guideline criteria for determining the number of deputy public prosecutors and staff in a public prosecutor's office, relationship of the public prosecutor's office towards other state bodies, citizens and the general public, method of keeping of records, case file management, procedure for archive's material and other issues relevant for the work of public prosecutor's office.

The Rules of Administration of public prosecutor's offices shall be issued by the Republic Public Prosecutor and shall be published in the "Official Gazette of the Republic of Serbia".

Supervision over Implementation of the Rules

Article 30

The Ministry in charge of judiciary shall supervise implementation of the Rules on Administration in public prosecutor's offices.

A supervisor may only be a person meeting the requirements for election into a public prosecutor's office whose work he/she supervises.

Effects of Supervision

Article 31

Upon supervision, a report shall be prepared and delivered to the public prosecutor, next higher-ranking public prosecutor, the Republic Public Prosecutor and the Minister in charge of judiciary.

A public prosecutor shall notify the next higher-ranking public prosecutor, the Republic Public Prosecutor and Minister on what has been undertaken to rectify the noticed deficiencies.

The deadline for notification shall be defined by the Rule on Administration of public prosecutor's office.

Chapter Three

THE POSITION OF PUBLIC PROSECUTORS AND DEPUTY PUBLIC PROSECUTORS

I. BASIC RIGHTS AND RESPONSIBILITIES

Independence

Article 32

No person outside the public prosecutor's office shall have the right allocate tasks to public prosecutors and deputies, nor to direct management of their case files.

They shall only be required to explain their factual and legal positions to the competent public prosecutor.

Upholding of Confidence in Independence

Article 33

The public prosecutor and deputy shall uphold confidence in their independence.

This Law shall define functions, engagements and actions incompatible with their duty.

Financial Independence

Article 34

A public prosecutor and deputy shall be entitled to a salary, suitable to maintain their independence and security of their families.

Their salary shall be determined by law, pursuant to standards set out in this Law.

Immunity

Article 35

The public prosecutor and deputy shall not be answerable to any person for opinion expressed in performance of their duty.

They may not be detained in proceedings initiated for a criminal offence committed in performance of their duty without consent of the National Assembly.

Liability for damages

Article 36

The Republic of Serbia shall be liable for any damage caused by unlawful or improper work of the public prosecutor and deputy.

When damage is caused wilfully or by gross negligence, the Republic of Serbia may demand compensation of the amount paid from the public prosecutor and deputy.

Right to Association

Article 37

Public prosecutors and deputies shall have the right to association for the purpose of furthering their interests.

They may undertake measures to protect and uphold their independence.

Right to Advanced Training

Article 38

A public prosecutor and deputy public prosecutor shall have the right to advanced training at the cost of the Republic of Serbia.

Types and forms of advanced training shall be prescribed by the Republic Prosecutor.

II. TERM OF OFFICE

1. General

Article 39

The term of office of a public prosecutor and deputy public prosecutor shall last without interruption from first election until retirement.

~~A deputy public prosecutor shall be appointed for a period of eight years and may be re-elected.~~

Prior to retirement or term of office for which they are appointed, their office may cease only under conditions stipulated in this Law.

Effect of Change in Organisation of Public prosecutor's offices

Article 40

A deputy public prosecutor shall continue his office if the number of deputies in a public prosecutor's office is reduced.

When a public prosecutor's office is abolished, the public prosecutor and/or deputy shall continue his office. ~~pursuant to the decision of the High Judicial Council.~~

The decision in which public prosutor's office shall the public prosecutor and/or deputy continue their duty shall be made by the High Judicial Council".

2. Suspension from Duty

Grounds for Suspension

Article 41

A public prosecutor and deputy shall be suspended from duty when remanded in custody.

They may be suspended from duty when dismissal proceedings or criminal proceedings for a dismissible offence have been initiated.

Decision on Suspension

Article 42

The public prosecutor shall decide on mandatory suspension of a deputy, and the next higher-ranking public prosecutor shall decide on mandatory suspension of a public prosecutor.

If suspension is not mandatory, it shall be decided upon by the Republic Public Prosecutor.

The Minister in charge of judiciary shall decide on suspension of the Republic Public Prosecutor.

Right of Objection

Article 43

An objection against the decision on suspension may be filed within three days with the High Judicial Council.

Duration of Suspension

Article 44

Suspension from duty shall last until revoking of detention, conclusion of dismissal proceedings or conclusion of criminal proceedings.

The High Judicial Council may rescind the decision on suspension prior to conclusion of dismissal proceedings.

III. TRANSFER AND SECONDMENT

1. Transfer

Article 45

A deputy public prosecutor may be transferred to another public prosecutor's office of same rank only with his written consent.

The decision on transfer shall be passed by the High Judicial Council.

A deputy public prosecutor shall continue to permanently hold office in the other public prosecutor's office.

2. Secondment to Another Public Prosecutor's Office

Article 46

A public prosecutor and deputy may, ~~without their consent~~ with their consent, be seconded to another public prosecutor's office of same or lower rank for a maximum of nine months in two calendar years.

The secondment shall be to a public prosecutor's office whose needs so require.

The decision on secondment shall be passed by the Republic Public Prosecutor.

V. INCOMPATIBILITY OF OFFICE WITH OTHER FUNCTIONS, ENGAGEMENTS AND ACTIONS

1. Relation of Other Functions, Engagements and Actions to the Duties of a Public Prosecutor and Deputy Public Prosecutor

Article 47

A public prosecutor and deputy may not hold functions in bodies passing or executing regulations, may not be members of a political party, engage in any public or private paid work, nor offer legal services or advice for compensation.

Exceptionally, a public prosecutor and deputy may engage in scientific and professional activity with compensation.

Other functions, engagements and actions that are contrary to the dignity and independence of public prosecutor's office or are damaging to its reputation shall also be incompatible with their office.

The Republic Public Prosecutor shall determine which actions are contrary to the dignity and independence of a public prosecutor's office and damaging to its reputation.

2. Procedure to Assess Incompatibility

Obligation of Notification

Article 48

A deputy public prosecutor shall be required to notify in writing the public prosecutor on any function or engagement that may possibly be incompatible with his office.

A public prosecutor shall notify on such function or engagement the next higher-ranking public prosecutor, whilst the Republic Public Prosecutor shall notify the Minister in charge of judiciary.

Initiation of Proceedings

Article 49

A public prosecutor shall initiate proceedings before the Republic Public Prosecutor to determine incompatibility immediately upon becoming aware that a public prosecutor or deputy public prosecutor are performing functions or engagements or actions that may possibly be incompatible with their office.

The Minister in charge of judiciary shall initiate and conduct procedure for assessment whether other functions, engagements or actions are incompatible with the office of the Republic Public Prosecutor.

Pronouncement of Caution and Objection

Article 50

A caution may be pronounced concurrently with determination of incompatibility, and shall be entered into the personal record.

An objection against the decision may be filed within eight days with the High Judicial Council,

A public prosecutor and deputy may express their contentions orally, by themselves or through a proxy.

V. FINANCIAL STATUS

Introductory Provision

Article 51

The base salary of a public prosecutor and deputy shall be computed correspondingly as the base salary of a judge.

Base Salary of Public Prosecutor and Deputy Public Prosecutor

Article 52

The base salary of a public prosecutor shall be identical to the base salary of the president of the court before which he proceeds.

The High Judicial Council may, relative to scope and complexity of tasks, determine that some public prosecutors shall have a base salary equal to the base salary of a judge of the next higher-instance court.

The base salary of a deputy public prosecutor shall be lower by 7% from the base salary of a public prosecutor.

Base Salary of Public Prosecutor Seconded to Another Public prosecutor's office

Article 53

A public prosecutor and deputy seconded to another public prosecutor's office shall be entitled to a base salary equivalent to the base salary in the public prosecutor's office of secondment, if more favourable.

Allowances and other earnings shall be prescribed by the High Judicial Council.

Increase of Base Salary

Article 54

The base salary of a public prosecutor and deputy who exclusively or predominantly handle criminal cases in a district court shall be increased up to ~~15~~20%, in the increment determined by the High Judicial Council.

The High Judicial Council may decide to increase the base salary in public prosecutor's office where vacancies persist up to 75%.

The High Judicial Council may, depending on the scope of work, increase the salary of a public prosecutor in a particular public prosecutor's office up to 8%.

Salary Supplement

Article 55

The introduction of a supplement to a judge's salary shall have a concurrent effect of introducing a supplement to the salary of public prosecutors and deputies.

Chapter Four

ELECTION ~~AND APPOINTMENT~~

I. BASIC PRINCIPLES

Article 56

The National Assembly shall, at the proposal of the High Judicial Council, elect a public prosecutor and deputy public prosecutor.

~~The High Judicial Council shall appoint a deputy public prosecutor.~~

The number of deputy public prosecutors for each public prosecutor's office shall be determined by the National Assembly, at the proposal of the High Judicial Council.

II. ELECTION ~~AND APPOINTMENT~~ REQUIREMENTS

Article 57

A Yugoslav citizen meeting the general requirements for employment in government authorities, and who is a Bachelor of Law with passed Bar Exam and is worthy of the office of public prosecutor may be elected public prosecutor, that is, ~~appointed~~ deputy public prosecutor.

Upon passing of the Bar Exam the following experience in legal profession shall be required:

- two years for a municipal public prosecutor and one year for deputy municipal public prosecutor;
- six years for district public prosecutor and four years for deputy district public prosecutor;
- twelve years for the Republic Public Prosecutor and Deputy Republic Public Prosecutor.

III. ELECTION ~~AND APPOINTMENT~~ PROCEDURE |

Announcement of Election ~~and Appointment~~ |

Article 58

The High Judicial Council shall announce the election of public prosecutors and ~~appointment~~ of deputy public prosecutors. |

The announcement shall be published in the “Official Gazette of the Republic of Serbia” and other public media.

Submission of Applications

Article 59

Applications shall be submitted to the High Judicial Council, within fifteen days of publishing of the notice in the “Official Gazette of the Republic of Serbia”.

Supporting documents on meeting the requirements for election ~~or appointment~~ shall |
be attached to the applications.

The personal record of each candidate coming from public prosecutor’s office shall be submitted to the High Judicial Council.

Obtaining of Data and Opinions

Article 60

The High Judicial Council shall obtain data and opinions on qualifications and worthiness of a candidate

Data and opinion shall be obtained from bodies and organisations employing the candidate in legal capacity.

~~Appointment and Proposal to Elect~~ Proposal to Elect |

Article 61

In ~~proposing a public prosecutor appointing of a~~ and deputy public prosecutor ~~and in proposing a public prosecutor~~, the High Judicial Council shall consider only their qualifications and worthiness.

Every ~~appointment and every proposal~~ proposal to elect shall be elaborated.

Election of Public Prosecutor and Deputy

Article 62

The National Assembly ~~may elects as the~~ public prosecutor and deputy following the proposal of only the candidate proposed by the High Judicial Council.

If the proposed candidate is not elected, the relevant committee of the National Assembly shall proposed to the national Assembly another candidate. ~~he /she is not elected, the High Judicial Council shall re-examine its proposal~~

If even this candidate is not elected, the High Judicial Council shall announce election.

IV. OATH AND TAKING OFFICE

Taking of Oath

Article 63

A public prosecutor and deputy shall, prior to taking office, take an oath before the president of the National Assembly.

The Republic Public Prosecutor shall take the oath before the National Assembly.

A public prosecutor elected from the ranks of public prosecutors shall not take the oath again.

The Text of the Oath

Article 64

The text of the oath shall read: "I swear on my honour to protect the constitutionality and legality devotedly, conscientiously and impartially".

Taking Office

Article 65

A public prosecutor and deputy shall take office at the formal session in the public prosecutor's office to which they are elected ~~or appointed~~.

Other duty in the public prosecutor's office shall cease by taking office.

When Election ~~and Appointment~~ is Deemed Non-existent

Article 66

It shall be deemed that a public prosecutor or deputy has not been elected ~~or a deputy appointed~~ if he/she fails to take office ~~does not take office~~, without justifiable reason, within two months of election, ~~that is, appointment~~.

The Republic Public Prosecutor shall pass the relevant decision and shall so inform the National Assembly and the High Judicial Council.

An objection against the decision may be filed within eight days with the High Judicial Council.

Chapter Five

TERMINATION OF OFFICE

I. REASONS FOR TERMINATION OF OFFICE

1. All Reasons

Article 67

The term of office of public prosecutor and deputy shall cease at his/her request, on attaining years for retirement or upon dismissal.

~~The office of deputy public prosecutor shall also cease upon expiry of mandate to which he/she was appointed and if the public prosecutor's office is abolished.~~

2. Note on Attaining Retirement Years

Article 68

A public prosecutor and deputy shall attain retirement at the age of 65 or with forty years of active service.

Active service may not be extended.

A public prosecutor shall at latest by 1 October notify the Republic Public Prosecutor in writing which of his/her deputies and directly lower-ranking public prosecutors shall reach retirement years in the following year and when.

3. Note on Reasons for Dismissal

All Reasons

Article 69

A public prosecutor and deputy shall be dismissed when convicted for a criminal offence to an unconditional prison sentence of six months or more, or for a punishable offence making them unworthy of office, when negligent or incompetent in their duty or due to permanent loss of capacity to perform their duty.

Note on Negligent and Incompetent Performance of Duty

Article 70

A public prosecutor and deputy shall be negligent in their duty if dilatory in processing cases, disregard statutory limitations or otherwise proceed against standards set by the Republic Public Prosecutor.

It shall also be deemed negligence of duty if they continue with functions, engagements or actions of same or similar nature to that determined incompatible with their office, ~~if they refuse secondment to another public prosecutor's office~~ or fail to take office without justifiable reason.

Inadequately successful performance of duty shall be deemed as incompetence, pursuant to standards set by the Republic Public Prosecutor.

II. DETERMINATION OF REASONS FOR TERMINATION OF OFFICE

1. Determination of End of Active Service and Reasons for Dismissal

Jurisdiction and Initiation of Procedure

Article 71

The Republic Public Prosecutor shall establish the end of active service and reasons for dismissal.

A public prosecutor, the directly higher-ranking public prosecutor, the Republic Prosecutor and the Minister in charge of judiciary shall initiate the procedure.

The Minister shall initiate and conduct the procedure to determine whether the Republic Public Prosecutor has reached the end of active service and if there are reasons for his dismissal, pursuant to rules that govern procedure conducted by the Republic Public Prosecutor.

Procedure and Right of Objection

Article 72

The Republic Public Prosecutor shall determine facts and reach a decision in a proceeding closed to public.

The Republic Public Prosecutor's decision shall be elaborated.

An objection against the decision may be filed within eight days with the High Judicial Council.

Status in the Procedure

Article 73

A public prosecutor and deputy shall be entitled to be informed without delay on the reasons for initiation of procedure, to be informed of the case and supporting documents, course of the procedure and report by the rapporteur and to, themselves or through a proxy, offer explanations and proof for their contentions.

They may express their contentions orally.

The Republic Public Prosecutor shall have the same status in the procedure conducted by the Minister in charge of judiciary.

Notification of Decision

Article 74

If end of active service or reasons for dismissal have been determined, and no objection has been filed, the Republic Public Prosecutor shall inform the National Assembly or the High Judicial Council that a public prosecutor or deputy has reached the end of active service or of existence of reasons for dismissal.

If the objection of a public prosecutor is not adopted, the High Judicial Council shall inform the National Assembly accordingly.

Pronouncement of Measures

Article 75

The Republic Public Prosecutor may, in the procedure for dismissal due to negligence or incompetence in performance of duty, pronounce a measure of caution or a measure of suspension from the office, of one month to one year.

The High Judicial Council may do the same in deliberating the objection against a decision that has determined grounds for dismissal due to negligence or incompetence in performance of duty.

The Minister in charge of judiciary shall pronounce first instance measures against the Republic Public Prosecutor.

Effect of Measures

Article 76

A cautionary and suspension measure shall be entered into the personal record.

For the duration of ~~cautionary-suspension~~ measure, the status of a public prosecutor and deputy shall be as ~~if~~suspended.

A cautionary measure may not be pronounced twice to a public prosecutor and deputy.

2. Termination of Office at Request of Public Prosecutor or Deputy

Article 77

A public prosecutor and deputy who wish to terminate their office shall submit a written request to the High Judicial Council, which shall immediately forward a valid request of the public prosecutor to the National Assembly.

A request may be withdrawn until such time the office of a public prosecutor or deputy is terminated by decision of the National Assembly or the High Judicial Council or by expiry of time limit stipulated by this Law.

If a request for termination of office is submitted subsequent to initiation of procedure for dismissal, such request shall not be taken under consideration until conclusion of dismissal procedure.

III. DECISION ON TERMINATION OF OFFICE AND EFFECTS

1. Passing of Decision

Article 78

The National Assembly shall decide on termination of office of a public prosecutor and deputy public prosecutor.

~~The High Judicial Council shall decide on termination of office of a deputy public prosecutor.~~

A complaint against the decision on dismissal may be filed with the Constitutional Court, within fifteen days from publishing of the decision in the “Official Gazette of the Republic of Serbia”.

2. Time of Termination of Office

Article 79

If the request for termination of office is not resolved within one month, it shall be deemed that the office of a public prosecutor and deputy was terminated upon expiry of one month from the date of submission of the request, and shall be so published in the “Official Gazette of the Republic of Serbia”.

In all other cases the office shall terminate as of the date quoted by the National Assembly, ~~that is, the High Judicial Council~~, in ~~their~~ its decision.

3. Effects of Termination of Office

Effects of Dismissal

Article 80

Dismissal shall terminate ~~employment~~ rights relating to work of a public prosecutor and deputy.

~~They may not apply for election to a court or public prosecutor's office, nor apply for appointment as deputy public prosecutor or magistrate.~~

~~Particular Effects on Deputy Public Prosecutor~~

~~Article 81~~

~~A deputy public prosecutor whose office was terminated due to abolishing of a public prosecutor's office shall have the same status as a public prosecutor whose office has terminated on request.~~

~~A deputy public prosecutor who is not re-appointed shall have the same status as a person under Government appointment if not punished in disciplinary procedure during his/her last mandate, and if yes his/her employment shall terminate.~~

Chapter Six

PUBLIC PROSECUTOR'S OFFICE STAFF

1. Job Categories and the Number of Employees

Article 82

Public prosecutor's office staff shall be public prosecutor's assistants, public prosecutor's office interns and other staff performing administrative, technical, accounting, informational and other auxiliary jobs relevant for the public prosecutor's office.

The number of employees in public prosecutor's office shall be determined by the public prosecutor through the Act on Internal Organisation and Systematisation of Job Positions.

The Act on Internal Organisation and Systematisation of Job Positions may not enter into force without the approval of the Minister in charge of judiciary.

2. Public Prosecutor's Assistant

Scope of Work

Article 83

A public prosecutor's assistant shall assist a public prosecutor and deputy public prosecutor, prepare draft submissions, receives complaints, submissions and statements by citizens for record, and perform the tasks prescribed by law and other regulations, independently or under supervision and directions.

A public prosecutor shall supervise the efficiency and quality of the work of a public prosecutor's assistant.

Titles of Public Prosecutor's Assistants

Article 84

The public prosecutor's assistants shall acquire the following titles: public prosecutor's office assistant, public prosecutor's office senior assistant and advisor in public prosecutor's office.

A person with the Bar Exam may acquire a title of professional prosecution assistant and a person who spent minimum two years working in legal profession after the Bar Exam may acquire the title of higher professional prosecution assistant.

A person who meets the criteria required for a district public prosecutor may acquire the title of public prosecutor's office adviser, and such title exists in the Republic Public Prosecutor's Office.

Assessment of Public Prosecutor Assistant's Work

Article 85

The work of a public prosecutor's assistant shall be evaluated by a public prosecutor after obtaining opinion of the deputy public prosecutor working with the public prosecutor's assistant.

The rules for the evaluation of a judge's assistant shall be applied accordingly for the evaluation periods, marks and effects of evaluation of a public prosecutor's assistant.

Secretary

Article 86

The Republic Public Prosecutor's Office shall have a Secretary, appointed by the public prosecutor from the public prosecutor's office advisors.

A public prosecutor's office with more than twenty deputies may have the Secretary.

A Secretary shall help the public prosecutor in and shall be appointed from the public prosecutor's assistants.

4. Public Prosecutor's Office Intern

Admission of a Public Prosecutor's Office Intern

Article 87

A Bachelor of Law who meets general criteria for working in the governmental bodies can be admitted as a prosecution intern.

A prosecution intern shall be admitted in the municipal and district public prosecutor's office.

The candidates who finished the Law Faculty with high average grades shall have priority.

Training and Employment of Prosecution Intern

Article 88

The framework for the training program for public prosecutor's office intern shall be determined by the Republic Public Prosecutor and the training program itself by the public prosecutor, in accordance with the framework for the training program.

A public prosecutor's office intern may be transferred for a period of time to another public prosecutor's office or governmental authority for the purpose of his training.

The rules applying for a judge's assistant shall be applied for the duration, possibility of continuation of employment and passing the Bar Exam of a public prosecutor's assistant.

Volunteer

Article 89

A Bachelor of Law may be admitted in the public prosecutor's office for training to undergo preparations for the Bar exam, without entering into employment agreement (volunteer).

5. Other Regulations on Court Staff

Article 90

All public prosecutor's office staff shall perform their duties diligently and impartially, and shall maintain the reputation of the public prosecutor's office.

Regulations governing labour relations in government bodies shall be applicable for admission into employment and rights, duties and responsibilities of staff in a public prosecutor's office, unless otherwise stipulated by this Law.

Chapter Seven

FUNDS FOR THE WORK OF PUBLIC PROSECUTOR'S OFFICE

Article 91

The funds for the work of public prosecutor's offices shall be provided within budget of the Republic of Serbia.

The funds shall be provided in such amount and manner that they maintain at all times the independence and orderly operation of public prosecutor's offices.

Chapter Eight

TRANSITIONAL AND FINAL PROVISIONS

I. TRANSITIONAL PROVISIONS

Continuation of Work

Article 92

Public prosecutors and deputy public prosecutors shall continue to work in public prosecutor's offices where they have been appointed or assigned in accordance with the Law on Public Prosecutor's Office (The "Official Gazette of the Republic of Serbia", Nos. 43/91 and 71/92).

Appointment of Deputy Public Prosecutors

Article 93

~~All deputy public prosecutors shall be appointed by 01 May 2002.~~

Deputy public prosecutors elected under the Law on Public Prosecutor's Office ("Official Gazette of the Republic of Serbia", No. 43/91 and 71/92) who are not appointed by 28 February 2003 shall have the rights relating to work of an appointed person following termination of office.

(Transl. Remark: the following Article is assumed to follow in sequence as no indication in the Official Gazette is given whether it represents a replacement or an addition).

Article 26

Deputy public prosecutors appointed by 28 february 2003 shall as of 1 March 2003 continue their duty as permanent in the public prosecutor's office of their appointment.

Article 27

This Law shall come into force on the eighth day of publication in the "Official gazette of the Republic of Serbia", with the exception of provisions of Article 5, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21 and 22 that shall enter into force on 1 March 2003.

Validity of Bye-Laws

Article 94

The provisions of regulations, legally valid on the day when this Law enters into force, shall be implemented until the bylaws foreseen by this Law enter into force, unless contrary to the provisions of this Law.

II. FINAL PROVISIONS

Entering into Force

Article 95

The Law on Public prosecutor's office (The "Official Gazette" of the Republic of Serbia, Nos. 43/91 and 71/92) shall become ineffective on the day this Law comes into force.

This Law shall enter into force on 01 January 2002.

Article 1

In the Law on Public Prosecutor's Office ("Official Gazette of RS", No. 63/2001)
Article 11 is changed to read:

"A higher ranking public prosecutor may issue a lower ranking public prosecutor mandatory instructions to proceed.

Mandatory instructions shall be issued in writing.

A lower ranking public prosecutor who considers mandatory instructions contrary to law may file an objection with the Republic Public Prosecutor via the public prosecutor issuing the mandatory instructions.

Objection against mandatory instructions of the Republic Public Prosecutor shall not be allowed".

Article 2