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STATUTE OF THE PUBLIC PROSECUTION SERVICE

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PART I PUBLIC PROSECUTION SERVICE

TITLE I Structure, functions and system of intervention

CHAPTER I Structure and functions

Article 1 Definition

The Public Prosecution Service represents the State, defends the interests prescribed by law, takes part in the enforcement of criminal policy as defined by the organs of sovereignty, carries out the prosecution according to the principle of legality, and defends the democratic legality, pursuant to the Constitution, to this Statute and to the law.

Article 2 Statute

1. The Public Prosecution Service is autonomous as regards the other bodies of the central, regional and local power, as laid down by this Act.
2. The autonomy of the Public Prosecution Service is characterized by its being bound by criteria of legality and objectivity and by the exclusive submission of public prosecutors to the directives, orders and instructions provided for by this Act.

Article 3 Powers

1. It is especially incumbent on the Public Prosecution Service to:
 - a) Represent the State, the Autonomous Regions, the local authorities, the persons lacking legal capacity, the persons having no permanent residence and those whose whereabouts are unknown;
 - b) Take part in the enforcement of criminal policy as defined by the organs of sovereignty;
 - c) Carry out the prosecution pursuant to the principle of legality;
 - d) Represent *ex-officio* the workers and their families in view of the defence of their social rights;
 - e) Defend the collective and diffuse interests in the cases falling within the law;

- f) Defend the independence of the courts, within its powers, and ensure that the jurisdictional duties are carried out pursuant to the Constitution and the laws applying thereto;
 - g) Promote, within its powers, the enforcement of court decisions;
 - h) Lead the criminal investigation even in cases where it is carried out by other bodies;
 - i) Promote and implement crime prevention initiatives;
 - j) Oversee the constitutionality of normative acts;
 - l) Intervene in bankruptcy and insolvency proceedings, as well as in all other proceedings embodied of public interest;
 - m) Perform consultative functions as laid down by this Act;
 - n) Oversee the procedural activity of criminal police bodies;
 - o) Lodge an appeal whenever a decision was reached by agreement between the parties intending to defraud the law, or whenever such a decision has been rendered in clear violation of the law;
 - p) Perform such other functions as may be conferred upon it by the law.
2. The powers referred to in sub-paragraph f) of the preceding paragraph include a binding duty to appeal in such cases and under such terms as are provided for in the Act on the Organisation, Functioning and Procedure of the Constitutional Court.
 3. When exercising its duties, the Public Prosecution Service is assisted by justice officers and by criminal police bodies and has at its disposal advisory and consultative services.

CHAPTER II

System of intervention

Article 4

Representation of the Public Prosecution Service

1. The Public Prosecution Service is represented:
 - a) At the Supreme Court of Justice, at the Constitutional Court, at the Supreme Administrative Court, at the Supreme Military Court and at the Court of Auditors, by the Prosecutor General;
 - b) At the Courts of Appeal and at the Central Administrative Court, by Deputy Prosecutors General;
 - c) At the lower courts, by District Prosecutors and by Deputy District Prosecutors.
2. At the other courts, the Public Prosecution Service is represented as laid down by law.
3. Members of the Public Prosecution Service substitute for one another as provided for by this Act.

Article 5

Main and ancillary intervention

1. The Public Prosecution Service has a main intervention in proceedings:
 - a) Where it represents the State;
 - b) Where it represents the Autonomous Regions and the local authorities;
 - c) Where it represents the persons lacking legal capacity, the persons having no permanent residence and those whose whereabouts are unknown;
 - d) Where it represents *ex-officio* the workers and their families in view of the defence of their social rights;
 - e) Where it represents collective and diffuse interests;
 - f) In inventories required by law;

- g) In other cases where the law provides it with powers to intervene in such a capacity.
2. Where it represents an Autonomous Region or a local authority, the main intervention of the Public Prosecution Service ceases as soon as an authorised representative is appointed.
3. Where it represents persons lacking legal capacity, persons having no permanent residence and those whose whereabouts are unknown, the main intervention of the Public Prosecution Service ceases whenever the legal representatives of the above-mentioned persons object to such an intervention by means of a petition.
4. The Public Prosecution Service has an ancillary intervention in proceedings:
 - a) Where, in cases other than those falling within paragraph 1 hereinabove, the Autonomous Regions, the local authorities, other public legal persons, legal persons of public utility, persons lacking legal capacity or those whose whereabouts are unknown have an interest in the proceedings, or where the action aims at the enforcement of collective or diffuse interests;
 - b) In the other cases provided for by law.

Article 6
Ancillary intervention

1. When intervening in an ancillary capacity, the Public Prosecution Service looks after the interests with which it is entrusted, taking such measures as deemed appropriate.
2. The conditions under which the intervention takes place are set out in the procedural law.

TITLE II
Bodies and agents of the Public Prosecution Service

CHAPTER I
General provisions

Article 7
Bodies

The bodies of the Public Prosecution Service are as follows:

- a) The Prosecutor General's Office;
- b) The District Deputy Prosecutors General's Offices;
- c) The District Prosecutors' Offices.

Article 8
Agents of the Public Prosecution Service

1. The agents of the Public Prosecution Service are as follows:
 - a) The Prosecutor General (*"Procurador-Geral da República"*);
 - b) The Vice Prosecutor General (*"Vice-Procurador-Geral da República"*);
 - c) The Deputy Prosecutors General (*"Procuradores-Gerais-Adjuntos"*);
 - d) The District Prosecutors (*"Procuradores da República"*);

- e) The Deputy District Prosecutors (*“Procuradores-Adjuntos”*).
2. The agents of the Public Prosecution Service may be assisted by legal advisors, as provided for by law.

CHAPTER II The Prosecutor General's Office

SECTION I Structure and powers

Article 9 Structure

1. The Prosecutor General's Office is the highest body of the Public Prosecution Service.
2. The Prosecutor General's Office comprises the Prosecutor General, the High Council of the Public Prosecution Service, the Consultative Council of the Prosecutor General's Office, the Legal Auditors and the Technical and Administrative Support Services.
3. The Central Department of Criminal Investigation and Prosecution, the Bureau of Documentation and Comparative Law and the Technical Advisory Unit operate under the authority of the Prosecutor General's Office.
4. The organisation, staff list and staff regime of the Bureau of Documentation and Comparative Law and of the Technical Advisory Unit are defined in specific statutory provisions.

Article 10 Powers

It is incumbent on the Prosecutor General's Office to:

- a) Foster the defence of the democratic legality;
- b) Appoint, assign, transfer, promote, dismiss or remove from office, consider the professional merit, take disciplinary action and carry out, in general, all acts of a similar nature with regard to members of the Public Prosecution Service, the only exception being the Prosecutor General;
- c) Lead, co-ordinate and oversee the activity of the Public Prosecution Service, and issue directives, orders and instructions binding on members of the Public Prosecution Service while carrying out their functions;
- d) Render an opinion on the lawfulness of agreements to which the State is a concerned party, whenever its legal opinion is required by law or requested by the Government;
- e) Deliver a legal opinion in cases of consultation provided for by law and where requested by the President of the Assembly of the Republic or by the Government;
- f) Propose legislative measures to the Minister of Justice with a view to increasing the efficiency of the Public Prosecution Service and to improving the operation of the judicial institutions;
- g) Advise the Assembly of the Republic and the Government, through the Minister of Justice, of any ambiguities, deficiencies or contradictions found in statutory provisions;
- h) Oversee the procedural activity of the criminal police bodies;
- i) Perform such other functions as may be conferred upon it by the law.

Article 11
Presidency

The Prosecutor General's Office is presided over by the Prosecutor General.

SECTION II
The Prosecutor General

Article 12
Powers

1. It is incumbent on the Prosecutor General to:
 - a) Preside over the Prosecutor General's Office;
 - b) Represent the Public Prosecution Service at the Courts referred to in Article 4(1)(a);
 - c) Ask the Constitutional Court for a general legally binding declaration on the unconstitutionality or unlawfulness of any rule.

2. As president of the Prosecutor General's Office, it is incumbent on the Prosecutor General to:
 - a) Foster the defence of the democratic legality;
 - b) Lead, co-ordinate and oversee the activity of the Public Prosecution Service, and issue directives, orders and instructions binding on its magistrates;
 - c) Convene the High Council of the Public Prosecution Service and the Consultative Council of the Prosecutor General's Office, and to preside over the respective meetings;
 - d) Advise the Minister of Justice as to the need to adopt legislative measures conducive to affording feasibility to the constitutional provisions;
 - e) Oversee the procedural activity of the criminal police bodies;
 - f) Inspect or order the inspection of the services of the Public Prosecution Service and to order any inquiries, investigations and criminal or disciplinary proceedings concerning its magistrates;
 - g) Propose legislative measures to the Minister of Justice with a view to increasing the efficiency of the Public Prosecution Service and to improving the operation of the judicial institutions, or to putting an end to divergent decisions made by courts or by Public Administration bodies;
 - h) Intervene, either personally or by representation, in contracts to which the State is a contracting party, whenever the law so requires;
 - i) Oversee the inspection services of the Public Prosecution Service;
 - j) Install in office the Vice Prosecutor General, the Deputy Prosecutors General and the Inspectors of the Public Prosecution Service;
 - l) Exercise over the staff of the Technical and Administrative Support Services of the Prosecutor General's Office and over the staff of the services functioning under the authority of the Prosecutor General's Office, the powers vested in Ministers, except with respect to appointment;
 - m) Perform such other functions as may be assigned to him/her by law.

3. The directives referred to in sub-paragraph b) of paragraph 2 hereinabove concerning the interpretation of legal provisions are published in the II Series of the Official Gazette (*«Diário da República»*).

4. The Prosecutor General is assisted by his/her Advisory Staff.

5. The structure and composition of the Advisory Staff of the Prosecutor General are defined in specific statutory provisions.

Article 13
Assistance and substitution

1. The Prosecutor General is assisted and substituted by the Vice Prosecutor General.
2. At the Courts referred to in Article 4(1)(a), assistance and substitution are also ensured by Deputy Prosecutors General, their number being fixed in a schedule stipulated by means of a ministerial regulation issued by the Minister of Justice, upon the proposal of the High Council of the Public Prosecution Service.
3. The Prosecutor General appoints, every two years, a Deputy Prosecutor General entrusted with the co-ordination of the activities of the Public Prosecution Service at each of the Courts referred to in the preceding paragraph.

Article 14
Substitution of the Vice Prosecutor General

The Vice Prosecutor General is substituted, when absent or otherwise engaged, by a Deputy Prosecutor General designated to that end by the Prosecutor General or, failing so, by the most senior Deputy Prosecutor General holding office in Lisbon.

SECTION III
The High Council of the Public Prosecution Service

SUBSECTION I
Organisation and functioning

Article 15
Composition

1. The Prosecutor General's Office exercises its disciplinary authority and its management powers over the public prosecutor's list through the High Council of the Public Prosecution Service.
2. The High Council of the Public Prosecution Service is composed of:
 - a) The Prosecutor General;
 - b) The District Deputy Prosecutors General;
 - c) A Deputy Prosecutor General elected from and among the Deputy Prosecutors General;
 - d) Two District Prosecutors elected from and among the District Prosecutors;
 - e) Four Deputy District Prosecutors elected from and among the Deputy District Prosecutors, one per each judicial district;
 - f) Five members elected by the Assembly of the Republic;
 - g) Two persons of recognised merit, designated by the Minister of Justice.
3. Public prosecutors may not decline the position of member of the High Council of the Public Prosecution Service.

Article 16

Election principles

1. The election of the public prosecutors referred to in article 15(2)(c)(d)(e) above is held by secret ballot and universal suffrage, each of the ranks being represented by an electoral college composed of the respective public prosecutors in tenure of office.
2. The registration of the public prosecutors is organised *ex-officio* by the Prosecutor General's Office.
3. Those entitled to vote may exercise their right to vote by post.

Article 17

Active and passive electoral capacity

Public prosecutors belonging to each rank and in effective tenure of office within the Public Prosecution Service shall be both electors and persons eligible for election.

Article 18

Date of the elections

1. Elections take place within a 30-day period prior to the expiration of the tenure or in the first 60 days following a vacancy.
2. The Prosecutor General announces the date of election at least 45 days in advance by means of a notice published in the Official Gazette («*Diário da República*»).

Article 19

Special form of election

1. The members of the High Council of the Public Prosecution Service referred to in Article 15(2)(d)(e) are elected by means of electoral rolls signed by a minimum of 20 and of 40 electors, respectively.
2. Election of the public prosecutors referred to in the preceding paragraph is made according to the principle of proportional representation and to the method of the highest average, while complying with the following rules:
 - a) The number of votes obtained by each list is counted separately;
 - b) The number of votes is divided by 1, 2, 3 and 4, successively, the quotients being considered with the decimal part being aligned in descending order in a series of as many posts as mandates assigned to the corresponding body;
 - c) The mandates appertain to the lists to which the posts of the series established by the rule above correspond, each of the lists receiving as many mandates as there are posts in the series;
 - d) Where one or more mandates remain to be assigned and where the posts of the series are equal and the lists different, the mandate(s) shall fall within the list(s) which obtained the highest number of votes. If more than one list attains an equal number of votes, no mandate may be assigned and the election has to be repeated.
3. The rolls comprise two substitute candidates for every effective candidate.
4. Candidates may not appear on more than one roll.
5. In the absence of candidates, the election is held pursuant to a roll prepared by the High Council of the Public Prosecution Service.

Article 20

Allocation of seats on the High Council of the Public Prosecution Service

1. Allocation of seats is made according to the order in which votes are converted into tenure of offices.
2. Allocation, as far as Deputy District Prosecutors are concerned, is carried out as follows:
 - 1st tenure of office: Deputy District Prosecutor proposed by the judicial district of Lisbon;
 - 2nd tenure of office: Deputy District Prosecutor proposed by the judicial district of Oporto;
 - 3rd tenure of office: Deputy District Prosecutor proposed by the judicial district of Coimbra;
 - 4th tenure of office: Deputy District Prosecutor proposed by the judicial district of Évora;

Article 21

Election Committee

1. Supervision of the strict observance of electoral acts, as well as the final counting of the votes, is incumbent on an election committee.
2. The election committee is composed of the Prosecutor General and of the members referred to in Article 15(2)(b).
3. One representative from each roll competing in the election has the right to join the election committee.
4. The functions of president are performed by the Prosecutor General, and the decisions are taken by a majority vote. The president shall have the casting vote.

Article 22

Powers of the election committee

It is especially incumbent on the election committee to dispel doubts arising from the interpretation of the election regulations and to decide on complaints which may emerge during the election process.

Article 23

Electoral disputes

Appeals resulting from electoral disputes may be brought to the Supreme Administrative Court within a 48-hour period.

Article 24

Regulatory provisions

The electoral process system not included in the preceding articles is set out in a regulation published in the Official Gazette («*Diário da República*»).

Article 25

Tenure of office

1. The members referred to in Article 15(2)(c)(d)(e) hold their offices for a term of three years, renewable once within the period immediately following the end of their first term of office.
2. Whenever, during his/her term of office, a public prosecutor ceases to belong to the original hierarchical rank or grade, or is unable to perform his/her functions, the first substitute is called forward

or, failing this, the second substitute. If not possible, then a vacancy is declared and a new election is held pursuant to the preceding articles.

3. The substitutes and the members subsequently elected hold their respective offices until the office in which the original holder was invested ends.
4. The mandate of the members elected by the Assembly of the Republic lapses with the first meeting of a subsequently elected Assembly.
5. The mandate of the members designated by the Minister of Justice lapses whenever a new minister takes up office. The new minister must either confirm them or make a new designation.
6. Notwithstanding the termination of the respective mandates, the elected or designated members remain in office until such time as they are replaced.
7. The High Council of the Public Prosecution Service sets out those cases in which the functions of a member should be exercised on a full-time basis or with a reduction of service corresponding to the original office.
8. The members of the High Council of the Public Prosecution Service who exercise their functions on a full-time basis receive remuneration corresponding to the original office held, in case of a public office, or a salary corresponding to that of a director-general.
9. The members are entitled to attendance vouchers or to an allowance pursuant to terms laid down and in the amount set by the Minister of Justice and, if residing outside Lisbon, to expense allowances, as laid down by law.

Article 26 **Composition**

1. The High Council of the Public Prosecution Service sits in plenary sessions or in sections.
2. The plenary session comprises all the members of the Council.

Article 27 **Powers**

It is incumbent on the High Council of the Public Prosecution Service to:

- a) Appoint, assign, transfer, promote, dismiss or remove from office, consider the professional merit, take disciplinary action and carry out, in general, all acts of an identical nature with regard to members of the Public Prosecution Service, the only exception being the Prosecutor General;
- b) Approve the electoral regulations of the Council, the Rules of Procedure of the Prosecutor General's Office, the regulations provided for in Article 134(4), and the Prosecutor General's Office draft budget;
- c) Deliberate upon, and issue directives regarding internal organisation and member list management;
- d) Propose to the Prosecutor General the issuing of directives binding on members of the Public Prosecution Service while carrying out their duties;
- e) Propose to the Minister of Justice, through the intermediary of the Prosecutor General, the legislative measures necessary to increase the efficiency of the Public Prosecution Service and to improve the operation of the judicial institutions;
- f) Examine the claims foreseen in this Act;

- g) Approve the annual plan of inspections and order the carrying out of inspections, investigations and inquiries;
- h) Deliver a legal opinion regarding the judicial organisation and, in general, the administration of justice;
- i) Perform such other functions as may be conferred upon it by law.

Article 28
Functioning

1. The High Council of the Public Prosecution Service holds ordinary meetings every two months and extraordinary meetings shall be held whenever called by the Prosecutor General, either on his own initiative or at the request of, at least, seven of its members.
2. The decisions are made by a majority vote, the Prosecutor General having the casting vote.
3. For decisions to have validity there must be a minimum of 13 members of the Council present or, in the case of sections, a minimum of 7 members.
4. The Council secretariat functions are carried out by the Secretary to the Prosecutor General's Office.

Article 29
Sections

1. When evaluating professional merit, the High Council of the Public Prosecution Service may meet in sections, in accordance with the terms defined by the Rules of Procedure of the Prosecutor General's Office.
2. Matters relating to the exercise of disciplinary action fall within the jurisdiction of the disciplinary section.
3. The disciplinary section is composed of the Prosecutor General and of the following members of the Council:
 - a) Five of the members referred to in Article 15(2)(b)(d)(e), elected by their peers, in proportion to their respective representation;
 - b) The Deputy Prosecutor General referred to in Article 15(2)(c);
 - c) Three of the persons referred to in Article 15(2)(f), elected by and among their peers for terms of 18 months;
 - e) One of the persons referred to in Article 15(2)(g), chosen by the drawing of lots, for rotating terms of 18 months.
4. Where an election is not possible or where there is a tie, the Prosecutor General appoints the non-elected members, pursuant to the provisions of the final part of sub-paragraph a) of the preceding paragraph.
5. Decisions made by the sections may be challenged by making an application to the Council sitting in plenary session.

Article 30
Allocation of cases

1. The cases are allocated following a drawing of lots among the members of the Council according to the Rules of Procedure.

2. The member to whom a case is allocated becomes its *rapporteur*.
3. In the case of an application made to the plenary session, the case is allocated to a different *rapporteur*.
4. The *rapporteur* may consult such documents and cases, and he/she may take such measures as he/she considers necessary. The cases are requested for the strictly necessary period of time, while complying with the secrecy of legal proceedings during the inquiry stage and in such a manner as not to cause harm to the parties.
5. Where the decision of the *rapporteur* is not supported by the majority, the decision shall be drawn up by the member designated by the president.
6. Where the matter has no special complexity, the *rapporteur* may submit it for consideration and information thereof may be dispensed with.
7. A decision adopting the grounds and proposals, or only the grounds, of the inspector or of the *rapporteur* in charge of the case may be expressed by means of an approval judgment, and a report thereon may be dispensed with.

Article 31

Delegation of powers

The High Council of the Prosecution Service may delegate in favour of the Prosecutor General the powers to perform acts which, owing to their nature, must be addressed before a meeting of the Council takes place.

Article 32

Attendance of the Minister of Justice

The Minister of Justice attends the meetings of the High Council of the Public Prosecution Service whenever he/she considers it to be appropriate, for purposes of imparting information and of demanding or providing clarifications.

Article 33

Contentious appeal

Decisions of the High Council of the Public Prosecution Service may be appealed against and such an appeal shall be lodged on the basis of and in accordance with the procedure followed in cases of appeals against Government measures.

SUBSECTION II
Inspection services

Article 34
Composition

1. The Inspection of the Public Prosecution Service functions in close connection with the High Council of the Public Prosecution Service.
2. The Inspection of the Public Prosecution Service is composed of inspectors and of inspection officers, their number being fixed within a schedule approved by a ministerial regulation issued by the Minister of Justice, upon proposal of the High Council of the Public Prosecution Service.
3. Inspections designed to gather information on the service and merit of public prosecutors, as well as investigations and disciplinary proceedings must be carried out only by inspectors not lower in rank or seniority than the public prosecutors subject to inspection.
4. The inspection officers are recruited from among justice officers and are appointed on a temporary assignment.
5. Inspection officers, if court or technical clerks, with the evaluation of *Very Good*, are entitled to receive a salary corresponding to that of a clerk at a higher court.

Article 35
Powers

1. It is incumbent on the inspection services of the Public Prosecution Service, as laid down by law, to carry out inspections, inquiries and investigations as regards the services of the Public Prosecution Service, as well as to prepare disciplinary proceedings in compliance with the decisions of the High Council of the Public Prosecution Service or upon the Prosecutor General's initiative.
2. Furthermore, the Inspection services aim at gathering information on the service and the merit of members of the Public Prosecution Service.

SECTION IV
The Consultative Council of the Prosecutor General's Office

Article 36
Composition

1. The Prosecutor General's Office performs consultative functions through its Consultative Council.
2. The Consultative Council of the Prosecutor General's Office is composed of the Prosecutor General and of Deputy Prosecutors General, their number being fixed in a schedule approved by means of a ministerial regulation issued by the Minister of Justice, upon proposal of the High Council of the Public Prosecution Service.

Article 37
Powers

It is incumbent on the Consultative Council of the Prosecutor General's Office to:

- a) Deliver a legal opinion strictly on matters related to legality, in cases where the consultation is provided for by law or upon request of the President of the Assembly of the Republic or of the Government;
- b) Render an opinion, at the request of the Government, on the wording and legal content of bills;
- c) Render an opinion on the lawfulness of agreements to which the State is a concerned party, whenever its legal opinion is required by law or requested by the Government;
- d) Advise the Government, through the Minister of Justice, of any ambiguities, deficiencies or contradictions found in statutory provisions and to propose the appropriate amendments thereto;
- e) Render an opinion on matters which the Prosecutor General, while performing his/her functions, may submit;
- f) Approve the Rules of Procedure.

Article 38
Functioning

1. The allocation of legal opinions is made through a selection by lot, according to the seniority of the Deputy Prosecutors General admitted to allocation.
2. Without prejudice to the provisions laid down in the preceding paragraph, the Prosecutor General may decide that such legal opinions are to be allocated according to the criterion of specialisation of the Deputy Prosecutors General.
3. The quorum for the Consultative Council to meet is at least half of its members, plus one.

Article 39
Deadline for producing legal opinions

1. Legal opinions are produced within a 60-day period, except where, due to the complexity, a longer period is necessary. In such a case the entity requesting the legal opinion is given a prior notice.
2. Legal opinions requested with urgency take priority over the others.

Article 40
Meetings

1. The Consultative Council holds ordinary meetings once every fortnight and extraordinary meetings are held whenever convened by the Prosecutor General.
2. During the annual judicial holidays the Council meets once to consider any urgent matters.
3. The Secretary to the Prosecutor General's Office acts as Secretary to the Consultative Council.

Article 41
Voting

1. The resolutions of the Consultative Council are taken by a majority vote, and the opinions are signed by the Deputy Prosecutors General having intervened therein. Any statements thereto shall be enclosed.
2. The Prosecutor General shall have the casting vote and shall sign the legal opinions.

Article 42
Binding force of legal opinions

1. The Prosecutor General may decide, under the powers conferred on him/her by Article 12(2)(b), that the doctrine comprised in the Consultative Council legal opinions is to be followed and upheld by members of the Public Prosecution Service.
2. The legal opinions referred to in the preceding paragraph are circulated to all members of the Public Prosecution Service and are published in the II Series of the Official Gazette (*«Diário da República»*), and reference is made therein to the order issued granting them binding force.
3. On his own initiative or upon a substantiated statement of any member of the Public Prosecution Service, the Prosecutor General may submit questions to be reconsidered for possible review of the doctrine previously established.

Article 43
Ratification and effectiveness of legal opinions

1. When ratified by the entities who have requested the legal opinions or to whose sector the matter examined relates, the Consultative Council's legal opinions on provisions of a generic nature are published in the II Series of the Official Gazette (*«Diário da República»*) in order to produce effects as the official interpretation, vis-à-vis the services concerned, of the matters which such opinions aim at enlightening.
2. If the matter that is the subject of consultation bears interest to two or more ministries which disagree on the ratification of the legal opinion, such ratification shall be incumbent on the Prime Minister.

SECTION V
The Legal Auditors

Article 44
Legal auditors

1. A Deputy Prosecutor General bearing the rank of Legal Auditor may exercise functions within the Assembly of the Republic, within each ministry and alongside the Ministers of the Republic for the Autonomous Regions.
2. Legal Auditors are appointed on a temporary assignment.
3. Legal Auditors may exercise their functions along with any other functions which the Prosecutor General may assign in the scope of the powers of the Public Prosecution Service which, by law, are not vested in specific bodies.

4. The costs incurred with the Legal Auditors shall be borne by specific funds included in the budget of the Ministry of Justice.

Article 45
Powers

1. Legal Auditors perform the functions of legal consultation and support at the request of the President of the Assembly of the Republic, of members of the Government or of Ministers of State for the Autonomous Regions next to whom they exercise functions.
2. Legal Auditors must propose to the Prosecutor General the submission to the Consultative Council of any matters on which they have well-founded doubts, which bear a complexity justifying the call on the Council or which concern more than one Ministry.
3. Where the entities who have requested the consultation do not agree with the solutions proposed by the Legal Auditors, or where they have doubts regarding the doctrine advocated by the Auditors, they may submit the matter to the Consultative Council of the Prosecutor General's Office for examination purposes.
4. Where consultations are being discussed in relation to the Assembly of the Republic or to ministries in which they are carrying out duties, the Legal Auditors take part in the meetings of the Consultative Council of the Prosecutor General's Office, being granted the right to vote.

SECTION VI
Central Department of Criminal Investigation and Prosecution

Article 46
Definition and composition

1. The Central Department of Criminal Investigation and Prosecution is a body which co-ordinates and leads the investigation and prevention of violent, highly organised or particularly complex crime.
2. The Central Department of Criminal Investigation and Prosecution is composed of a Deputy Prosecutor General, who leads the department and of District Prosecutors, their number being fixed in a schedule approved by means of a ministerial regulation issued by the Minister of Justice, after consultation with the High Council of the Public Prosecution Service.

Article 47
Powers

1. It is incumbent on the Central Department of Criminal Investigation and Prosecution to co-ordinate the carrying out of investigations into the following crimes:
 - a) Crimes against peace and humanity;
 - b) Terrorist organisations and terrorism;
 - c) Crimes against State security, except for electoral crimes;
 - d) Trafficking in narcotic drugs, psychotropic substances and precursors, except in situations of direct distribution to the consumer, and criminal association in view of trafficking in narcotic drugs;
 - e) Money laundering;
 - f) Corruption, embezzlement and unlawful economic advantage in a transaction;
 - g) Fraudulent insolvency;
 - h) Prejudicial management in economic units of the public sector;

- i) Fraudulent receipt or embezzlement of subsidies, grants or credit;
 - j) Economic or financial breaches committed as part of an organised crime, namely by using information technology.
 - l) Economic or financial breaches at an international or transnational level.
2. The co-ordination functions of the Central Department of Criminal Investigation and Prosecution include:
- a) The study and implementation of ways of working together with other departments and services, namely of criminal police, with a view to reinforcing the simplification, rationality and efficiency of the proceedings;
 - b) The carrying out of studies, together with the Departments of Criminal Investigation and Prosecution seated at the judicial districts, on the nature, magnitude and trends of the evolution of the criminal activity, as well as on the results achieved as regards prevention, detection and control.
3. It is incumbent on the Central Department of Criminal Investigation and Prosecution to lead the inquiry and to carry out the prosecution:
- a) In what concerns the crimes falling within paragraph 1 hereinabove, whenever the criminal activity occurs in counties appertaining to different judicial districts;
 - b) Following an order issued by the Prosecutor General, whenever, in relation to especially serious crimes, the particular complexity or the extent of the criminal activity throughout the territory justify a centralized control over the investigations.
4. It is incumbent on the Central Department of Criminal Investigation and Prosecution to implement actions of prevention provided for by law, concerning the following crimes:
- a) Money laundering;
 - b) Corruption, embezzlement and unlawful economic advantage in a transaction;
 - c) Prejudicial management in economic units of the public sector;
 - d) Fraudulent receipt or embezzlement of subsidies, grants or credit;
 - e) Economic or financial breaches committed as part of an organised crime, namely by using information technology.
 - f) Economic or financial breaches at an international or transnational level.

SECTION VII

Bureau of Documentation and Comparative Law

Article 48

Powers

1. It is incumbent on the Bureau of Documentation and Comparative Law to:
- a) Assist in legal matters, collect, process and disseminate legal information, especially in the field of Community, foreign and international law, as well as to carry out studies and disseminate information regarding comparative systems of law, without prejudice to the powers vested in other services of the Ministry of Justice;
 - b) Co-operate in the organisation and processing of documentation originating from international bodies;
 - c) Afford support to the Minister of Justice in the area of international legal and judicial co-operation;

- d) Participate in international meetings through public prosecutors or officers appointed to that end, to support the experts selected to participate in such meetings and to collaborate with national representatives in international organisations;
 - e) Prepare, edit and distribute publications organised or supervised by the Prosecutor General's Office or by the Prosecutor General;
 - f) Collaborate in the dissemination abroad of the Portuguese legal system, in particular among the member States of the Community of Portuguese speaking countries;
 - g) Develop projects of legal data processing and management, within the scope of the powers of the Prosecutor General's Office, according to the plans approved by the Ministry of Justice;
 - h) Perform all other functions conferred on it in the field of documentation and legal information.
2. The organisation, staff list and staff regime of the Bureau of Documentation and Comparative Law are defined in specific statutory provisions.

SECTION VIII **Technical Advisory Unit**

Article 49 **Powers**

1. It is incumbent on the Technical Advisory Unit to ensure the rendering of technical assistance and advice to the Prosecutor General's Office and, in general, to the Public Prosecution Service on economic, financial, banking and accounting matters, as well as on the securities market.
2. The provisions laid down in Article 48(2) shall apply.

SECTION IX **Technical and Administrative Support Services of the Prosecutor General's Office**

Article 50 **Structure, staff and assignment regime**

The structure, staff and assignment regime as regards the Technical and Administrative Support Services of the Prosecutor General's Office are set out by means of an executive law, after consultation with the Prosecutor General's Office.

CHAPTER III **State contentious matters**

Article 51 **State Contentious Matters Departments**

1. State Contentious Matters Departments may be set up.
2. State Contentious Matters Departments are competent to act in civil or administrative matters or in matters combining civil and administrative issues.
3. State Contentious Matters Departments are created by means of a ministerial regulation issued by the Minister of Justice, upon proposal of the High Council of the Public Prosecution Service.

4. The ministerial regulation issued by the Minister of Justice establishes the territorial jurisdiction of the State Contentious Matters Departments. It also establishes the public prosecutors' list and regulates the support services, pursuant to Article 215.
5. State Contentious Matters Departments are organised under the authority of the Prosecutor General's Office or under the authority of the District Deputy Prosecutors General's Offices, depending on whether their territorial jurisdiction falls within or exceeds the area of the judicial district.

Article 52*
Composition

1. State Contentious Matters Departments are led by Deputy Prosecutors General or by District Prosecutors.
2. District Prosecutors and Deputy District Prosecutors perform functions in the State Contentious Matters Departments.

Article 52*
Composition

1. State Contentious Matters Departments are led by Deputy Prosecutors General.
2. District Prosecutors and Deputy District Prosecutors perform functions in the State Contentious Matters Departments.

** Legal provisions with two different wordings in force by virtue of articles 164 and 187(1)(5) of Act No 52/2008 of 28 August 2008.*

Article 53
Powers

It is incumbent on the State Contentious Matters Departments to:

- a) Represent the State at the courts, in the defence of its patrimonial interests;
- b) Prepare, examine and follow-up forms of extrajudicial settlement of disputes to which the State is a concerned party.

CHAPTER IV
Access to Information

Article 54
Information

1. Access, by the public and the mass media, to information related to the activity of the Public Prosecution Service, as laid down by law, is ensured.
2. For the purposes set out in the preceding paragraph, press offices may be set up at the Prosecutor General's Office and at the District Deputy Prosecutors General's Offices, under the supervision of the Prosecutor General or of the District Deputy Prosecutors General.

CHAPTER V
District Deputy Prosecutors General's Offices

SECTION I
District Deputy Prosecutor General's Office

Article 55
Structure

1. The seat of every judicial district has a District Deputy Prosecutor General's Office.
2. Deputy Prosecutors General perform their functions at the District Deputy Prosecutor General's Office.

Article 56
Powers

It is incumbent on the District Deputy Prosecutor General's Office to:

- a) Foster the defence of democratic legality;
- b) Lead, co-ordinate and oversee the activity of the Public Prosecution Service in the judicial district and issue orders and instructions binding on public prosecutors while carrying out their functions;
- c) Propose directives to the Prosecutor General aiming at the standardisation of the activity of the Public Prosecution Service;
- d) Co-ordinate the activity of the criminal police bodies;
- e) Oversee the procedural activity of the criminal police bodies;
- f) Oversee compliance with the law in the scope of the enforcement of penalties and of interdiction measures, as well as in the scope of the implementation of any confinement measures or coercive treatment, asking for elucidations and proposing inspections whenever deemed necessary;
- g) Carry out studies on trends relating to doctrine and case-law, with a view to unifying the law and to defending the principle of equal rights for all citizens before the law;
- h) Carry out, in co-ordination with the criminal police bodies, studies on factors and trends regarding the evolution of criminality;
- i) Produce the annual activity report and progress reports that are deemed necessary or are hierarchically ordered;
- j) Perform such other functions as may be conferred upon it by law.

SECTION II
District Deputy Prosecutors General

Article 57
Statute

1. The District Deputy Prosecutor General's Office is led by a Deputy Prosecutor General who receives the designation of District Deputy Prosecutor General.
2. The District Deputy Prosecutor General is substituted, when absent or otherwise engaged, by a Deputy Prosecutor General designated by him/her or, failing such designation, by the most senior Deputy Prosecutor General.
3. The provisions laid down in this section apply *mutatis mutandis* to public prosecutors who perform their functions at the Central Administrative Court.

4. The District Deputy Prosecutor General may propose the designation of an officer from the services of the Ministry of Justice to act as his/her Secretary, on a temporary assignment.

Article 58*

Powers

1. It is incumbent on the District Deputy Prosecutor General to:
 - a) Lead and co-ordinate the activity of the Public Prosecution Service in the judicial district and issue orders and instructions;
 - b) Represent the Public Prosecution Service at the Court of Appeal;
 - c) Propose to the Prosecutor General the adoption of directives aiming at the standardisation of the Public Prosecution Service procedures;
 - d) Co-ordinate the activity of the criminal police bodies;
 - e) Oversee the exercise of the functions of the Public Prosecution Service and the procedural activity of the criminal police bodies and keep the Prosecutor General informed thereof;
 - f) Ensure the legality of the enforcement of measures involving deprivation of liberty and of confinement or coercive treatment measures, and to propose inspection measures to the premises or services, as well as to propose the adoption of criminal or disciplinary measures which are deemed necessary;
 - g) Install in office the District Prosecutors and the Deputy District Prosecutors in the county seat of the judicial district;
 - h) Organise the assignment of service among the District Prosecutors of the same county, department or judicial circuit, without prejudice to the provisions enshrined in procedural law;
 - i) Perform all other functions as may be assigned to him/her by the law.
2. The District Deputy Prosecutor General may delegate to any other Deputy Prosecutor General the superintendence and the co-ordination of the judicial district, according to areas of material intervention of the Public Prosecution Service.
3. The District Deputy Prosecutor General and the Deputy Prosecutors General may be assisted by District Prosecutors.

Article 58*

Powers

1. It is incumbent on the District Deputy Prosecutor General to:
 - a) Lead and co-ordinate the activity of the Public Prosecution Service in the judicial district and issue orders and instructions;
 - b) Represent the Public Prosecution Service at the Court of Appeal;
 - c) Propose to the Prosecutor General the adoption of directives aiming at the standardisation of the Public Prosecution Service procedures;
 - d) Co-ordinate the activity of the criminal police bodies;
 - e) Oversee the exercise of the functions of the Public Prosecution Service and the procedural activity of the criminal police bodies and keep the Prosecutor General informed thereof;
 - f) Ensure the legality of the enforcement of measures involving deprivation of liberty and of confinement or coercive treatment measures, and to propose inspection measures to the premises or services, as well as to propose the adoption of criminal or disciplinary measures which are deemed necessary;
 - g) Lead the service of the Deputy Prosecutors General who perform managerial and co-ordination functions within the counties belonging to a specific judicial district;

- h) Organise the assignment of service among the Deputy Prosecutors General and the District Prosecutors exercising functions within the District Deputy Prosecutor General's Office or at Courts of Appeal in a specific judicial district, without prejudice to the provisions enshrined in procedural law;
 - i) Perform all other functions as may be assigned to him/her by the law.
2. The District Deputy Prosecutor General may delegate to any other Deputy Prosecutor General the superintendence and the co-ordination of the judicial district, according to areas of material intervention of the Public Prosecution Service.
3. The District Deputy Prosecutor General and the Deputy Prosecutors General may be assisted by District Prosecutors.

** Legal provisions with two different wordings in force by virtue of articles 164 and 187(1)(5) of Act No 52/2008 of 28 August 2008.*

Article 59
Deputy Prosecutors General

It is incumbent on the Deputy Prosecutors General holding their offices at the District Deputy Prosecutor General's Office to:

- a) Represent the Public Prosecution Service at the Court of Appeal, under the supervision of the District Deputy Prosecutor General;
- b) Superintend and co-ordinate the areas of intervention that have been delegated to them.

CHAPTER VI
District Prosecutors' Offices

SECTION I
District Prosecutors' Offices

Article 60*
Structure

1. Each seat of the judicial circuits has a District Prosecutor's Office.
2. In counties corresponding to the seat of the judicial district there may be one or more District Prosecutor's Offices.
3. The District Prosecutor's Offices comprise the District Prosecutor(s) and the Deputy District Prosecutors.
4. The District Prosecutor's Offices have their own administrative support.

Article 60*
Structure

1. Each seat of the counties has a District Prosecutor's Office, led by a Deputy Prosecutor General, appointed, on a temporary assignment, by the High Council of the Public Prosecution Service, from among three names proposed by the District Deputy Prosecutor General.
2. In counties corresponding to the seat of the judicial district there may be more than one District Prosecutor's Office.
3. The District Prosecutor's Offices comprise Deputy Prosecutors General, District Prosecutors and Deputy District Prosecutors.
4. The District Prosecutor's Offices have their own administrative support.

** Legal provisions with two different wordings in force by virtue of articles 164 and 187(1)(5) of Act No 52/2008 of 28 August 2008.*

Article 61*
Powers

It is especially incumbent on the District Prosecutors' Offices to lead, co-ordinate, and oversee the activity of the Public Prosecution Service in the area of the respective judicial circuit or at the courts and in the departments which they supervise.

Article 61*
Powers

It is especially incumbent on the District Prosecutors' Offices to lead, co-ordinate, and oversee the activity of the Public Prosecution Service in the area of the respective county or at the courts and in the departments which they supervise.

** Legal provisions with two different wordings in force by virtue of articles 164 and 187(1)(5) of Act No 52/2008 of 28 August 2008.*

Article 62*
Leadership

1. The District Prosecutor's Office is led by a District Prosecutor.
2. At the courts and in the departments where there is more than one District Prosecutor, the District Prosecutors may be appointed with specific co-ordination functions.
3. The District Prosecutor is substituted, when absent or otherwise engaged, by the most senior prosecutor of the same rank or, failing so, by the Deputy District Prosecutor designated by the District Prosecutor.

Article 62*
Leadership

1. The County District Prosecutor's Office is led by a Deputy Prosecutor General.

2. The Deputy Prosecutor General referred to in the preceding paragraph leads and co-ordinates the activity of the Public Prosecution Service within the county, issuing orders and instructions, and it is incumbent on him/her to:
 - a) Follow-up the procedural handling of cases by the services, identifying, in particular, cases which are pending for an excessive amount of time or which are not dealt with within a reasonable period of time, keeping the District Deputy Prosecutor General's Office informed thereof;
 - b) Follow-up the development of the objectives set for the services within the Public Prosecution Service by the public prosecutors and by the staff;
 - c) Organise the assignment of service among the District Prosecutors of the same county or among the Deputy District Prosecutors, without prejudice to the provisions enshrined in the law;
 - d) Promote the holding of meetings for planning and assessing court's results, with the participation of public prosecutors and staff;
 - e) Adopt and propose to the competent entities measures, in particular, measures for reducing bureaucracy, for simplifying procedures, for using information technologies and for the transparency of the justice system;
 - f) Be heard by the High Council of the Public Prosecution Service, whenever the carrying out of non-routine inspections or investigations, as far as the county is concerned, is taken into consideration;
 - g) Draw up holiday leave schedules and holiday rotations for public prosecutors and authorize and approve the holiday leave schedules for the staff;
 - h) Take disciplinary action over the staff exercising functions within the services of the Public Prosecution Service, with respect to offences punished with sentences lower than a fine, and, in the other cases, to initiate disciplinary proceedings if the offence is committed at the relevant court;
 - i) Define work methods and measurable objectives for each organisational unit, without prejudice to the powers and responsibilities of the High Council of the Public Prosecution Service in that field;
 - j) Decide on the implementation of measures for simplifying and streamlining procedures;
 - l) Staff reassignment within the respective county and within the limits set by the law.
3. The Deputy Prosecutor General referred to in the preceding paragraph may be assisted by County District Prosecutors, and he/she may provide for the delegation of services management and co-ordination powers to the said County District Prosecutors who shall then become Co-ordinating District Prosecutors.
4. The Deputy Prosecutor General referred to in paragraph 1 above is substituted, when absent or otherwise engaged, by the District Prosecutor designated by him/her or, failing such designation, by the most senior District Prosecutor.
5. In the county seat of the district, there may be more than one Deputy Prosecutor General exercising managerial and co-ordination functions, appointed pursuant to the provisions laid down in article 60(1).

** Legal provisions with two different wordings in force by virtue of articles 164 and 187(1)(5) of Act No 52/2008 of 28 August 2008.*

SECTION II District Prosecutors

Article 63* Powers

1. It is incumbent on the District Prosecutors to:
 - a) Represent the Public Prosecution Service at the lower courts. Whenever the seriousness of the offence committed, the complexity of the cases or the particular relevance of the interest which must be upheld so justify, in particular in hearings in the scope of a bench trial or of a jury trial, the District Prosecutor himself/herself must ensure the representation of the Public Prosecution Service;
 - b) Guide and oversee the performance of the functions of the Public Prosecution Service and keep the District Deputy Prosecutor General informed thereof;
 - c) Issue orders and instructions;
 - d) Install in office the Deputy District Prosecutors;
 - e) Render the decisions provided for in the procedural law;
 - f) Define forms of co-operation with the criminal police bodies, with social reintegration bodies and with follow-up, treatment and cure facilities.
 - g) Perform all other functions as may be assigned to them by the law.

2. It is incumbent on the Co-ordinating District Prosecutor to:
 - a) Define criteria for the management of the services, after consultation with the other District Prosecutors;
 - b) Establish procedural rules with a view to attaining the objectives of standardisation, co-operation, and streamlining, after consultation with the other District Prosecutors;
 - c) Ensure the collection and processing of procedural and statistical information concerning the activity of the Public Prosecution Service and to transmit such information to the District Deputy Prosecutor General;
 - d) Establish mechanisms of co-operation with the structures of the Public Prosecution Service which mediate in other procedural phases, so as to boost productivity and efficiency;
 - e) Co-ordinate co-operation with criminal police bodies, with social reintegration bodies and with follow-up, treatment and cure facilities;
 - f) Decide on the substitution of District Prosecutors when their absence or the fact that they are otherwise engaged might impede timely information to the District Deputy Prosecutor General;
 - g) Render decisions concerning internal power conflicts;
 - h) Ensure the external representation of the District Prosecutor's Office.

3. The Co-ordinating District Prosecutor may combine the functions referred to in the preceding paragraph with those of managing one or more sections.

4. Should there be a backlog, a vacancy of seat or an inability by its holder to perform functions for a period exceeding a fortnight, the District Deputy Prosecutor General may, subject to prior communication to the High Council of the Public Prosecution Service, assign the service of other circuits, courts or departments to the District Prosecutors.

5. The measure provided for in the preceding paragraph ceases to apply after a 6-month period, and it may not be renewed as regards the same District Prosecutor without his/her consent before a period of three years has elapsed.

6. The District Prosecutors who combine different functions for a period exceeding 30 days have the right to receive remuneration to be fixed by the Minister of Justice, after consultation with the High Council of the Public Prosecution Service, from one fifth to the total salary.

Article 63*

Powers

1. It is incumbent on the District Prosecutors, without prejudice to the powers of the County Deputy Prosecutor General and of the Co-ordinating District Prosecutors, to:
 - a) Represent the Public Prosecution Service at the lower courts. Whenever the seriousness of the offence committed, the complexity of the cases or the particular relevance of the interest which must be upheld so justify, in particular in hearings in the scope of a bench trial or of a jury trial and at specialised jurisdiction courts foreseen in article 45 of the Statute of the Judiciary, the District Prosecutor himself/herself must ensure the representation of the Public Prosecution Service;
 - b) Guide and oversee the performance of the functions of the Public Prosecution Service and to keep the Deputy Prosecutor General exercising managerial and co-ordination functions within the county informed thereof;
 - c) Issue orders and instructions;
 - d) Install in office the Deputy District Prosecutors;
 - e) Render the decisions provided for in the procedural law;
 - f) Define forms of co-operation with the criminal police bodies, with social reintegration bodies and with follow-up, treatment and cure facilities;
 - g) Perform all other functions as may be assigned to them by the law.
2. The Deputy District Prosecutors exercising functions at the specialised jurisdiction courts foreseen in article 45 of the Statute of the Judiciary shall be treated in the same way as the judges placed at specialised jurisdictions, for salary purposes.
3. It is incumbent on the Co-ordinating District Prosecutor to exercise the powers delegated to him/her by the Deputy Prosecutor General, pursuant to article 62(3) and also to:
 - a) Propose to the Deputy Prosecutor General criteria for the management of the services;
 - b) Propose to the Deputy Prosecutor General procedural rules with a view to attaining the objectives of standardisation, co-operation and streamlining;
 - c) Ensure the collection and processing of statistical and procedural information concerning the activity of the Public Prosecution Service and to transmit such information to the Deputy Prosecutor General exercising managerial and co-ordination functions within the county;
 - d) Propose mechanisms of co-operation with the structures of the Public Prosecution Service which mediate in other areas or procedural phases, so as to boost productivity and efficiency;
 - e) Assist the County Deputy Prosecutor General in the scope of the co-operation with the criminal police bodies, with social reintegration bodies and with follow-up, treatment and cure facilities;
 - f) Decide on the substitution of District Prosecutors when their absence or the fact that they are otherwise engaged might impede timely information to the County Deputy Prosecutor General;
 - g) Render decisions concerning internal power conflicts;
 - h) Ensure the external representation of the District Prosecutor's Office, by means of delegation or in substitution of the Deputy Prosecutor General;
 - i) Perform all other functions as may be assigned to him/her by the law.
4. The Co-ordinating District Prosecutors may combine managerial and co-ordination functions with case management functions or with the leading of investigation teams or mission units.

5. Should there be a backlog, a vacancy of seat or an inability by its holder to perform functions for a period exceeding a fortnight, the District Deputy Prosecutor General may, upon the proposal of the County Deputy Prosecutor General and subject to prior communication to the High Council of the Public Prosecution Service, assign the service of other courts or departments to the District Prosecutors.
6. The measure provided for in the preceding paragraph ceases to apply after a 6-month period, and it may not be renewed as regards the same District Prosecutor without his/her consent before a period of three years has elapsed.
7. The District Prosecutors who combine different functions for a period exceeding 30 days have the right to receive remuneration to be fixed by the Minister of Justice, after consultation with the High Council of the Public Prosecution Service, from one fifth to the total salary.
8. The District Prosecutors referred to in paragraph 3 above, as well as the District Prosecutors at the Departments of Criminal Investigation and Prosecution of the county seat of the judicial district shall attend an adequate training course, pursuant to a decision by the member of Government responsible for the area of justice.

** Legal provisions with two different wordings in force by virtue of articles 164 and 187(1)(5) of Act No 52/2008 of 28 August 2008.*

SECTION III Deputy District Prosecutors

Article 64 Deputy District Prosecutors

1. Deputy District Prosecutors perform their functions in counties according to the schedule comprised in the legislation on judicial organisation.
2. It is incumbent on the Deputy District Prosecutors to represent the Public Prosecution Service at the lower courts, without prejudice to the provisions laid down in Article 63(1)(a).
3. Without prejudice to the guidance of the respective District Deputy Prosecutor General, the assignment of service among Deputy District Prosecutors in the same county is made by means of an order issued by the competent District Prosecutor.
4. The provisions set forth in paragraphs 4 to 6 of the preceding article apply *mutatis mutandis* to the Deputy District Prosecutors.

Article 65* Substitution of Deputy District Prosecutors

1. In the counties with two or more Deputy District Prosecutors, these substitute for one another according to the order established by the District Prosecutor.
2. Should their absence or engagements elsewhere not exceed a fortnight, the District Prosecutor may indicate, for substitution purposes, another Deputy District Prosecutor from the same circuit.

3. The District Prosecutor may also designate, for purposes of substitution, a person of good repute, preferably qualified and possessing a Law degree.
4. Without prejudice to the provisions set forth in the preceding paragraphs, the Deputy District Prosecutors are substituted, when absent or otherwise engaged, by the notary of the municipality where the court is located.
5. Should there be more than one notary, it shall be up to the District Prosecutor to designate the notary.
6. The substitutes who, not being public prosecutors, perform functions for a period exceeding a fortnight are entitled to remuneration fixed by the Minister of Justice, after consultation with the High Council of the Public Prosecution Service, from one third to the total salary.

Article 65*

Substitution of Deputy District Prosecutors

1. In the counties with two or more Deputy District Prosecutors, these substitute for one another according to the order established by the District Prosecutor.
2. Should their absence or engagements elsewhere not exceed a fortnight, the County Deputy Prosecutor General or the Co-ordinating District Prosecutor may indicate, for substitution purposes, another Deputy District Prosecutor from the same county, court or section.
3. The District Prosecutor may also designate, for purposes of substitution, a person of good repute, preferably qualified and possessing a Law degree.
4. Without prejudice to the provisions set forth in the preceding paragraphs, the Deputy District Prosecutors are substituted, when absent or otherwise engaged, by the notary of the municipality where the court is located.
5. Should there be more than one notary, it shall be up to the District Prosecutor to designate the notary.
6. The substitutes who, not being public prosecutors, perform functions for a period exceeding a fortnight are entitled to remuneration fixed by the Minister of Justice, after consultation with the High Council of the Public Prosecution Service, from one third to the total salary.

** Legal provisions with two different wordings in force by virtue of articles 164 and 187(1)(5) of Act No 52/2008 of 28 August 2008.*

Article 66

Substitution in urgent cases

In case of an urgency and if substitution cannot take place in the manner indicated in the preceding articles, the judge shall appoint for each case a person of good repute, preferably qualified and possessing a Law degree.

Article 67

Representation of the State in civil proceedings

Without prejudice to the provisions laid down in Article 51, in civil proceedings to which the State is a party, the Prosecutor General, after consultation with the District Deputy Prosecutor General, may appoint a public prosecutor to assist or to substitute the public prosecutor responsible for the representation.

Article 68

Representation of the State in criminal proceedings

1. In criminal proceedings, and without prejudice to the provisions laid down in Article 47(3)(b) and in Article 73(1)(c), the Prosecutor General may appoint a public prosecutor to assist or to substitute another public prosecutor to whom the case has been assigned, whenever substantiated grounds of procedural complexity or of social consequences so justify.
2. The District Deputy Prosecutor General may decide, based on procedural reasons, that the public prosecutor who led the inquiry may intervene in the subsequent procedural phases.

Article 69

Special representation of the Public Prosecution Service

1. Whenever there is a conflict between bodies, persons or interests which the Public Prosecution Service has a duty to represent, the District Prosecutor asks the Bar Association to appoint a lawyer to represent one of the parties.
2. Whenever the matter is urgent and until such time as the appointment takes effect pursuant to the preceding paragraph, the judge shall appoint a lawyer to take part in the procedural acts.
3. The fees due for the assistance referred to in the preceding paragraphs shall be borne by the State.

CHAPTER VII

Departments of Criminal Investigation and Prosecution

Article 70

Seat of the judicial district

In the county corresponding to the seat of each judicial district there is a Department of Criminal Investigation and Prosecution.

Article 71

Counties

1. Departments of Criminal Investigation and Prosecution may be set up in counties where there is a significant caseload.
2. For the purposes of the preceding paragraph, counties considered to have a significant caseload are those which register more than 5000 inquiries annually in at least three of the latest five judicial years.
3. The Departments of Criminal Investigation and Prosecution in the counties are set up by means of a ministerial regulation issued by the Minister of Justice, after consultation with the High Council of the Public Prosecution Service.

Article 72
Structure

1. The Departments of Criminal Investigation and Prosecution may be organised in sections, depending on the type of crimes and may form mission units or investigation teams, by decision of the District Deputy Prosecutor General.
2. The Departments of Criminal Investigation and Prosecution in counties corresponding to the seat of the judicial districts are led by Deputy Prosecutors General, with the powers conferred pursuant to the provisions laid down in Article 62(2).
3. The Departments of Criminal Investigation and Prosecution in the counties are led by District Prosecutors.
4. Whenever the Departments of Criminal Investigation and Prosecution are organised in sections, these are led by District Prosecutors.
5. Without prejudice to the provisions laid down in the preceding paragraphs, District Prosecutors and Deputy District Prosecutors perform their functions at the Departments of Criminal Investigation and Prosecution, their number being fixed by means of a ministerial regulation issued by the Minister of Justice, upon proposal of the High Council of the Public Prosecution Service.

Article 73
Powers

1. It is incumbent on the Departments of Criminal Investigation and Prosecution in the counties corresponding to the seat of the judicial district to:
 - a) Lead the inquiry and carry out the prosecution as regards the crimes committed in the county area;
 - b) Lead the inquiry and carry out the prosecution as regards the crimes pointed out in Article 47(1), whenever the criminal activity occurs in counties appertaining to the same judicial district.
 - c) Following an order issued by the District Deputy Prosecutor General, lead the inquiry and carry out the prosecution whenever, as to what particularly serious or complex crimes are concerned or where the criminal activity is widespread throughout the territory, a centralized leading of the investigation is justified.
2. It is incumbent on the Departments of Criminal Investigation and Prosecution in the counties referred to in Article 71 to lead the inquiry and carry out the prosecution as regards the crimes committed in the county area.

PART II
MAGISTRACY OF THE PUBLIC PROSECUTION SERVICE

SINGLE TITLE
Magistracy of the Public Prosecution Service

CHAPTER I
Organisation and statute

Article 74
Scope

1. Members of the Public Prosecution Service are subject to the provisions of this Act, regardless of their situation.
2. The provisions of this Act also apply *mutatis mutandis* to those substituting for members of the Public Prosecution Service when in tenure of office.

Article 75

Parallelism with the Judiciary

1. The Magistracy of the Public Prosecution Service is parallel to, and acts independently from, the Judiciary.
2. In hearings and official acts over which judges preside, members of the Public Prosecution Service serving at the same court take seat at their right.

Article 76

Statute

1. Members of the Public Prosecution Service are held accountable to their superiors and are hierarchically subordinate.
2. The accountability is translated into their being answerable, pursuant to the law, for the fulfilment of their duties and for compliance with the directives, orders and instructions received.
3. The hierarchy consists of the subordination of public prosecutors of a lower rank to those of a higher rank, under the terms of this Act, and of their obligation to comply with the directives, orders and instructions that they receive, without prejudice to the provisions laid down in Articles 79 and 80.

Article 77

Enforcement of liability

Except for the cases where the offence constitutes a crime, civil liability can only be enforced through a recursory action by the State in case of malice or gross negligence.

Article 78

Stability

Members of the Public Prosecution Service may not be transferred, suspended, promoted, retired, removed from office or have their position in any way altered unless as provided for in this Act.

Article 79

Limits to managerial powers

1. Members of the Public Prosecution Service may request to the hierarchical superior that orders or instructions be sent in writing. Such orders and instructions must always be given in writing whenever they are to produce effects in specific proceedings.
2. Members of the Public Prosecution Service must refuse to comply with unlawful directives, orders and instructions and may do so by invoking a serious violation of their legal conscience.
3. The refusal is made in writing, following an exposition of the reasons invoked.

4. In the case referred to in the preceding paragraphs, the public prosecutor who has issued the directive, order or instruction may take charge of the proceedings himself/herself or assign such directive, order or instruction to another public prosecutor.
5. The following may not be refused:
 - a) Decisions hierarchically rendered as prescribed by procedural law;
 - b) Directives, orders and instructions given by the Prosecutor General, unless on grounds of unlawfulness;
6. Unjustified exercise of the right to refuse entails a disciplinary sanction.

Article 80

Powers of the Minister of Justice

It is incumbent on the Minister of Justice to:

- a) Transmit, through the Prosecutor General, specific instructions in civil proceedings and in proceedings for extrajudicial settlement of disputes to which the State is an interested party;
- b) Authorise the Public Prosecution Service, following consultation with the Government department possessing regulatory power, to assume, settle or waive a claim in the scope of civil proceedings to which the State is a party;
- c) Request, through the Prosecutor General, service reports and information from any public prosecutor or agent of the Public Prosecution Service;
- d) Request information and clarification from the High Council of the Public Prosecution Service and to communicate with it whenever deemed necessary;
- e) Request the Prosecutor General the carrying out of inspections, investigations and inquiries, in particular as regards criminal police bodies.

CHAPTER II

Incompatibilities, duties and rights of public prosecutors

Article 81

Incompatibilities

1. The exercise of any public or private function of a professional nature, other than teaching, scientific research of a legal nature or managerial functions in organisations representative of the magistracy of the Public Prosecution Service, shall be incompatible with the holding of the post of public prosecutor.
2. The exercise of teaching functions or of functions of scientific research of a legal nature may be authorised provided that such functions are exercised without charge and that such a situation does not impair compliance with the official duties.
3. The functions of full-time member of the High Council of the Public Prosecution Service, of member of the Prosecutor General's Advisory Staff, of management or of teaching at the Centre for Judicial Studies, and of person in charge, in the scope of the Ministry of Justice, of the drafting and review of statutory provisions, shall all be deemed to be functions of the Public Prosecution Service.

Article 82

Party and Political activities

1. Members of the Public Prosecution Service are forbidden to take part in party and political activities of a public nature while in tenure of office.
2. Members of the Public Prosecution Service may not hold political offices, with the exception of those of President of the Republic and of member of the Government or of the Council of State, while in tenure of office.

Article 83*

Impediments

1. Members of the Public Prosecution Service shall not be allowed to serve at a court or chamber where functions are being exercised by judges, by public prosecutors or by justice officers to whom they are linked by marriage, cohabitation, blood or kinship within any degree in direct descent or up to the 2nd degree of collateral relationship.
2. Members of the Public Prosecution Service shall not be allowed to serve at a court or at a department appertaining to a judicial circuit in which, during the last five years, they have had a lawyer's office.

Article 83*

Impediments

1. Members of the Public Prosecution Service shall not be allowed to serve at a court or chamber where functions are being exercised by judges, by public prosecutors or by justice officers to whom they are linked by marriage, cohabitation, blood or affinity within any degree in direct descent or up to the 2nd degree of collateral relationship.
2. Members of the Public Prosecution Service shall not be allowed to serve at a court or department appertaining to a county in which, during the last five years, they have had a lawyer's office.

** Legal provisions with two different wordings in force by virtue of articles 164 and 187(1)(5) of Act No 52/2008 of 28 August 2008.*

Article 84

Confidentiality requirement

1. Members of the Public Prosecution Service shall not be allowed to make any statements or comments regarding proceedings, except when duly authorised by a hierarchical superior and for purposes of defending their honour or for the fulfilment of another legitimate interest.
2. The information which, on matters not covered by the secrecy of legal proceedings during the inquiry stage or by professional secrecy, aims at the fulfilment of rights or of legitimate interests, such as access to information, shall not be covered by the confidentiality requirement.

Article 85

Necessary place of residence

1. Members of the Public Prosecution Service shall have necessary place of residence where the court or the place of service is located, although they may reside in any part of the regional judicial division provided that this is not inconvenient for the performance of their duties.

2. Where circumstances so justify, and where there is no prejudice to the performance of their duties, members of the Public Prosecution Service may be authorised to live in a location other than that set out in the preceding paragraph.

Article 86

Absence

1. Members of the Public Prosecution Service may be absent from their regional judicial division during the authorised annual judicial holidays period and, while in fulfilment of their duties, by reason of leave of absence, release from service and on Saturdays, Sundays and public holidays.
2. Absence during the authorised annual judicial holidays period, during leave of absence, release from service and on Saturdays, Sundays and public holidays must not impair the performance of urgent service, a rotation system being organised, where appropriate, for that purpose.
3. Unjustified absence implies not only disciplinary liability, but also the loss of salary for the period during which such absence occurred.

Article 87

Justified Absences

1. In case of absolute need, the members of the Public Prosecution Service may be absent from the regional judicial division for a number of days not exceeding three every month and ten every year, by means of prior permission from their hierarchical superior or, failing so, by communicating and justifying the absence immediately after their return.
2. Absences shall not be regarded as such when they occur on working days out of the normal office hours of the secretariat, and when they do not entail a failure to attend any act of service or the disruption thereof.
3. Absences that occur as a result of the performance of managerial duties in organisations representative of the Magistracy of the Public Prosecution Service are assimilated to those referred to in the preceding paragraph, up to a limit of four per month.
4. In case of absence, members of the Public Prosecution Service must communicate their whereabouts.

Article 88

Leave of absence

1. If it causes no inconvenience to the service, the High Council of the Public Prosecution Service or the District Deputy Prosecutor General, acting as its delegate, may grant a leave of absence for public prosecutors to attend congresses, symposiums, training courses, seminars, meetings, or other events taking place either in the country or abroad, connected with their professional activity.
2. Leaves of absence may also be authorised, regardless of the purpose and provided that no inconvenience is caused to the service, up to a maximum of six days per year, for periods not exceeding two consecutive days, which are non-cumulative and which may not be added to the period(s) during which holidays are taken.
3. The provisions laid down in the Executive Act No 272/88 of 3 August 1988 apply *mutatis mutandis* to members of the Public Prosecution Service when they propose to undertake work or study programmes, or to participate in training courses or traineeships of recognised public interest.

4. The intentions referred to in the preceding paragraph are subject to a decision by the Minister of Justice, upon proposal of the High Council of the Public Prosecution Service, in which reference must be made to the duration, conditions and terms of the programmes and traineeships.

Article 88-A

In-service periodic training

1. Public prosecutors in tenure of office have the right and duty to participate in in-service periodic training courses, afforded by the Centre for Judicial Studies, in collaboration with the High Council of the Public Prosecution Service.
2. Public prosecutors in tenure of office must participate annually in, at least, two in-service periodic training courses.
3. Attendance and successful completion by public prosecutors of in-service periodic training courses are taken into account for purposes of the provisions laid down in Article 113(1).
4. Participation of public prosecutors in in-service periodic training courses outside the county in which they were placed grants them the right to expense allowances, as well as, in the case of public prosecutors assigned to posts located in the Autonomous Regions and travelling to the continent in order to participate in such training courses, to reimbursement, if they do not opt for the advance payment, of expenses incurred due to the use of air transport, pursuant to the law.
5. The rights foreseen in the preceding paragraph are granted up to the number of courses mentioned in paragraph 2 above and in cases where the courses to attend are not available through technical means enabling distance learning.

Article 89

Public prosecutors on long-term unpaid leave

Members of the Public Prosecution Service on long-term unpaid leave may not invoke such a condition in any means of identification relating to the profession that they carry out.

Article 90

Treatment, honours and professional attire

1. The Prosecutor General has the same rank, treatment and honours as the President of the Supreme Court of Justice, and he/she uses the same professional attire.
2. The Vice Prosecutor General has the same rank, treatment and honours as the judges of the Supreme Court of Justice, and he/she uses the same professional attire.
3. The Deputy Prosecutors General have the same rank, treatment and honours as the judges of the Courts of Appeal, and they use the same professional attire.
4. The District Prosecutors and the Deputy District Prosecutors have the same rank, treatment and honours as the judges at the courts where they carry out their duties and use the same professional attire.

Article 91

Remand in custody pending trial

1. No Member of the Public Prosecution Service may be arrested or remanded in custody before a court order designating the trial date is issued in relation to a crime for which he/she stands accused, except in the event of *flagrante delicto* involving a crime punishable with imprisonment for more than three years.
2. In case of arrest or remand in custody, the member of the Public Prosecution Service is immediately brought before the competent judicial authority.
3. Members of the Public Prosecution Service shall be held in custody on remand and shall serve a custodial sentence in a common prison, though isolated from the other remand offenders or inmates.
4. Whenever a search of the workplace or house of a member of the Public Prosecution Service needs to be conducted, such a search shall be presided over, under penalty of nullity, by the competent judge, who shall give prior notice to the High Council of the Public Prosecution Service, thus allowing the presence of a member designated by the Council.

Article 92

Jurisdiction

The court which has jurisdiction as regards not only the inquiry, the preliminary judicial investigation and the trial of members of the Public Prosecution Service for a criminal offence committed, but also the appeals in matters concerning administrative offences, shall be the court hierarchically placed immediately above the Court to which the public prosecutor is assigned. In the case of the Prosecutor General, the Vice Prosecutor General and the Deputy Prosecutors General, the competent court shall be the Supreme Court of Justice.

Article 93

Exercise of advocacy

Members of the Public Prosecution Service may advocate on behalf of themselves, of their spouses or of their descendants.

Article 94

Relation between public prosecutors

Public prosecutors maintain precedence among themselves according to rank, preference being given to seniority in case of equal rank.

Article 95

Components of the remuneration system

1. The remuneration system applicable to members of the Public Prosecution Service comprises the following:
 - a) Salary;
 - b) Supplements.
2. Allocation of any other type of allowance not covered by the remuneration components referred to in the preceding paragraph, is not allowed, without prejudice to the provisions of Article 98.

Article 96

Salary and supplements

1. The structure of the monthly salaries to be paid to members of the Public Prosecution Service is set out in the indexing scale appearing in the list attached to this Act, constituting an integral part thereof.
2. The salaries are annually reviewed by updating the amount corresponding to the 100-index.
3. As from 1 January 1991, the updating referred to in the preceding paragraph is automatic, under the terms of Article 2 of Act 26/84 of 31 July 1984, with the wording given by Article 1 of Act 102/88 of 25 August 1988.
4. Allowances, by way of supplements, shall be maintained as set out in Articles 97 to 100 and 102 of this Act.

Article 97

Settlement allowance

After consultation with the High Council of the Public Prosecution Service and with the public prosecutors' representative organisations, the Minister of Justice may decide that a settlement allowance should be paid to members of the Public Prosecution Service who carry out their duties in the Autonomous Regions.

Article 98

Allowance for representation expenses

1. The Prosecutor General is entitled to a subsidy corresponding to 20% of his/her salary, by way of representation expenses.
2. The Vice Prosecutor General and the District Deputy Prosecutors General are entitled to a subsidy corresponding to 10% of their salaries, by way of representation expenses.

Article 99

Relocation expenses

1. Whenever promoted, transferred or assigned for reasons other than disciplinary reasons, public prosecutors are entitled to be reimbursed, should they not opt for advance payment, for expenses resulting from their relocation and from the relocation of their families. Within the limits established by order of the Minister of Finance and of the Minister of Justice, they are also entitled to be reimbursed for the transportation of their personal belongings, regardless of the means of transport used.
2. Reimbursement is not due where the change of situation takes place at the request of the public prosecutor, except in the following cases:
 - a) Where relocation occurs between the Continent and the Autonomous Regions;
 - b) Where, in the case of transfer upon request, the situation set out in Article 137(1) applies, or where the transfer occurs after two years of effective service in the previous location.

Article 100
Expense allowances

Expense allowances are due whenever the public prosecutor travels on duty outside the county where the court or service to which he/she is assigned is located.

Article 101
Distribution of official publications

1. The Prosecutor General, the Vice Prosecutor General and the Deputy Prosecutors General are entitled to free distribution of the I and II Series of the Official Gazette («*Diário da República*»), of the I and II series of the Official Gazette of the Assembly of the Republic («*Diário da Assembleia da República*»), of the Bulletin of the Ministry of Justice, and of the Bulletin on Labour and Employment.
2. District Prosecutors and Deputy District Prosecutors are entitled to free distribution of the I Series of the Official Gazette («*Diário da República*») in either its print or electronic version, of the Bulletin of the Ministry of Justice and, on request, of all other publications referred to in the preceding paragraph.

Article 102
Lodging house

1. In locations where it is deemed necessary, the Ministry of Justice places at the disposal of the members of the Public Prosecution Service, for the period of their tenure of office, a furnished lodging house by means of a monthly consideration paid and which must not exceed one tenth of the total of the remunerations, set by the Minister of Justice.
2. The said public prosecutors who do not benefit from a lodging house, as prescribed by the preceding paragraph, or those who do not reside in such a house in accordance with the provisions of the final part of Article 85(2), are entitled to a compensatory subsidy set by the Minister of Justice, after consultation with the High Council of the Public Prosecution Service and with the public prosecutors' representative organisations, consideration being given to current prices in the local housing market.

Article 103
Responsibility for payment of consideration

The consideration becomes payable from the date on which the decision to appoint is published up until the date on which the decision altering the preceding situation is published, even if the public prosecutor does not inhabit the house.

Article 104
Responsibility for the furniture

1. As a public prosecutor enters the house, he/she shall receive, through an inventory that he/she must sign, the furniture and any other existing equipment, and any malfunctions identified at the time of delivery shall be registered.
2. The procedure adopted when a public prosecutor leaves the house is similar to the procedure provided for in the preceding paragraph.
3. The public prosecutor shall be responsible for the good conservation of the furniture and equipment received, and must communicate any incidents so that the inventory can be kept up-to-date.

4. The public prosecutor may request that the furniture or equipment be replaced or repaired where it no longer functions properly, pursuant to a regulation drawn up by the Ministry of Justice, after consultation with the High Council of the Public Prosecution Service.

Article 105
Holidays and leaves

1. Members of the Public Prosecution Service take their annual holidays preferably during the period of judicial holidays, without prejudice to the rotation systems to which they may be subject or to any duties likely to be carried out during the holidays, as laid down by law.
2. Members of the Public Prosecution Service may also take their annual holidays from 15 to 31 July.
3. By reason of public service, on valid grounds or owing to any other legally foreseen reason, members of the Public Prosecution Service may take their annual holidays during periods other than those referred to in the preceding paragraphs.
4. Absence due to holidays and the destination to which the public prosecutor is travelling must be reported to his/her hierarchical superior.
5. The public prosecutor's hierarchical superior may require him/her to return to his/her duties based on the urgent nature of the service, without prejudice to his/her right to annual holidays under such terms as the law prescribes for the Civil Service.
6. Public prosecutors carrying out their duties in the Autonomous Regions are entitled to take their annual judicial holidays on the Continent, accompanied by their families, the traveling expenses being borne by the State.
7. Whenever, whilst taking holidays as provided for in the preceding paragraph, public prosecutors have to return to the Autonomous Region where they are assigned to fulfil a duty according to rotation, the travelling expenses shall be borne by the State.

Article 105-A
Holiday leave schedules

1. Within each judicial district or regional judicial division corresponding to a Court of Appeal, an annual holiday leave schedule for public prosecutors is drawn up, and the organization of such a schedule is incumbent upon the competent District Deputy Prosecutor General or, in the regional judicial division which is not the seat of a judicial district, upon the Deputy Prosecutor General, designated pursuant to the law, upon the proposal of and consultation with the persons concerned.
2. With a view to ensuring the regular functioning of the services of the Public Prosecution Service, the holiday leave schedule is approved by the District Deputy Prosecutor General or by the Deputy Prosecutor General, as the case may be, as long as harmonization with the annual holiday leave schedules proposed regarding the judges and the justice officers belonging to the regional judicial division, is ensured.
3. Approval of the holiday leave schedule takes place until the 30th day which precedes Palm Sunday and afterwards such schedule shall be made available for information purposes, in an unabridged or abridged version, inside the premises of the court or of the service belonging to the Public Prosecution Service.

4. The schedule to which reference is made in this article is drawn up according to a model defined and approved by the High Council of the Public Prosecution Service, and in it mention is made, for each and every public prosecutor, to the organisational unit in which they perform functions, to the scheduled holiday leave period(s) and to the substitute public prosecutor, complying with the system of substitution foreseen by law in cases where the system is not specified.
5. At the Supreme Court of Justice and in other cases not contemplated, it is incumbent upon the Prosecutor General or upon whomever he/she chooses to act as his/her delegate to organize, harmonize and approve the respective holiday leave schedule for public prosecutors who perform functions at the said court.

Article 106

Holiday rotations and urgent service

1. The Prosecutor General organises a rotation service to ensure urgent service during the judicial holidays or whenever the service so requires. The Deputy Prosecutors General take part in such rotations.
2. Members of the Public Prosecution Service ensure urgent service, as laid down by law.

Article 107*

Special rights

1. Members of the Public Prosecution Service are especially entitled to:
 - a) Exemption from any local taxes imposed by local authorities;
 - b) The free of charge use, carrying and registration of firearms and the acquisition of the respective ammunition, regardless of licence or communication, which they may request from the services of the Ministry of Justice, through the Prosecutor General's Office;
 - c) Entry and free passage in stations, ports and airports, upon simple display of an identification card;
 - d) While on duty within the respective regional judicial division, free entry onto vessels anchored in ports, buildings and enclosed areas prepared for shows and other entertainment, recreation association halls and, in general, all places where public meetings are held or to which public access is permitted by way of payment of a duty, the payment of a small expense or the display of a ticket that anyone can obtain;
 - e) The free use of public land and inland waterway transport, as set out by the Ministry of Justice, within the regional judicial division where they perform functions or while on duty, and under the circumstances set out in the final part of Article 85(2), between the said regional judicial division and the place of residence;
 - f) Telephones with confidential phone numbers if, to that end, a favourable opinion by the High Council of the Public Prosecution Service is given;
 - g) Free access, in accordance with the Constitution and the law, to public libraries and documentary databases, namely those of the higher courts, of the Constitutional Court and of the Prosecutor General's Office;
 - h) Special security for themselves, their next of kin and goods, to be requested by the High Council of the Public Prosecution Service or by the District Deputy Prosecutor General, upon the delegation of the former, or, in urgent cases, by the public prosecutor to the command of the police force in the area of residence, where relevant security grounds so require;
 - i) Exemption from payment of costs in any proceedings in which they intervene as a main or an accessory party in connection with the pursuit of their duties;

2. The identification card is given by the High Council of the Public Prosecution Service, being renewed whenever there is a change in the situation. The card must contain reference to the office held and to the rights and privileges inherent to the office.
3. The Prosecutor General and the Vice Prosecutor General are entitled to a diplomatic passport and the Deputy Prosecutors General to a special passport. Special passports may also be issued to District Prosecutors and to Deputy District Prosecutors when travelling to other countries in connection with the pursuit their duties.
4. The rights set out in sub-paragraphs e) and g) of paragraph 1, in paragraph 2 and in paragraph 3, as regards the special passport, are extended to all members of the High Council of the Public Prosecution Service.

Article 107*
Special rights

1. Members of the Public Prosecution Service are especially entitled to:
 - a) Exemption from any local taxes imposed by local authorities;
 - b) The free of charge use, carrying and registration of firearms and the acquisition of the respective ammunition, regardless of licence or communication, which they may request from the services of the Ministry of Justice, through the Prosecutor General's Office;
 - c) Entry and free passage in stations, ports and airports, upon simple display of an identification card;
 - d) While on duty within the respective regional judicial division, free entry onto vessels anchored in ports, buildings and enclosed areas prepared for shows and other entertainment, recreation association halls and, in general, all places where public meetings are held or to which public access is permitted by way of payment of a duty, the payment of a small expense or the display of a ticket that anyone can obtain;
 - e) The free use of public land, inland waterway and maritime transport, as set out by a decision by the member of Government responsible for the area of justice, within the regional judicial division where they perform functions and, under the circumstances set out in the final part of Article 85(2), between the said regional judicial division and the place of residence;
 - f) The free use of air transport between the Autonomous Regions and the Portuguese Continent, as set out by the decision referred to in the preceding sub-paragraph, whenever they have authorised residence in those regions and perform functions at the higher courts, regardless of the jurisdiction concerned;
 - g) Free access, throughout national territory, to public land, inland waterway and maritime transport, while on mission as judicial authorities in the scope of the criminal investigation, if duly identified;
 - h) Telephones with confidential phone numbers if, to that end, a favourable opinion by the High Council of the Public Prosecution Service is given;
 - i) Free access, in accordance with the Constitution and the law, to public libraries and documentary databases, namely those of the higher courts, of the Constitutional Court and of the Prosecutor General's Office;
 - j) Special security for themselves, their next of kin and goods, to be requested by the High Council of the Public Prosecution Service or by the District Deputy Prosecutor General, upon the delegation of the former, or, in urgent cases, by the public prosecutor to the command of the police force in the area of residence, where relevant security grounds so require;
 - l) Exemption from payment of costs in any proceedings in which they intervene as a main or an accessory party in connection with the pursuit of their duties.
2. The identification card is given by the High Council of the Public Prosecution Service, being renewed whenever there is a change in the situation. The card must contain reference to the office held and to the rights and privileges inherent to the office.

3. The Prosecutor General and the Vice Prosecutor General are entitled to a diplomatic passport and the Deputy Prosecutors General to a special passport. Special passports may also be issued to District Prosecutors and to Deputy District Prosecutors when travelling to other countries in connection with the pursuit their duties.
4. The rights set out in sub-paragraphs e) and g) of paragraph 1, in paragraph 2 and in paragraph 3, as regards the special passport, are extended to all members of the High Council of the Public Prosecution Service.

** Legal provisions with two different wordings in force by virtue of articles 164 and 187(1)(5) of Act No 52/2008 of 28 August 2008.*

Article 108
Subsidiary provisions

The system in force for the Civil Service with regard to conflicts of interests, duties and rights applies to members of the Public Prosecution Service on a subsidiary basis.

Article 108-A
Salary reduction

1. The components of the remuneration system applicable to members of the Public Prosecution Service, foreseen in Article 95, shall be reduced pursuant to State Budget Law.
2. The settlement allowance and the compensatory subsidy foreseen in Articles 97 and 102, respectively, treated, for all legal purposes, as being equivalent to expense allowances, shall be reduced by 20%.

CHAPTER III
Evaluation

Article 109
Evaluation of members of the Public Prosecution Service

The District Prosecutors and the Deputy District Prosecutors are evaluated by the High Council of the Public Prosecution Service with *Very Good*, *Good with Distinction*, *Good*, *Sufficient* and *Insufficient*, according to their merit.

Article 110
Criteria and effects of evaluation

1. The evaluation must consider the manner in which public prosecutors carry out their duties, the caseload and the difficulties of the service for which they are responsible, the conditions of the work made, their technical training, intellectual capacity, legal works published and civic aptitude.
2. The evaluation - *Insufficient* – shall entail the suspension from duties and the undertaking of an inquiry as to whether the person is unfit for the office.
3. Where disciplinary proceedings are initiated on the basis of the inquiry, and it is concluded that the public prosecutor is unfit, but that he/she is to be allowed the possibility of remaining in the Civil Service, the penalties of compulsory retirement or dismissal may be replaced by removal from office upon request of the public prosecutor concerned.

4. Where the provisions of the preceding paragraph apply, the case, together with a reasoned opinion, shall be sent to the Ministry of Justice for purposes of ratification and assignment of the public prosecutor to an office compatible with his/her abilities.
5. The ratification of the opinion by the Minister of Justice shall qualify the concerned public prosecutor to take up a suitable office within the Ministry services.

Article 111

Evaluation of public prosecutors on temporary assignment

Public prosecutors on a temporary assignment shall not be evaluated unless the High Council of the Public Prosecution Service has sufficient information on them or can obtain it through the necessary inspections. Otherwise, the last evaluation shall be deemed updated.

Article 112

Frequency of the evaluations

1. The District Prosecutors and the Deputy District Prosecutors shall be evaluated at least every four years.
2. The evaluation shall be considered out-of-date after four years unless the public prosecutor is not responsible for such situation or he/she is covered by the provisions of Article 111.
3. Where the public prosecutor is not accountable for the lack of evaluation, such evaluation shall be deemed to be - *Good* -, except if the public prosecutor asks for an inspection, in which case such an inspection shall be compulsorily carried out
4. The evaluation in relation to subsequent service renders the evaluation in relation to service formally rendered out-of-date.

Article 113

Information to be considered

1. For purposes of evaluation, consideration is given to the outcome of former inspections, inquiries, investigations or disciplinary proceedings, tenure of office, annual reports and any complementary information in the possession of the High Council of the Public Prosecution Service.
2. Consideration is also given to caseload under the responsibility of the public prosecutor, to work conditions and, as regards public prosecutors with less than five years service, to the fact that the inspected service has been rendered in a county or access post.
3. The public prosecutor must be consulted as regards the inspection report, and he/she may supply information he/she deems appropriate.
4. The remarks that the inspector may make concerning the reply of the public prosecutor subject to inspection may not refer to new facts that are disadvantageous to him/her, and the public prosecutor subject to inspection must be informed of such remarks.

CHAPTER IV
Assignments

SECTION I
Recruitment and access

SUBSECTION I
General provisions

Article 114
**Requirements for admission into the
Magistracy of the Public Prosecution Service**

The requirements for admission into the Magistracy of the Public Prosecution Service are as follows:

- a) Portuguese citizenship;
- b) Full enjoyment of civil and political rights;
- c) Possession of a law degree either obtained in a Portuguese university or recognised in Portugal;
- d) Successful attendance of the training courses and traineeship, without prejudice to the provisions of Article 128;
- e) Compliance with the other requirements established by law for the appointment of State officers.

Article 115
Training courses and traineeship

Training courses and traineeship are held at the Centre for Judicial Studies, under the terms of the statutory provisions governing this Centre.

Article 116
Access

1. Access to higher ranks of the Public Prosecution Service is by way of promotion.
2. Members of the Public Prosecution Service are promoted by merit and by seniority.
3. The promotion to the rank of District Prosecutor is by way of merit and seniority, while promotion to the rank of Deputy Prosecutor General is by way of merit.

Article 117
General conditions for access

1. Promotion by seniority is subject to service evaluation not lower than *Good*.
2. Promotion by merit is subject to service evaluation of *Very Good* or *Good with Distinction*.
3. Where there is more than one public prosecutor suitable for promotion by merit, vacancies are filled successively in the proportion of three for those evaluated with *Very Good* and one for those evaluated with *Good with Distinction*. In case of equality of evaluation, preference is given to seniority.

Article 118
Renunciation

1. Members of the Public Prosecution Service to be promoted on a certain move list may produce a renunciation statement.
2. A renunciation statement renders the public prosecutor non-eligible for promotion by seniority during the following two years.
3. Renunciation statements are presented to the High Council of the Public Prosecution Service within the time period set out in Article 134(3).
4. Should there be no other public prosecutors eligible for promotion, the renunciation statements shall have no effect.

SUBSECTION II
Special provisions

Article 119
Deputy District Prosecutors

1. Without prejudice to the provisions of Article 128, the first appointment to the Magistracy of the Public Prosecution Service is made through the rank of Deputy District Prosecutor at admission counties or places.
2. Appointments are made according to the grading order obtained in the admission courses or traineeships.

Article 120
Deputy District Prosecutor at the Departments of Criminal Investigation and Prosecution

1. The assignment of the vacancies for Deputy District Prosecutor at the Departments of Criminal Investigation and Prosecution in the counties corresponding to the seat of the judicial districts is made from among Deputy District Prosecutors with at least seven years of service. Relevant factors are as follows:
 - a) Evaluation by merit;
 - b) Experience in criminal matters, in particular as regards the leading of or the participation in investigations into violent or highly organised crime;
 - c) Specific training or the performance of investigative tasks in the field of criminal science.
2. Should there be differentiated sections within the department, the assignment of service among Deputy District Prosecutors shall be made by decision of the Deputy Prosecutor General who leads the department and who, taking into account the type of criminality dealt with by each section, shall consider the following as being relevant factors:
 - a) Evaluation by merit and seniority;
 - b) Experience in criminal matters, supported by evidence, whilst performing functions at that department or at departments or courts within another county, particularly the effective leading of inquiries which entailed resort to special investigative means, with an active intervention by the

- public prosecutor, or which evinced great technical complexity, assessed according to the difficulties of the investigation or to the legal questions involved;
- c) Specific training or the performance of investigative tasks in the field of the criminal area of the section.
3. As to what regards the filling of the positions of Deputy District Prosecutor at the other Departments of Criminal Investigation and Prosecution, relevant factors are as follows: evaluation of merit, experience in criminal matters, in particular as regards the leading of or the participation in investigations into violent or highly organised crime and specific training or the performance of investigative tasks in the field of criminal science, and the provisions laid down in paragraph 2 hereinabove apply accordingly.
 4. Assignment of Deputy District Prosecutors to an office at the sections is made for a term of three years, renewable.

Article 121
District Prosecutor

1. The filling of the vacancies for District Prosecutor is made by transfer or by promotion from among Deputy District Prosecutors.
2. Vacancies not filled by transfer shall be filled by promotion.
3. Promotion shall be by means of competition or according to a list of seniority.
4. Only Deputy District Prosecutors with a 10-year service minimum may be promoted by means of competition.
5. Vacancies are filled according to the order of vacant posts, successively in the proportion of three by means of competition and of two according to the list of seniority.
6. Public prosecutors who are candidates entering the competition, and who are not assigned through that method may also be promoted according to the list of seniority, where they have not produced a resignation statement.
7. In promotion by means of competition, the public prosecutor assigned is the one with the highest grade and, in the event of a tie, the most senior amongst them.
8. Should a vacancy be filled by means of competition and in the case of no competitors, the promotion is effected according to the list of seniority.
9. Whenever vacancies are to be filled according to the list of seniority, the vacancies are successively filled in the proportion of three by merit and of one by seniority.

Article 122
District Prosecutor at the Departments of Criminal Investigation and Prosecution and at specialized courts of law

1. The filling of the positions of District Prosecutor at the Departments of Criminal Investigation and Prosecution in the counties corresponding to the seat of the judicial districts is made, on a temporary assignment, through appointment by the High Council of the Public Prosecution Service, upon proposal of the District Deputy Prosecutor General and the relevant factors are as follows:
 - a) Experience in criminal matters, in particular as regards the leading of or the participation in investigations into violent or highly organised crime;

- b) Curricular experience in leadership;
 - c) Specific training or investigative experience applied to the field of criminal science;
 - d) Evaluation by merit as a District Prosecutor or evaluation by merit given on the occasion of the last evaluation as a Deputy District Prosecutor.
2. The assignment of posts of District Prosecutor at the other Departments of Criminal Investigation and Prosecution and at the specialized courts of law referred to in article 45 of the Statute of the Judiciary is from among District Prosecutors and the relevant factors are as follows:
 - a) Evaluation by merit;
 - b) Experience in the respective area;
 - c) Specific training or investigative experience in the respective field.
 3. District Prosecutors may exclusively take up functions of superintendence of inquiries and/or the leadership of investigation teams, mission units, and they may also assist the Deputy Prosecutor General in the scope of the management of the Department of Criminal Investigation and Prosecution.
 4. The offices referred to in the preceding paragraphs are held on a temporary assignment, for a three years' period, renewable by means of a favourable opinion given by the director of the Department.
 5. Once the temporary assignment of the public prosecutors referred to in paragraph 1 above has come to an end, such public prosecutors are entitled to take up a position within the county corresponding to the seat of the judicial district.

Article 123

District Prosecutor at the Central Department of Criminal Investigation and Prosecution

1. The assignment of the posts of District Prosecutor at the Central Department of Criminal Investigation and Prosecution («DCIAP») is made from among three names proposed by the Deputy Prosecutor General with leading and co-ordination functions, from among District Prosecutors with evaluation by merit, being the relevant factors as follows:
 - a) Experience in criminal matters, in particular as regards the study or the leading of investigations into violent or highly organised crime;
 - b) Specific training or investigative experience applied to the field of criminal science.
2. The office referred to in the preceding paragraph is held on a temporary assignment, for a three years' period, renewable by means of a favourable opinion given by the director of the Department.

Article 123-A

Co-ordinating District Prosecutor

1. The functions of Co-ordinating District Prosecutor are carried out by District Prosecutors with an evaluation by merit, appointed by the High Council of the Public Prosecution Service from among three names proposed by the District Deputy Prosecutor General, who have had a successful attendance of an adequate training course, pursuant to a decision by the member of Government responsible for the area of justice.
2. Whenever it is not possible to abide by the provisions laid down in the preceding paragraph, the assignment of the post of Co-ordinating District Prosecutor shall be made from among three names proposed by the District Deputy Prosecutor General from among District Prosecutors with an evaluation by merit.
3. The office referred to in the preceding paragraphs is held on a temporary assignment.

Article 124
Legal Auditors

Legal Auditors are appointed from among Deputy Prosecutors General or, through promotion, from among District Prosecutors.

Article 125*
Deputy Prosecutors General at the supreme courts

1. The posts of Deputy Prosecutor General at the Supreme Court of Justice, at the Constitutional Court, at the Supreme Administrative Court, at the Court of Auditors and the at Supreme Military Court are assigned from among Deputy Prosecutors General or, through promotion, from among District Prosecutors with the evaluation of *Very Good*.
2. The appointment is made upon a proposal by the Prosecutor General, and the High Council of the Public Prosecution Service may not veto more than two names for each vacancy.
3. The offices referred to in the preceding paragraph are held on a temporary assignment.

Article 125*
Deputy Prosecutors General at the supreme courts and at the Courts of Appeal

1. The posts of Deputy Prosecutor General at the Supreme Court of Justice, at the Constitutional Court, at the Supreme Administrative Court, at the Court of Auditors and at the Supreme Military Court are assigned from among Deputy Prosecutors General or, through promotion, from among District Prosecutors with the evaluation of *Very Good*.
2. The appointment is made upon a proposal by the Prosecutor General, and the High Council of the Public Prosecution Service may not veto more than two names for each vacancy.
3. The offices referred to in the preceding paragraph, as well as the offices of Deputy Prosecutor General at the Courts of Appeal, are held on a temporary assignment.

** Legal provisions with two different wordings in force by virtue of articles 164 and 187(1)(5) of Act No 52/2008 of 28 August 2008.*

Article 126
District Deputy Prosecutors General and other public prosecutors on a par with the former

1. The posts of District Deputy Prosecutor General or of Deputy Prosecutor General at the Central Administrative Court are assigned from among Deputy Prosecutors General or, through promotion, from among District Prosecutors with the evaluation of *Very Good*.
2. The High Council of the Public Prosecution Service appoints one of the names proposed for each vacancy from a minimum of three names.
3. The provisions of paragraph 3 of the preceding article apply.

Article 127

Deputy Prosecutor General at the Central Department of Criminal Investigation and Prosecution («DCIAP»), at the State Contentious Matters Central Department and at the Departments of Criminal Investigation and Prosecution

1. The posts of Deputy Prosecutor General at the Central Department of Criminal Investigation and Prosecution («DCIAP»), at the State Contentious Matters Central Department and at the Departments of Criminal Investigation and Prosecution in the counties corresponding to the seat of the judicial district are assigned, upon proposal of the Prosecutor General, from among Deputy Prosecutors General and the High Council of the Public Prosecution Service may not veto, for each vacancy, more than two names.
2. The offices referred to in paragraph 1 above are held on a temporary assignment.

Article 128

Members of the Consultative Council

1. The posts of member of the Consultative Council of the Prosecutor General's Office are assigned to Deputy Prosecutors General, to judges and to public prosecutors, as well as to other legal experts applying thereto. The number of Deputy Prosecutors General must not be less than two thirds of the total number of members.
2. The requirements for assignment are as follows:
 - a) For all members, recognised scientific merit and a demonstrated investigative capacity in the field of legal sciences;
 - b) For judges and public prosecutors, twelve years of service in any of the magistracies and, for those in need of being evaluated, a service evaluation of *Very Good*;
 - c) For other legal experts, civic aptitude, twelve years of professional activity in the field of legal sciences and be under the age of 60.
3. The appointment is made upon proposal of the Prosecutor General. The High Council of the Public Prosecution Service may not veto more than two names for each vacancy.
4. The filling of vacant seats takes place on a temporary assignment, for renewable periods.

Article 129

Appointment and removal from office of the Vice Prosecutor General

1. The Vice Prosecutor General is appointed upon proposal of the Prosecutor General, from among Deputy Prosecutors General and carries out his/her duties on a temporary assignment.
2. The provisions set forth in Article 125 (2) apply to the appointment.
3. The appointment of the Vice Prosecutor General as a judge of the Supreme Court of Justice does not imply termination of the temporary assignment nor does it prevent its renewal.
4. The Vice Prosecutor General ceases his/her duties whenever a new Prosecutor General takes office.

Article 130

Appointment to the office of judge

Members of the Public Prosecution Service may be appointed as judges under the provisions of the particular statute of each category of courts.

Article 131

Appointment and removal from office of the Prosecutor General

1. The Prosecutor General is appointed and removed from office pursuant to the Constitution.
2. The duration of the Prosecutor General's tenure of office is six years, without prejudice to the provisions of Article 133(m) of the Constitution.
3. Appointment implies removal from the previous post held, where the appointed person is a judge, a public prosecutor or a State officer.
4. Upon termination of his/her duties, the Prosecutor General appointed under the terms of the preceding paragraph is entitled to return to the post previously held, without loss of seniority or right to promotion. The provisions of articles 24 to 31 of Act 4/85 of 9 April 1985, apply to Prosecutors General who are neither judges nor public prosecutors nor State officers.
5. Where the Prosecutor General is a magistrate, the length of service performed in that office shall count in its entirety, as if the service had been performed in the Magistracy, so that he/she may return to the position which would be incumbent on him/her had he/she not interrupted the performance of his/her duties, in particular without prejudice to promotions or access to which he would have been entitled in the meantime.
6. Where magistrates with less length of service than the Prosecutor General have been appointed to the Supreme Court of Justice, the High Council of the Judiciary reopens the competition in which, according to the preceding paragraph, the Prosecutor General would have entered, and places him/her in the proper post.
7. Where magistrates with less length of service than the Prosecutor General have been appointed to the Supreme Court of Justice, the Prosecutor General maintains the right to the remuneration received at the date of termination of office, with the exception of the subsidy referred to in Article 98.

SECTION II

Inspectors

Article 132

Recruitment

1. The Inspectors are appointed, on a temporary assignment, from among public prosecutors of a rank not lower than that of District Prosecutor, with a total length of service not less than ten years and, in case of public prosecutors who must be evaluated, with service evaluation of *Very Good*.
2. The Inspectors are entitled to remuneration corresponding to the rank of Deputy Prosecutor General.

SECTION III

Moves

Article 133

Moves

1. Moves take place in the months of May and December.
2. Moves may only be made outside the periods mentioned in the preceding paragraph in case of extraordinary reasons of discipline or urgency to fill vacant seats.

Article 134

Preparation of moves

1. Public prosecutors who seek to be assigned to a post, whether by appointment, transfer, promotion, end of a temporary assignment or return to service send their applications to the Prosecutor General's Office.
2. Applications are registered in the secretariat and expire when the move takes place.
3. For each move, applications which have entered at least fifteen days prior to the date in which the High Council of the Public Prosecution Service meets are examined.
4. The High Council of the Public Prosecution Service approves the regulations necessary to rendering the competition for purposes of filling the vacant seats foreseen in this Statute effective.

Article 135

Transfers and Interchanges

1. Except where there is a disciplinary reason, members of the Public Prosecution Service may not be transferred before a year has passed from the date when they began to fulfil their duties.
2. Members of the Public Prosecution Service shall be transferred upon request or as a result of a disciplinary ruling.
3. Members of the Public Prosecution Service may be transferred upon their request where one or two years have elapsed since the publication of the decision appointing them to the post previously held, according to whether or not the previous assignment was made upon request.
4. Where transfer upon request is made from an admission county or place to a first access county or place, the period referred to in the preceding paragraph shall be of three years counted from the first appointment.
5. (Repealed).
6. Interchanges are authorised, without prejudice to the provisions of the preceding paragraphs and to the rights of third parties.

Article 136

Rules of assignment and preference

1. The assignment of members of the Public Prosecution Service must be made with prevalence of the needs of the service and the way in which the concerned parties may combine their private and family life with their professional life.
2. When assigning posts in courts of specialised jurisdiction, the specialised training of the candidates is taken into consideration.
3. When the specialised training occurs in the course of service at a specialised court, two years in office are required.
4. Without prejudice to the provisions of the preceding paragraphs, consideration must be given, when making assignments, in descending order of preference, to evaluation of service and seniority.

Article 137

Assignments

1. Deputy District Prosecutors may not refuse the first assignment after the fulfilment of their duties in an admission or first access county or place.
2. Deputy District Prosecutors with more than 5 years effective service may not request assignment in admission counties or places where they have already been placed in first access counties or places, and may not request assignment in either of these if they have been placed in final access counties or places.
3. Deputy District Prosecutors may not be placed in final access counties or places unless they have performed their duties in first access counties or places, and they may not be placed in either of these unless they have performed their functions in admission counties or places.

Article 138

Auxiliary public prosecutors

1. By need of service, the High Council of the Public Prosecution Service may make such temporary secondments of auxiliary public prosecutors to courts or services as are deemed necessary.
2. Secondment depends on a prior order issued by the Minister of Justice as regards the availability of funds, and it shall expire at the end of one year, being renewable for equal periods.
3. The High Council of the Public Prosecution Service may decide that the secondment referred to in the preceding paragraph should cause a vacancy.

SECTION IV

Temporary assignments

Article 139

Temporary assignments

1. The appointment of members of the Public Prosecution Service on a temporary assignment depends on authorisation of the High Council of the Public Prosecution Service.

2. Authorisation may only be given as regards the public prosecutors who have carried out their duties in the Magistracy for at least five years.
3. Service in international institutions and organisations to which Portugal is a member, and which implies residence abroad, also depends on authorisation of the High Council of the Public Prosecution Service. Such public prosecutors are considered to be on a temporary assignment for the time that this activity lasts.

Article 140

Tenure of temporary assignments

1. Where there are no special provisions, temporary assignments shall last for three years, and they shall be renewable.
2. Occasional temporary assignments may be authorised for periods up to one year, and are renewable.
3. Occasional temporary assignments do not cause a vacancy.
4. The temporary assignments set out in Article 81(3) and in Article 139(3) above, and those concerning the performance of duties in areas of international co-operation, in particular with the member States of the Community of Portuguese Speaking Countries, do also not cause a vacancy.
5. The period of temporary assignment is considered, for all purposes, as that of effective service in the post.

SECTION V

Taking up a position

Article 141

Requirements and deadlines for the taking up of a position

1. The act of taking up a position must be done in person and at the place where the public prosecutor is going to carry out his/her duties.
2. Whenever there is no special deadline, the deadline fixed for establishment in the post is 30 days counted from the day following the publication of the appointment in the Official Gazette (*«Diário da República»*).
3. Where justifiable, the High Council of the Public Prosecution Service may extend the period for establishment in the post or authorise it to be done at a place other than the one referred to in paragraph 1 above.

Article 142

Installing entity

1. Members of the Public Prosecution Service are installed in office as follows:
 - a) The Prosecutor General is installed before the President of the Republic;
 - b) The Vice Prosecutor General and the Deputy Prosecutors General are installed before the Prosecutor General;

- c) The District Prosecutors are installed before the District Deputy Prosecutor General of the respective judicial district;
- d) The Deputy District Prosecutors are installed before the competent District Prosecutor or before the District Deputy Prosecutor General in the counties corresponding to the seat of judicial districts that have more than one District Prosecutor;
- e) Where justifiable, the High Council of the Public Prosecution Service may authorise the public prosecutors falling within sub-paragraphs c) and d) to be installed in office before another entity.

Article 143

Failure to take up of a position

1. As regards the first appointment, unjustified failure to take up a position within the deadline shall cause, without the need for any formalities, the voidance of the appointment and the non-eligibility of the said person to be appointed to the same post for a period of two years.
2. In all other cases, unjustified failure to take up a position shall be equivalent to abandonment of post.
3. The justification must be requested within a period of ten days counted from the termination of the justifying cause.

Article 144

Public prosecutors taking up a position while on temporary assignment

Public prosecutors who are promoted while on a temporary assignment are admitted into the new rank, regardless of being vested or not, from the date of publication of the respective appointment.

CHAPTER V

Retirement, termination and suspension of duties

SECTION I

Retirement

Article 145

Retirement upon request

Requests for retirement are sent to the Prosecutor General's Office, which then forwards them to the competent social security institution.

Article 146

Inability

1. Public prosecutors retire on grounds of inability or disability where, due to physical or mental weakness displayed during the fulfilment of their duties, they can no longer hold their office without seriously disrupting the course of justice or the respective services.
2. Public prosecutors who find themselves in the situation foreseen in the preceding paragraph are given notice that they benefit from a 30-day period either to:
 - a) Request retirement or to;
 - b) Produce, in writing, such remarks as they deem appropriate.

3. Where the provisions of paragraph 1 above apply, the High Council of the Public Prosecution Service may decide to suspend the performance of duties of a public prosecutor, especially when his inability so justifies.
4. The suspension set out in this article is carried out in such a manner as to preserve the prestige of the post and the dignity of the public prosecutor, and it does not affect the remunerations received.

Article 147

Retirement on grounds of inability

The public prosecutor retired on grounds of inability or disability is entitled to have his/her pension calculated on the basis of the length of service corresponding to a complete career.

Article 148

Retirement with full honours

1. Members of the Public Prosecution Service who retire, for non-disciplinary reasons, having reached the age and time of service foreseen in Annex II of this Act and having served as public prosecutors for at least 25 years, of which the last 5 years were served uninterruptedly prior to the retirement with full honours, except where the period of interruption was caused by health reasons or due to the exercise of public functions arising from temporary assignments, are deemed to have retired with full honours.
2. Public prosecutors who have been retired with full honours continue to be bound by their statutory duties and to be connected to the court or service to which they belonged. They enjoy the titles, the honours, the prerogatives and the immunities corresponding to their rank and may attend, while using their professional attire, the solemn ceremonies held at the said court or service, taking seat at the right of the public prosecutors in effective tenure of office.
3. The provisions laid down in Article 95(1)(2), in Article 107(1)(a)(b)(c)(e)(g)(h)(2), as well as in Article 102(2) apply to public prosecutors retired with full honours.
4. The retirement pension is calculated on the basis of all remunerations covered by the respective deduction and the net pension of the public prosecutor retired with full honours may not be higher or lower than the remuneration received by a public prosecutor belonging to an identical rank and in effective tenure of office.
5. The pensions of public prosecutors retired with full honours are automatically updated, in line with the remunerations received by public prosecutors of a rank and scale equal to the rank and scale which public prosecutors retired with full honours possessed.
6. Public prosecutors retired with full honours are entitled to payment of a provisional pension, calculated and paid under the statutory provisions by the processing department, until a final assessment of the amount is made.
7. Public prosecutors retired with full honours are under an obligation of decorum imposed by the office once held.
8. The status of public prosecutor retired with full honours may be withdrawn by way of disciplinary proceedings.
9. Public prosecutors may make a statement renouncing the retirement with full honours, in which case they shall become subject to the general public service retirement regime.

10. In the case of public prosecutors aged over 40 years on the date of admission to the Centre for Judicial Studies, the requirement regarding a 25 years' length of service, as foreseen in paragraph 1 above, does not apply.

Article 149
Retirement

The retirement pension for retired public prosecutors is calculated on the basis on the following formula:
 $R \times T1/C$

in which:

R corresponds to the relevant monthly remuneration pursuant to the Retirement Statute, deducted from the percentage of the quota for retirement and survivor's pension in the scope of the regime of the Retirement Office (“*Caixa Geral de Aposentações*”);

T1 corresponds to the representation in years of the number of months in tenure of office, with a maximum limit of *C*; and

C corresponds to the number set out in Annex III.

Article 150
Subsidiary system

Matters not expressly governed by this Statute, namely the conditions for the retirement of members of the Public Prosecution Service and the system of pensions in which they have to be registered, shall be governed by the system established for the civil service, in particular by the provisions laid down in the Retirement Statute, in Act No 60/2005 of 29 December 2005, in Act No 52/2007 of 31 August 2007, in Act No 11/2008 of 20 February 2008 and in Act No 3-B/2010 of 28 April 2010.

SECTION II
Termination and suspension of duties

Article 151
Termination of duties

Members of the Public Prosecution Service terminate their duties as follows:

- a) On the day on which they reach the legal age for retirement, as applied to State officers;
- b) On the day on which the decision discharging them from office is published;
- c) On the day following that on which the Official Gazette («*Diário da República*») reporting the new situation arrives at the county or place where they carry out their duties.

Article 152
Suspension of duties

Members of the Public Prosecution Service suspend their respective duties as follows:

- a) On the day on which they are given notice of the order which sets the trial date in the scope of charges brought against them on account of the commission of a crime of malice;
- b) On the day on which they are given notice of a preventive suspension on grounds of disciplinary proceedings for the application of any sanction involving withdrawal from office;
- c) On the day on which they are given notice of the suspension as set out in Article 146(3).

CHAPTER VI

Seniority

Article 153

Seniority as regards the public prosecutors' list and rank

1. The seniority of members of the Public Prosecution Service as regards the public prosecutors' list and rank commences from the date on which the assignment was published in the Official Gazette («*Diário da República*»).
2. Publication of assignments must be by means of a descending rating scale and must comply with the ranking carried out by the High Council of the Public Prosecution Service.
3. The Deputy Prosecutors General who are appointed to the Consultative Council of the Prosecutor General's Office from among persons other than public prosecutors, are given seniority within the public prosecutors' list equal to that of the Deputy Prosecutor General who, on the date of publication of the appointment, has less seniority, and they shall take seat at his/her left.

Article 154

Length of service taken into account for seniority purposes

1. For the purposes of seniority, the following shall not be deducted:
 - a) Time spent carrying out duties as President of the Republic and as a member of Government;
 - b) Time spent under preventive suspension ordered owing to disciplinary proceedings or to an indictment produced in the scope of criminal proceedings, where such proceedings are discontinued or lead to an acquittal;
 - c) Time spent under suspension of duties ordered pursuant to the provisions of Article 146(3);
 - d) Time spent on remand in custody pending trial imposed in the scope of criminal proceedings, where such proceedings are discontinued or lead to an acquittal;
 - e) Time spent under compulsory military service;
 - f) Absences due to illness, which do not exceed 90 days each year;
 - g) Absences referred to in Article 87.
2. For the purposes of retirement, the length of service performed in the Autonomous Regions and in Macao is increased by one quarter.

Article 155

Length of service not taken into account for seniority purposes

The following shall not be taken into account for seniority purposes:

- a) Periods of inactivity or of long-term unpaid leave;
- b) Time which, in accordance with the provisions on disciplinary proceedings, is considered to be lost;
- c) Period of illegitimate absence from service.

Article 156

Seniority computation

Where several public prosecutors are appointed or assigned by a decision published on the same date, the following shall apply:

- a) Where appointments are preceded by training courses, after which a ranking list has been drawn up, seniority is determined following the order established therein;
- b) Where promotions are by way of merit, seniority is determined following the order of access;
- c) Where appointments are by way of selection, the provisions of the preceding sub-paragraph apply;
- d) In all other cases, seniority is determined according to the seniority that prevailed in the post previously held.

Article 157
Seniority List

1. The seniority list of members of the Public Prosecution Service is published every year by the Ministry of Justice in the relevant Bulletin or through offprints.
2. Public prosecutors are graded in each rank according to length of service, with individual mention of the date of birth, post or office held, date of assignment and county of place of birth.
3. Copies of each edition of the Bulletin are sent to the Prosecutors General's Office.
4. The distribution date of the Bulletin or offprint referred to in paragraph 1 above is announced in the Official Gazette («*Diário da República*»).

Article 158
Complaints

1. Public prosecutors who believe that they have been unjustly treated in the ranking process appearing on the seniority list may lodge a complaint, within a period of 60 days from the date referred to in paragraph 4 of the preceding article. This is done by way of an application addressed to the High Council of the Public Prosecution Service, accompanied by as many duplicates as the number of public prosecutors that may be affected by the complaint.
2. Public prosecutors who may be affected must be identified in the application, and they are given notice thereof so that they may to reply within a 15-day period.
3. Whenever the replies have been presented, or the period of time given to that end has elapsed, the High Council of the Public Prosecution Service makes a decision within a 30-day period.

Article 159
Impact of a complaint on moves already carried out

Where a complaint is well-founded, the complainant shall be appointed to the post for which he/she had been sidelined, with all the legal consequences.

Article 160
***Ex officio* correction of material errors**

1. Where the High Council of the Public Prosecution Service confirms that there has been a material error in the ranking process, it may, at all times, order that the necessary corrections be made.
2. The corrections referred to in the preceding paragraph, as soon as they are published in the seniority list, are subject to the system falling within Articles 157 and 158.

CHAPTER VII **Availability**

Article 161 **Availability**

1. Members of the Public Prosecution Service are considered to be in a condition of availability while they are waiting to be assigned to a vacancy of their rank due to the following circumstances:
 - a) Where their temporary assignment has come to an end;
 - b) Where they return to activity after serving a sentence;
 - c) Where the posts they occupied become extinct;
 - d) Where compulsory military service has been completed;
 - e) In such other cases as provided for by law.
2. The condition of availability shall not entail the loss of seniority, of salary or of remuneration.

CHAPTER VIII **Disciplinary proceedings**

SECTION I **General provisions**

Article 162 **Disciplinary liability**

Members of the Public Prosecution Service are subject to disciplinary proceedings in accordance with the provisions of the articles hereunder.

Article 163 **Disciplinary offence**

Acts which, though merely acts of fault, are committed by members of the Public Prosecution Service in breach of their professional duties, as well as acts and omissions of their public life - or which have a consequence thereupon - that are incompatible with the decorum and dignity necessary to the performance of their duties, are disciplinary offences.

Article 164 **Submission to disciplinary powers**

1. Removal from office or a change of situation does not prevent punishment for offences committed during performance of their duties.
2. Where there has been removal from office, the public prosecutor serves the penalty if he/she resumes active service.

Article 165 **Autonomy of disciplinary powers**

1. Disciplinary proceedings are independent from criminal proceedings.

2. Whenever, in the scope of disciplinary proceedings, evidence of a criminal offence comes to light, notice of such a fact is immediately given to the Prosecutor General's Office.

SECTION II Penalties

SUBSECTION I Types of penalty

Article 166 Scale of penalties

1. Members of the Public Prosecution Service may be punished with the following penalties:
 - a) Admonition;
 - b) Fine;
 - c) Transfer;
 - d) Suspension from duties;
 - e) Removal from active list;
 - f) Compulsory retirement;
 - g) Dismissal.
2. Without prejudice to the provisions of paragraph 4, the penalties applied must always be registered.
3. Pardons do not eradicate the effects produced by the enforcement of the penalties, and they must be registered in the relevant individual case file.
4. The penalty set out in sub-paragraph a) of paragraph 1 above may be applied without the opening of proceedings, provided there is a hearing and the defendant has the right to defend himself/herself. Such a penalty shall not be registered.

Article 167 Admonition

Admonition is a mere reproof regarding an irregularity that has been committed or a reprimand aimed at warning the public prosecutor that the action or omission is of such a nature as to cause a disruption in the exercise of functions or as to have an impact on such functions in a way that is incompatible with the dignity that is required of him/her.

Article 168 Fine

Fines are fixed in days. The minimum day-fine is of 5 days and the maximum is of 30 days.

Article 169 Transfer

The penalty of transfer consists of placing the public prosecutor in a post of the same rank outside the regional judicial division or service in which he/she previously performed his/her duties.

Article 170

Suspension from duties and removal from the active list

1. The penalties of suspension from duty and removal from the active list consist of the complete removal from service for the duration of the penalty.
2. The penalty of suspension from duty may be from 20 to 240 days.
3. The penalty of removal from the active list may not be less than one year nor more than two years.

Article 171

Compulsory retirement and dismissal

1. The penalty of compulsory retirement consists in the imposition of retirement.
2. The penalty of dismissal consists in definitively withdrawing the public prosecutor, with termination of all connections with the office.

SUBSECTION II

Effects of penalties

Article 172

Effects of penalties

Apart from the effects inherent to disciplinary penalties, such penalties produce the effects referred to in the articles hereunder.

Article 173

Fine

Fines entail a deduction from the public prosecutor's salary of an amount corresponding to the number of days applied.

Article 174

Transfer

The penalty of transfer entails the loss of 60 days in terms of seniority.

Article 175

Suspension from duties

1. The penalty of suspension from duties entails the loss of time corresponding to the duration of the suspension for purposes of payment, seniority and retirement.
2. Where the penalty of suspension applied is less than, or equal to, 120 days, it also entails, apart from the consequences set out in the preceding paragraph, the consequences foreseen in sub-paragraph b) of paragraph 3, where the public prosecutor punished is unable to stay at the place where he/she carries out his/her duties without damaging the prestige required of him/her. Such a fact shall be mentioned in the disciplinary decision.
3. Where the penalty of suspension applied is higher than 120 days, it may also entail, apart from the consequences set out in paragraph 1 above, the following:

- a) Non-eligibility for promotion or access for one year, counted from the date on which the penalty to serve attained its term;
 - b) Transfer to an identical post at a court or in a service other than that in which the public prosecutor was carrying out his/her duties at the time when the offence was committed.
4. The application of the penalty of suspension does not impair the right of the public prosecutor to the welfare to which he/she was entitled or to receiving the family allowance, as well as supplementary payments.

Article 176

Removal from the active list

1. The penalty of removal from the active list produces the effects referred to in paragraphs 1 and 3 of the preceding article, the period for non-eligibility for promotion or access being extended to two years.
2. The provisions of paragraph 4 of the preceding article apply to the penalty of removal from the active list.

Article 177

Compulsory retirement

The penalty of compulsory retirement entails the immediate removal from service and the loss of rights and privileges conferred by this Statute, without prejudice to entitlement to the pensions fixed by law.

Article 178

Dismissal

1. The penalty of dismissal entails the loss of the public prosecutor status, conferred by this Act, and of the corresponding rights.
2. This penalty does not entail the loss of the right to retirement, pursuant to the terms and conditions established by law, nor does it render the public prosecutor non-eligible to be appointed to public posts or others that can be carried out without the office-holder needing to have the particular conditions of dignity and trust required for the post from which he/she was dismissed.

Article 179

Promotion of public prosecutors having acquired the legal status of defendants

1. While criminal or disciplinary proceedings are pending, the public prosecutor is ranked for promotion or access, but such a promotion or access shall remain suspended and the vacancy shall remain unfilled until a final decision is reached.
2. Where proceedings are discontinued, the sentencing decision is revoked or a penalty is applied, though without prejudice to promotion or access, the public prosecutor shall be promoted or appointed and shall occupy his/her place in the seniority list, with the right to receive the differences in remuneration or, if sidelined, the move shall be concluded in relation to the vacancy that had remained unfilled.

SUBSECTION III
Enforcement of penalties

Article 180
Admonition

The penalty of admonition is applicable to slight faults that should not be overlooked without reproof.

Article 181
Fine

Fines are applicable to cases of negligence or indifference in the performance of the duties inherent to the office.

Article 182
Transfer

The penalty of transfer is applicable to offences involving damage to the prestige that is required from a public prosecutor in order to keep himself/herself in a place where he/she carries out his/her duties.

Article 183
Suspension and removal from the active list

1. The penalties of suspension and removal from the active list are applicable in cases of serious negligence or serious indifference in the performance of professional duties or where public prosecutors are sentenced to a term of imprisonment, except where the sentence imposes the penalty of dismissal.
2. Time spent in prison shall be deducted from the disciplinary penalty.

Article 184
Compulsory retirement and dismissal

1. The penalties of compulsory retirement and dismissal shall apply where the public prosecutor:
 - a) Proves to be clearly unfit to meet the requirements of the post;
 - b) Shows a lack of honesty, serious insubordination or where his/her conduct is immoral or disreputable;
 - c) Shows professional inadequacy;
 - d) Has been convicted of a crime committed in striking and serious abuse of post, with a clear and serious violation of the duties inherent to the post.
2. Abandonment of post results, at all times, in the penalty of dismissal.

Article 185
Setting the extent of the penalty

When setting the extent of the penalty, consideration must be given to the seriousness of the act, to the offender's guilt, to his/her personality and to the circumstances in his/her favour or against him/her.

Article 186

Special mitigation of penalty

The penalty may be specially mitigated, leading to the imposition of a lower type of penalty, where the circumstances prior or contemporary to the offence substantially reduce the seriousness of the act or the offender's guilt.

Article 187

Recidivism

1. Recidivism occurs where the offence is committed before the end of a three-year period counted from the date when the public prosecutor committed the last offence for which a more severe sentence than that of admonition was imposed, already fully or partially served, provided that the circumstances of the case show that the sentence previously imposed had no preventive effect.
2. Where the penalty imposed is among those set out in Article 166(1)(b)(d)(e), in the case of recidivism, its minimum limit shall be equal to one third, one quarter or two thirds of the maximum limit, respectively.
3. With regard to a penalty other than those referred to in the preceding paragraph, a penalty from the scale immediately above may be imposed.

Article 188

Concurrent offences

1. Concurrent offences occur where a public prosecutor commits two or more offences before conviction for any of them becomes definite.
2. Where there are concurrent offences, an aggregate penalty shall be applied and, where the offences are punishable with different penalties, the most severe of these shall be applied, appropriately aggravated according to the computation exercise.

Article 189

Replacement of penalties imposed on retired public prosecutors

Where public prosecutors are retired or for any other reason are not in effective tenure of office, the penalties of fine, suspension from duties and removal from the active list are replaced with loss of pension or payment of any kind during the corresponding period.

SUBSECTION IV

Statute of limitations for penalties

Article 190

Limitation periods

Disciplinary penalties have the following limitation periods, counted from the date on which the decision became definite:

- a) Six months, for the penalties of admonition and fine;
- b) One year, for the penalty of transfer;
- c) Three years, for the penalties of suspension from duties and removal from the active list;
- d) Five years, for the penalties of compulsory retirement and dismissal.

SECTION III
Disciplinary proceedings

SUBSECTION I
Procedural rules

Article 191
Disciplinary proceedings

1. Disciplinary proceedings are the means by which disciplinary liability is enforced;
2. Disciplinary proceedings are drawn up in writing, though not requiring any special formalities, provided that there is a hearing and an opportunity for the defendant to put forward a defence.
3. The investigating public prosecutor must refuse measures which are clearly ineffective or dilatory, giving grounds for the refusal.

Article 192
Impediments and suspicions

The system of impediments and refusals in the scope of criminal proceedings applies *mutatis mutandis* to disciplinary proceedings.

Article 193
Confidential nature of disciplinary proceedings

1. Disciplinary proceedings are confidential in nature until a final decision has been rendered.
2. Certificates of procedural documents may be issued upon reasoned application by the defendant, where these are intended to defend legitimate interests.

Article 194
Time-limit for preliminary case examination

1. The preliminary examination in the scope of the disciplinary proceedings must be concluded within a period of 90 days.
2. The time-limit referred to in the preceding paragraph may only be extended where there are justifiable grounds.
3. The investigating public prosecutor must give notice to the High Council of the Public Prosecution Service and to the defendant of the date when the preliminary case examination is to commence.

Article 195
Number of witnesses in the preliminary case examination phase

1. During the preliminary case examination phase there is no limit on the number of witnesses.
2. The investigating public prosecutor may refuse to hear witnesses where he/she considers the evidence produced to be sufficient.

Article 196

Preventive suspension of the defendant

1. The public prosecutor who has acquired the legal status of defendant may, upon the investigating public prosecutor, be preventively suspended from his duties on preventive grounds where there is strong evidence that the offence may be punished with, at least, the penalty of transfer, and where continued performance of the duties may impair the preliminary case examination or the service or even the prestige and dignity of the office held.
2. Preventive suspension is enforced in order to ensure that the personal and professional duty of the public prosecutor is safeguarded.
3. Preventive suspension may not exceed 180 days, extendable for a further 60 days where justification is given, and does not have the effects set out in Article 175.

Article 197

Charges brought

1. Once the preliminary case examination has been concluded and the disciplinary records of the defendant have been submitted, the investigating public prosecutor brings charges within a 10- -day period, specifying the facts that constitute the disciplinary offence, as well as the aggravating or mitigating circumstances thought to be evinced, highlighting the legal provisions applicable to the case.
2. If no sufficient evidence is gathered concerning facts constituting the offence or the liability of the defendant, or if disciplinary proceedings are extinguished, the investigating public prosecutor shall draw up his/her report within ten days, and all other applicable procedural steps shall be followed.

Article 198

Notice to the defendant

1. A copy of the charges brought shall be delivered to the defendant or sent by registered letter with acknowledgement of receipt and a time-limit from 10 to 30 days within which the defendant may produce his/her defence shall be prescribed.
2. Should the defendant's whereabouts be unknown, he/she shall be given notice through edits.

Article 199

Appointment of a defence counsel

1. Where the defendant is unable to prepare his/her own defence due to absence, illness, mental disorder or physical disability, the investigating public prosecutor shall designate a defence counsel to act on behalf of the defendant.
2. Where the defence counsel is designated after the date of the notice referred to in the preceding article, the time-limit for producing the defence shall re-commence from the date on which the defence counsel is given notice of the charges.

Article 200
Examination of case files

The defendant, his/her appointed counsel or authorised representative may, during the time period given for producing the defence, examine the case files at the place where they have been deposited.

Article 201
Defendant's defence

1. The defendant may, with the defence, produce witnesses, enclose documents and ask for steps to be taken.
2. No more than three witnesses may be called upon as regards each of the charges brought.

Article 202
Report

Once the evidence has been adduced, the investigating public prosecutor shall draw up, within a 15- -day period, a report containing the facts deemed demonstrated, the legal classification of the facts and the applicable penalty.

Article 203
Notice of decision

The defendant is given notice of the final decision, accompanied by a copy of the report referred to in the preceding article, having regard to the provisions laid down in Article 198.

Article 204
Nullities and irregularities

1. An irremediable nullity arises where the defendant is not allowed a hearing with the opportunity to defend himself/herself or where steps essential to unearthing the truth are not taken.
2. Other nullities and irregularities are deemed remedied if not argued in the defence or, should they occur subsequently, within five days from the date on which they became known.

SUBSECTION II
Abandonment of post

Article 205
Official report due to abandonment

Where a public prosecutor fails to appear at his/her place of work for 10 days, expressly showing his/her intention to abandon the post, or where he/she is unjustifiably absent during 30 consecutive working days, an official report due to abandonment of post shall be drawn up.

Article 206

Presumption of intention to abandon

1. Unjustified absence during 30 consecutive working days shall give rise to the presumption of abandonment.
2. The presumption referred to in the preceding paragraph may be rebutted in the scope of disciplinary proceedings by any means of evidence.

SECTION IV

Review of disciplinary decisions

Article 207

Review

1. Sentencing decisions rendered in the scope of disciplinary proceedings may be reviewed at all times where circumstances or means of evidence likely to demonstrate the inexistence of the facts which led to the punishment and which the defendant was unable to use in due course have been brought to light.
2. Review may not, under any circumstances, lead to the imposition of a more severe penalty.

Article 208

Proceedings

1. An application for review is made by the concerned party to the High Council of the Public Prosecution Service.
2. The application, enclosed to the disciplinary proceedings, must contain the grounds for the application and the evidence to be adduced. It must also be accompanied by the documents that the concerned party has been able to obtain.

Article 209

Sequence followed regarding review proceedings

1. Once the application has been received, the High Council of the Public Prosecution Service decides, within 30 days, whether there are any grounds for a review.
2. In case of a review, a new investigating public prosecutor shall be appointed.

Article 210

Admissibility of the review

1. Where the application for review of the judgment is deemed admissible, the decision rendered in the reviewed proceedings shall be revoked or amended.
2. Without prejudice to other rights foreseen by law, the concerned party shall be compensated for payments that were not received by reason of the reviewed decision.

CHAPTER IX
Inquiries and investigations

Article 211
Inquiries and investigations

1. Inquiries aim at looking into specific facts.
2. Investigations take place where notice is given of facts that require a general look into the functioning of the services.

Article 212
Preliminary case examination

The provisions on disciplinary proceedings apply *mutatis mutandis* to the preliminary examination of inquiry and investigation proceedings.

Article 213
Report

Once the preliminary case examination has been concluded, the person in charge of the inquiries or of the investigations draws up a report, proposing that disciplinary proceedings be discontinued or initiated, as the case may be.

Article 214
Conversion to disciplinary proceedings

1. Where an offence has been ascertained, the High Council of the Public Prosecution Service may decide that inquiry or investigation proceedings in which the defendant has been heard constitute the preliminary investigative steps of disciplinary proceedings.
2. In the case referred to in the preceding paragraph, notice to the defendant of the decision of the High Council of the Public Prosecution Service sets the beginning of disciplinary proceedings.

CHAPTER X
Auxiliary bodies

Article 215
Secretariats and officers

1. Without prejudice to the support and assistance rendered by court offices or secretariats, the Public Prosecution Service has access to its own technical and administrative services.
2. The technical and administrative services ensure support, in particular, in the following areas:
 - a) Crime prevention and investigation;
 - b) International judicial co-operation;
 - c) Co-operation with the criminal police bodies and with institutions of treatment, recovery and social reintegration;
 - d) Human resources, management, office supplies;
 - e) Rating and statistical analysis;

- f) Communications and IT support.
3. At the State Contentious Matters Departments, assistance may also be ensured by civil servants, on temporary assignment, request or secondment, and by experts and solicitors hired to that end.

CHAPTER XI Final and transitional provisions

Article 216 Supplementary regime

Where it is not contrary to the provisions of this Act, the provisions laid down in the Disciplinary Statute for Civil Servants, in the Criminal Code and the in Code of Criminal Procedure shall apply on a supplementary basis.

Article 217 District Prosecutors in the seats of judicial districts

The assistance regime established in Article 45(2), under its previous wording, shall continue to apply to District Prosecutors in tenure of office within the seats of the judicial districts at the time of entry into force of this Act.

Article 218 Implementation of Article 153(3)

The seniority regime established in Article 153(3) shall be applicable to all Deputy Prosecutors General referred to therein who, at the time of entry into force of this Act, have already been appointed.

Article 219 Seniority

1. Seniority of members of the Public Prosecution Service includes the length of service in the Judiciary, as a sub-Deputy District Prosecutor with a Law degree and as a trainee Deputy District Prosecutor.
2. The positions appearing in the last definitive seniority list prior to the date of entry into force of this Act shall not be affected.

Article 220 Exceptional situations

1. The provisions laid down in Article 224(1) of Act No 39/78 of 5 July 1978, shall remain in force.
2. The provisions laid down in Article 102(4) and in Article 101(3), in the wording prior to this Act, shall not impair the rights acquired through permanent assignment.

Article 221

Financial and budgetary measures

1. The Prosecutor General's Office shall be exempt from stamp duty and from any taxes, premiums, deductions or percentages on deposits, safekeeping, transfer and withdrawals of money carried out by the Bank «*Caixa Geral de Depósitos*».
2. The Government is hereby authorised to make such budgetary measures as are necessary to enforce this Act.

Article 222

Prohibition of salary increments

The provisions laid down in Article 24 of Act No 55-A/2010 of 31 December 2010 shall be without prejudice to the first appointment after traineeship and to the filling of vacancies, if its indispensability is justified by the High Council of the Public Prosecution Service, at higher courts, in the Consultative Council of the Prosecutor General's Office, at central and district departments, as well as to assignment of posts at a court appertaining to a judicial circuit or at an equivalent court.

ANNEX I

[Attached schedule referred to in Article 96(1)]

Rank/Scale	Scale index
Prosecutor General	260
Vice Prosecutor General	260
Deputy Prosecutor General with 5 years' service	250
Deputy Prosecutor General	240
District Prosecutor	220
Deputy District Prosecutor:	
With 18 years' service	200
With 15 years' service	190
With 11 years' service	175
With 7 years' service	155
With 3 years' service	135
Entry.....	100

ANNEX II

[Referred to in Article 148(1)]

As of 1 January 2011 – retirement age: 60 years and 6 months, length of service: 36 years and 6 months (36.5).

As of 1 January 2012 – retirement age: 61 years, length of service 37 years (37).

As of 1 January 2013 – retirement age: 61 years and 6 months, length of service: 37 years and 6 months (37.5).

As of 1 January 2014 – retirement age: 62 years, length of service: 38 years (38).

As of 1 January 2015 – retirement age: 62 years and 6 months, length of service: 38 years and 6 months (38.5).

As of 1 January 2016 – retirement age: 63 years, length of service: 39 years (39).

As of 1 January 2017 – retirement age: 63 years and 6 months, length of service: 39 years and 6 months (39.5).

As of 1 January 2018 – retirement age: 64 years, length of service: 40 years (40).

As of 1 January 2019 – retirement age: 64 years and 6 months, length of service: 40 years (40).

From the year 2020 onwards – retirement age: 65 years, length of service: 40 years (40).

ANNEX III

(Referred to in Article 149)

Year	Length of service
2011	38 years and 6 months (38.5)
2012	39 years (39)
2013	39 years and 6 months (39.5)
From 2014 onwards	40 years (40)