

This translation does not dispense with the need to consult article 4 of Law No 143/99, of 31 August which ordered the application to Public Prosecutors of several provisions set forth in the Statute of the Magistrates of the Judiciary, as well as articles 164 and 187 of Law No 52/2008, of 28 August which contain rules applicable only to pilot counties

STATUTE OF THE PUBLIC PROSECUTION SERVICE

Approved by Law No 47/86, of 15 October, republished by Law No 60/98, of 27 August and amended by Laws No 42/2005, of 29 August and No 67/2007, of 31 December.

PART I PUBLIC PROSECUTION SERVICE

HEADING 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 Law.
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 set out in this law.

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) Direct 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 the legislation;
 - l) Intervene on bankruptcy and insolvency proceedings, as well as in all other proceedings which are embodied of public interest;
 - m) Perform consultative functions as laid down by this Law;
 - 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 cases falling within, and under the terms of, the Law on the Organisation, Operation and Proceedings 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 access to advisory and consultative services.

CHAPTER II
System of intervention

Article 4
Representation the Public Prosecution Service

1. The Public Prosecution Service is represented:
 - a) At the Supreme Court of Justice, the Constitutional Court, the Supreme Administrative Court, the Supreme Military Court and 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 under the terms prescribed by this Law.
- 3. Members of the Public Prosecution Service substitute for one another as laid down by this Law.

Article 5

Main and complementary 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 immediately after the respective agent or attorney has been 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 their legal representatives file a petition opposing the representation by the Public Prosecution Service.
- 4. The Public Prosecution Service has a complementary intervention in proceedings:
 - a) Where, in cases other than those falling within paragraph 1 hereinabove, the Autonomous Regions, 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

Complementary Intervention

- 1. When intervening in a complementary capacity, the Public Prosecution Service sees to the interests with which it is entrusted, taking such measures as deemed appropriate.
- 2. The terms of the intervention are set out in the procedural law.

HEADING 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, subject to the terms of the 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 concerning members of the Public Prosecution Service, except for the Prosecutor General;
- c) Direct, 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 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 sub-paragraph a) of paragraph 1 of Article 4;
- c) Ask the Constitutional Court for the 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) Direct, co-ordinate and oversee the activity of the Public Prosecution Service, and issue directives, orders and instructions binding on its magistrates;
 - c) Call 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 of the need to adopt legislative measures conducive to affording feasibility to the constitutional provisions;
 - e) Hierarchically oversee the procedural activity of the criminal police bodies;
 - f) Inspect or order the inspection of the services of the Public Prosecution Service and 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 improving the operation of the judicial institutions, or in order to conciliate diverging decisions of courts or of the 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) Establish 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 of the services operating under the latter the powers granted to Ministers, except in case of appointment;
 - m) Perform such other functions as may be assigned to him by law.
3. The directives referred to in sub-paragraph b) of paragraph 2 hereinabove concerning the interpretation of the legal provisions are published in the II Series of the «*Diário da República*» (Official Gazette).
4. The Prosecutor General is assisted by his Legal Advisory Staff.
5. The structure and composition of the Legal Advisory Staff of the Prosecutor General's Office 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 sub-paragraph a) of paragraph 1 of Article 4, assistance and substitution are also ensured by Deputy Prosecutors General, their number being fixed in a schedule set by decision of 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 paragraph 2 hereinabove.

Article 14

Substitution of the Vice Prosecutor General

The Vice Prosecutor General is substituted, during his absence or inability to perform his functions, by a Deputy Prosecutor General designated to that end by the Prosecutor General or, failing so, by the senior of all the Deputy Prosecutors General holding office in Lisbon.

SECTION III

The High Council of the Public Prosecution Service

SUBSECTION I

Organisation and operation

Article 15

Composition

1. The Prosecutor General's Office carries out its powers as regards the disciplinary and management matters 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. Members of the Public Prosecution Service 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 sub-paragraphs c), d) and e) of paragraph 2 of article 15 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. Electors may exercise their right to vote by mail.

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 electors and eligible for election.

Article 18

Date of 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 45 days minimum beforehand by notice published in the «*Diário da República*» (official gazette).

Article 19

Special form of election

1. The members of the High Council of the Public Prosecution Service referred to in sub-paragraphs d) and e) of paragraph 2 of Article 15 are elected by means of 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 the method of highest average, in compliance 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 respective 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

Assignment of places

1. The assignment of places is made according to the order in which votes are converted into mandates.
2. The assignment concerning the Deputy District Prosecutors is carried out as follows:
 - 1st mandate: Deputy District Prosecutor proposed by the judicial district of Lisbon;
 - 2nd mandate: Deputy District Prosecutor proposed by the judicial district of Oporto;
 - 3rd mandate: Deputy District Prosecutor proposed by the judicial district of Coimbra;
 - 4th mandate: 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 are incumbent on an election committee.
2. The election committee is composed of the Prosecutor General and of the members referred to in sub-paragraph b) of paragraph 2 of Article 15.
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 has the casting vote.

Article 22

Powers of the election committee

It is especially incumbent on the election committee to shed light on any doubts arising from the interpretation of the election regulations and to weigh 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

Those stages of the electoral process which do not fall within the preceding articles are set out in regulations published in the «*Diário da República*» (official gazette).

Article 25

Tenure of office

1. The members referred to in sub-paragraphs c), d) and e) of paragraph 2 of Article 15 hold their offices for a term of three years, renewable once for the period immediately following the end of their first term of office.
2. Whenever, during his term of office, a Public Prosecutor ceases to belong to the original hierarchical rank or grade, or is unable to perform his 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 the 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 decides on cases where the duties of the member should be carried out in full-time or with a reduction of service corresponding to the original office.
8. The members of the High Council of the Public Prosecution Service who carry out full-time duties receive remuneration corresponding to the original position, if public, or a salary corresponding to that of a director-general.
9. The members are entitled to attendance vouchers or to an allowance under the terms and in the amount set out by the Minister of Justice and, if residing outside Lisbon, to expense allowances pursuant to the law.

Article 26

Composition

1. The High Council of the Public Prosecution Service operates in plenary session 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, except for 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 paragraph 4 of Article 134, and the budget proposal for the Prosecutor General's Office;
- c) Deliberate upon, and issue directives regarding internal organisation and staff 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) Acknowledge claims falling within this Law;
- 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
Operation

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. As regards the evaluation of the professional merit, the High Council of the Public Prosecution Service may meet in sections, in terms defined by 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 sub-paragraphs b), d) and e) of paragraph 2 of Article 15, elected by their peers, in proportion to their respective representation;
 - b) The Deputy Prosecutor General referred to in sub-paragraph c) of paragraph 2 of Article 15;
 - c) Three of the persons referred to in sub-paragraph f) of paragraph 2 of Article 15, elected by and among their peers for terms of 18 months;
 - e) One of the persons referred to in sub-paragraph g) of paragraph 2 of Article 15, chosen by the drawing 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. Objections to decisions of the sections should be made to the Council sitting in plenary session.

Article 30

Assignment of cases

1. The cases are assigned 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 assigned becomes its *rapporteur*.
3. In the case of a claim to the plenary session, the case is assigned to a different *rapporteur*.
4. The *rapporteur* may consult such documents and files, and he may take such measures as he considers necessary. The files are requested for the strictly necessary period of time, with compliance with the secrecy of legal proceedings 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 does not enclose any special complexity the *rapporteur* may submit it for consideration without need for a report thereon.
7. A decision adopting the grounds and proposals, or only the former, proposed by the inspector or the *rapporteur* in charge of the case may be expressed by means of an agreeing decision, without need for a report thereon.

Article 31

Delegation of powers

The High Council of the Prosecution Service may delegate on the Prosecutor General the powers necessary to perform such acts as, by their nature, should not await a meeting of the Council.

Article 32

Attendance of the Minister of Justice

The Minister of Justice attends meetings of the High Council of the Public Prosecution Service whenever he considers it to be appropriate, or where he intends either to communicate information or clarify a specific matter.

Article 33

"contentious" appeal

Decisions of the High Council of the Public Prosecution Service may be appealed against, the appeal being lodged in the terms and pursuant to the procedure followed by appeals concerning Government actions.

SUBSECTION II

Inspection Services

Article 34

Composition

1. The Inspection of the Public Prosecution Service operates next to the High Council of the Public Prosecution Service.
2. The Inspection of the Public Prosecution Service is composed of Inspectors and Inspection Secretaries, their number being fixed in a schedule approved by a decision of the Minister of Justice, upon proposal of the High Council of the Public Prosecution Service.
3. Any inspection intended to collect information on the service and merit of Public Prosecutors, as well as investigations and disciplinary proceedings may not be carried out by inspectors of a rank or seniority below those of the Public Prosecutors subject to inspection.
4. The Inspection Secretaries are recruited from among justice officers and are appointed on a temporary assignment.
5. The Inspection Secretaries, when they are judicial or technical secretaries with the evaluation of *Very Good* are entitled to receive a salary corresponding to that of a Secretary of a superior court.

Article 35

Powers

1. It is incumbent on the Inspection services of the Public Prosecution Service to carry out inspections, inquiries and investigations as regards the services of the Public Prosecution Service pursuant to the law, as well as to order 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 collecting 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 Deputy Prosecutors General, their number being fixed in a schedule approved 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 legality matters, 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 functions, submits to it;
- f) Approve the Rules of Procedure.

Article 38
Operation

1. The assignment of legal opinions is made through a selection by lot, according to the seniority of the Deputy Prosecutors General admitted to assignment.
2. Notwithstanding the provisions set forth in the preceding paragraph, the Prosecutor General may decide that such matters should be assigned 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 called 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 are to be enclosed.
2. The Prosecutor General has the casting vote, and he also signs the legal opinions.

Article 42
Binding force of legal opinions

1. The Prosecutor General may decide, under the powers conferred on him by sub-paragraph b) of paragraph 2 of Article 12, that the doctrine comprised in the Consultative Council legal opinions is to be followed and upheld by members of the Public Prosecution Service.
2. All members of the Public Prosecution Service are informed of the contents of the legal opinions referred to in the preceding paragraph, which are published in the II Series of the «*Diário da República*» (official gazette) with reference to the decision which grants them binding force.
3. On his own initiative or upon a grounded 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 set out.

Article 43
Ratification and effectiveness of legal opinions

1. After ratification by the entities who have requested them or to whose sector the matter relates, the Consultative Council legal opinions on general provisions are published in the II Series of the «*Diário da República*» (official gazette) in order to produce effects as the official interpretation, before the respective services, of the matters that they are intended to enlighten.
2. If the matter subject to consultation bears interest to two or more ministries which disagree on the ratification of the legal opinion, such ratification is incumbent on the Prime Minister.

SECTION V
The Legal Auditors

Article 44
Legal auditors

1. One Deputy Prosecutor General bearing the rank of Legal Auditor may exercise functions within the Assembly of the Republic, within each ministry and next to the Ministers of the Republic for the Autonomous Regions.
2. Legal Auditors are appointed on a temporary assignment.
3. Legal Auditors may combine their functions with those assigned to them by the Prosecutor General in the scope of the powers of the Public Prosecution Service which, by law, do not belong to specific bodies.
4. The costs incurred with the Legal Auditors are 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 operate.
2. Legal Auditors must propose to the Prosecutor General the submission to the Consultative Council of any matters on which they have sound doubts, which bear a complexity justifying the call on the Council or which concern more than one Ministry.
3. Where the consulting entities 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 appreciation.
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 directs 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 Prosecutors for the Republic, their number being fixed in a schedule approved by decision of 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 and direct the investigation of 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 corrupt economic participation 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 on 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 to work 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 direct 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 of the Prosecutor General, whenever, considering the especially serious crimes, the particular complexity or the extent of the criminal activity throughout the territory justify a centralized direction of 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 corrupt economic participation 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 on 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 areas of EU, foreign and international law, as well as to carry out studies and disseminate information regarding comparative systems of law, notwithstanding the powers of 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 the appointed magistrates or officers, to support the experts selected to participate in such meetings and to collaborate with national representatives in international organisations;
 - e) Prepare, publish and distribute publications organised or directed by the Prosecutor General's Office or by the Prosecutor General;
 - f) Collaborate in the disclosure abroad of the Portuguese legal system, namely 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 granted to 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 set forth in paragraph 2 of Article 48 apply hereunto.

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 an executive law, after consultation with the Prosecutor General's Office.

CHAPTER III

State contentious matters

Article 51

State Contentious Matters Departments

1. There may be created State Contentious Matters Departments.
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 decision of the Minister of Justice, upon proposal of the High Council of the Public Prosecution Service.
4. The decision of the Minister of Justice establishes the territorial jurisdiction of the State Contentious Matters Departments. It also establishes the respective magistrates' staff 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 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 directed by Deputy Prosecutors General or by District Prosecutors.
2. District Prosecutors and Deputy District Prosecutors perform functions in the State Contentious Matters Departments.

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, under the terms of the 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 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 in 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) Direct, 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 enforcement of penalties and security measures, as well as in the fulfilment of any confinement measures or coercive treatment, requesting clarifications 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 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 directed by a Deputy Prosecutor General who receives the designation of District Deputy Prosecutor General.
2. The District Deputy Prosecutor General is substituted, in case of absence or inability to perform his functions, by a Deputy Prosecutor General designated by him or, failing such designation, by the senior Deputy Prosecutor General.
3. The provisions of the present section apply, with the necessary changes, 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 Secretary, on a temporary assignment.

Article 58
Powers

1. It is incumbent on the District Deputy Prosecutor General to:
 - a) Direct 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 operations of the Public Prosecution Service and the procedural activity of the criminal police bodies and keep the Prosecutor General informed thereon;
 - 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) Establish 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, notwithstanding the provisions enshrined in the procedural law;
 - i) Perform all other functions as may be assigned to him by the law.
2. The District Deputy Prosecutor General may delegate on any other Deputy Prosecutors General the supervision and 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 59

Deputy Prosecutors General

It is incumbent on the Deputy Prosecutors General holding their offices in 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) Supervise 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 Deputy District Prosecutors.
4. The District Prosecutor's Offices have their own administrative support.

Article 61

Powers

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

Article 62
Direction

1. The District Prosecutor's Office is directed by one District Prosecutor.
2. At the courts and 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, in case of absence or inability to perform his functions, by the senior prosecutor of the same rank or, failing so, by the Deputy District Prosecutor designated by the District Prosecutor.

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, namely in hearings handed by a bench of judges or a jury, the District Prosecutor himself must ensure the representation of the Public Prosecution Service;
 - b) Direct and oversee the performance of the functions of the Public Prosecution Service and keep the District Deputy Prosecutor General informed thereon;
 - c) Issue orders and instructions;
 - d) Establish 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, social reintegration bodies and establishments designed for follow-up, treatment and cure.
 - g) Perform all other functions as may be assigned to him by the law.
2. It is incumbent on the Co-ordinating District Prosecutor to:
 - a) Define criteria for the management of services, after consultation with the other District Prosecutors.
 - b) Establish guidelines with a view to attaining the objectives of standardisation, co-operation, and rationalisation, after consultation with the other District Prosecutors;
 - c) Ensure the collection and processing of procedural and statistical information concerning the Public Prosecution Service and 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, social reintegration bodies and establishments designed for follow-up, treatment and cure;

- f) Render decisions on the substitution of District Prosecutors, in cases of absence or inability to perform functions which may prevent the practicability of the information to be given in due time to the District Deputy Prosecutor General;
 - g) Make decisions concerning internal power conflicts;
 - h) Ensure the external representation of the District Prosecutor's Office.
3. The Co-ordinating District Prosecutor may accumulate the functions referred to in the preceding paragraph with the direction of one or more sections.
 4. In case of accumulation of service, vacancy of seat or inability by its holder to perform functions for a period exceeding a fortnight, the District Deputy Prosecutors 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 the agreement of the latter, before a period of three years has elapsed.
 6. The District Prosecutors who accumulate 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, between the limits of one fifth of and the total salary.

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, notwithstanding the provisions of sub-paragraph a) of paragraph 1 of Article 63.
3. Notwithstanding the guidance of the respective District Deputy Prosecutor General, the assignment of service among Deputy District Prosecutors in the same county is subject to decision of the competent District Prosecutor.
4. The provisions set forth in paragraphs 4 to 6 of the preceding Article apply, with the necessary adaptations, 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. Whenever the absence or the inability to perform functions does not exceed a fortnight, the District Prosecutor may indicate another Deputy District Prosecutor from the same circuit.

3. The District Prosecutor may also designate, for purposes of substitution, a competent person, preferably qualified and possessing a Law degree.
4. Notwithstanding the provisions set forth in the preceding paragraphs, the Deputy District Prosecutors are substituted, in case of absence or inability to perform their functions, by the Notary Public of the municipality where the court is located.
5. Should there be more than one Notary Public, the person who is to substitute the other is designated by the District Prosecutor.
6. The persons who are to substitute the others and who, not being Public Prosecutors, perform their 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, between the limits of one third of and the total salary.

Article 66

Substitution in urgent cases

In case of an urgency and if substitution cannot take place in the manner indicated in the preceding paragraphs, the judge appoints a competent person for each case, preferably qualified and possessing a Law degree.

Article 67

Representation of the State in civil actions

Notwithstanding the provisions of Article 51, in civil actions to which the State is a party, the Prosecutor General, after consultation with the District Deputy Prosecutor General, may appoint any Public Prosecutor to assist or substitute the Public Prosecutor responsible for this representation.

Article 68

Representation of the State in criminal proceedings

1. In criminal proceedings, and notwithstanding the provisions set forth in sub-paragraph b) of paragraph 3 of Article 47 and in sub-paragraph c) of paragraph 1 of Article 73, the Prosecutor General may appoint any Public Prosecutor to assist or substitute another Public Prosecutor to whom the case has been assigned, whenever this is justified by grounded reasons of procedural complexity or social consequences.
2. The District Deputy Prosecutor General may decide, based on procedural reasons, that the Public Prosecutor who directed the inquiry may intervene in the subsequent phases of the proceedings.

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 requests the Bar to appoint a lawyer to represent one of the parties.

2. Whenever the matter is urgent and as long as an appointment cannot be made under the terms of the preceding paragraph, the judge appoints a lawyer to take part in the procedural acts.
3. The fees due for the assistance referred to in the preceding paragraphs are 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 will be a Department of Criminal Investigation and Prosecution.

Article 71
Counties

1. Departments of Criminal Investigation and Prosecution may be created 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 created by decision of 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 directed by Deputy Prosecutors General, with the powers conferred pursuant to the provisions set forth in paragraph 2 of article 62.
3. The Departments of Criminal Investigation and Prosecution in the counties are directed by District Prosecutors.
4. Whenever the Departments of Criminal Investigation and Prosecution are organised in sections, these are directed by District Prosecutors.
5. Notwithstanding the provisions set forth 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 decision of 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) Direct the inquiry and carry out the prosecution as regards the crimes committed in the county area;
 - b) Direct the inquiry and carry out the prosecution as regards the crimes pointed out in paragraph 1 of Article 47, whenever the criminal activity occurs in counties appertaining to the same judicial district.
 - c) Following an order from the District Deputy Prosecutor General, direct 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 direction 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 direct 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 HEADING

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 Law, regardless of their situation.
2. The provisions of this Law also apply, with the due adaptations, 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 the magistrates of the Judiciary are presiding, 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 subject to liability, and they are hierarchically subordinate.
2. The liability 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 they receive.
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 Law, and of their consequent obligation to comply with the directives, orders and instructions that they receive, notwithstanding the provisions of 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 intent or serious guilt.

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 Law.

Article 79

Limits to managerial powers

1. Magistrates of the Public Prosecution Service may request to the hierarchical superior that orders or instructions be sent in writing; they must always be given in this form whenever they are to produce effects in specific proceedings.
2. Magistrates of the Public Prosecution Service must refuse to comply with unlawful directives, orders and instructions based on a serious violation of their legal conscience.
3. The refusal is made in writing, following the specification of the reasons invoked.
4. In cases where the preceding paragraphs apply, the Public Prosecutor who has issued the directive, order or instruction may carry it out himself or assign it to another Public Prosecutor.
5. The following may not be refused:
 - a) Decisions hierarchically rendered under the terms of the 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 actions and proceedings for extrajudicial settlement of disputes to which the State is a concerned party;
- b) Authorise the Public Prosecution Service, following consultation with the Government department possessing regulatory power, to admit, settle differences or withdraw from civil actions 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, namely as regards criminal police bodies.

CHAPTER II

Incompatibilities, duties and rights of Public Prosecutors

Article 81

Incompatibilities

1. The carrying out 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, is incompatible with the performance of the office of magistrate of the Public Prosecution Service.
2. The fulfilment of the activity of teaching or scientific research of a legal nature may not be authorised, unless it is not remunerated and does not impair compliance with the official duties.
3. The activity of full-time magistrate member of the High Council of the Public Prosecution Service, of magistrate member of the Prosecutor General's Legal Advisory Staff, of management or teaching in the Centre for Judicial Studies, and of a person responsible, in the scope of the Ministry of Justice, for the preparation and review of statutory provisions, are all 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 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 may not serve at a tribunal or court in which duties are being carried out by magistrates of the Judiciary or of the Public Prosecution Service, or by justice officers, to whom they are linked by marriage, cohabitation, blood or affinity of any degree in direct descent or up to the 2nd degree of collateral relationship.
2. Members of the Public Prosecution Service may not serve at a court or department appertaining to a judicial circuit in which, during the last five years, they have had a lawyer's office.

Article 84

Duty to withhold information

1. Members of the Public Prosecution Service may not make any statements or comments regarding proceedings, except when duly authorised by a 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 or by professional secrecy, aim at the fulfilment of rights and legitimate interests, notably access to information, is not covered by the duty to withhold information.

Article 85

Necessary residence

1. Members of the Public Prosecution Service have necessary 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, dispensation from activities and on Saturdays, Sundays and public holidays.
2. Absence during the authorised annual judicial holidays period, during leave of absence, dispensation from activities 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 magistrates 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 where they occur on working days out of the normal office hours of the secretariat, and where 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 is of no inconvenience for 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 set forth in the executive law No 272/88, of 3 August, apply to members of the Public Prosecution Service, with the necessary adaptations, 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 set forth in paragraph 1 of article 113.
4. Under such terms as those which are to be regulated, the expenses incurred during training courses, including subsistence and travel expenses, particularly those incurred by Public Prosecutors assigned to posts located in the islands, are borne by the Ministry of Justice.

Article 89

Public Prosecutors on long-term unpaid leave

Members of the Public Prosecution Service on long-term unpaid leave may not invoke such 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 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 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

Preventive detention

1. Members of the Public Prosecution Service may not be arrested or remanded in custody without the rendering of the court order designating the date of the trial for the crime of which they are being accused, except where they are caught red-handed for a crime punishable with imprisonment for more than three years.
2. In case of arrest or detention, the magistrate is immediately brought before the competent judicial authority.
3. Members of the Public Prosecution Service serve the preventive detention or the penalty depriving them from their liberty in a common prison, though isolated from the other inmates.
4. In case there is a need for a search of the professional office or residence of a member of the Public Prosecution Service, this shall be presided over, under penalty of invalidity, by a

competent judge, who will 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 competent court for the inquiry, preliminary judicial investigation or “instruction” and trial of members of the Public Prosecution Service due to a criminal offence, as well as for appeals in matters regarding administrative offences, is the one 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 is 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 their descendents.

Article 93
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, notwithstanding 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 Law, constituting an integral part thereof.
2. The salaries are annually reviewed by updating the amount corresponding to the 100-index.
3. As of the 1st January 1991, the updating referred to in the preceding paragraph is automatic, under the terms of Article 2 of Law 26/84, of 31 July, with the wording given by Article 1 of Law 102/88, of 25 August.

4. Under the heading of supplements, allowances shall be maintained as set out in Articles 97 to 100 and 102 of this Law.

Article 97

Settlement allowance

After consultation with the High Council of the Public Prosecution Service and the representative organisations of the Public Prosecutors, 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 salary, under the heading 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, under the heading of representation expenses.

Article 99

Relocation expenses

1. Whenever they are promoted, transferred or assigned for reasons other than disciplinary reasons, magistrates of the Public Prosecution Service 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 magistrate, except in the following cases:
 - a) Where there is relocation between the Continent and the Autonomous Regions;
 - b) Where, in the case of transfer upon request, the situation set out in paragraph 1 of Article 137 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 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 «*Diário da República*» (official gazette), of the I and II series of the «*Diário da Assembleia da República*» (official gazette of the Assembly of

the Republic), 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 «*Diário da República*» (official gazette) in either its print or electronic version, of the Bulletin of the Ministry of Justice and, where they so 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 members of the Public Prosecution Service, for the period of their tenure of office, a furnished lodging house by means of payment of a monthly consideration of a sum not exceeding one tenth of the total of the respective remunerations, fixed by the Minister of Justice.
2. The said Public Prosecutors who do not benefit from a lodging house under the terms of the preceding paragraph, or those who do not reside in such a house in accordance with the provisions of the final part of paragraph 2 of Article 85, are entitled to a compensatory subsidy fixed by the Minister of Justice, after consultation with the High Council of the Public Prosecution Service and the representative organisations of Public Prosecutors, 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 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 the Public Prosecutor enters the house, he receives and must sign an inventory of the furniture and any other existing equipment. He is also deemed to record any malfunctions.
2. The procedure referred to in the preceding paragraph is also adopted when the Public Prosecutor leaves the house.
3. The Public Prosecutor is 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, under the terms of regulations 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 during the period of judicial holidays, notwithstanding the rotation systems to which they may be subject or any duties likely to be carried out during the holidays under the terms of the 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 by 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 location to which the Public Prosecutor travels must be communicated to his superior.
5. The Public Prosecutor's superior may require him to return to his duties based on the urgent nature of the service, without prejudice to his entitlement to annual holidays in the terms legally fixed 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 are 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 respective District Deputy Prosecutor General or, in the regional judicial division and which are 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. In order to ensure 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, according to the case, as long as harmonization with the annual holiday leave schedules proposed regarding both the magistrates of the Judiciary and the justice officers belonging to the regional judicial division, is ensured.
3. The 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 the outline 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 unity in which they perform functions, to the scheduled holiday leave period(s) and to the substitute magistrate, 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 considered, it is incumbent upon the Prosecutor General or upon whomever he chooses to act as his 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 under the terms 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 use, carrying and display of firearms and the acquisition of the respective ammunition, regardless of permission 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 water transport, as set out by the Ministry of Justice, within the regional judicial division or while on duty, and under the circumstances set out in the final part of paragraph 2 of Article 85, between that regional judicial division and the place of residence;
 - f) Make telephone calls using a confidential system, if this is accepted favourably by the High Council of the Public Prosecution Service;
 - g) Free access, in constitutional and legal terms, to public libraries and databases, namely those of the higher courts, of the Constitutional Court and of the Prosecutor General's Office;
 - h) Special security for their person, family 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 from 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 action in which he is a principal or accessory in the course of carrying out his duties;

2. The identification card is allocated 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 his 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 Deputy District Prosecutors when travelling to other countries in the course of their duties.
4. The rights set out in sub-paragraphs e) and g) of paragraph 1, in paragraph 2 and in paragraph 3 in relation to the special passport are extended to all members of the High Council of the Public Prosecution Service.

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.

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 the Public Prosecutors carry out their duties, the caseload and the difficulties of the service, the conditions of the work made, their technical training, intellectual capacity, any legal works published and civic aptitude.
2. The evaluation - *Insufficient* - implies 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 brought on the basis of the inquiry, and it is concluded that the Public Prosecutor is unfit, but that he is to be allowed the possibility of remaining in the Civil Service, the penalties of compulsory retirement or dismissal may be replaced by that of removal from office upon request of the concerned Public Prosecutor.
4. Where the provisions of the preceding paragraph apply, the proceedings and the enclosed grounds thereto are sent to the Ministry of Justice for purposes of ratification and assignment of the Public Prosecutor to an office compatible with his abilities.

5. The ratification of the opinion of the Minister of Justice shall qualify the concerned Public Prosecutor to take up a suitable office within the dependence of the Ministry services.

Article 111

Evaluation of Public Prosecutors on temporary assignment

Public Prosecutors on a temporary assignment are not 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 is deemed updated.

Article 112

Frequency of the evaluations

1. The District Prosecutors and the Deputy District Prosecutors are evaluated at least every four years.
2. The evaluation is considered out-of-date after four years unless the Public Prosecutor is not responsible for such situation or he is covered by the provisions of Article 111.
3. Where the Public Prosecutor is not accountable for the lack of evaluation, such evaluation is deemed to be - *Good* -, except if the Public Prosecutor requests an inspection.
4. The evaluation concerning the service later made annuls the evaluation relating to the services formally rendered.

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 may supply information he 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, 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, notwithstanding 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

The training courses and traineeship are held in the Centre for Judicial Studies, under the terms of the legislation that governs the 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 merit and by seniority, while the promotion to the rank of Deputy Prosecutor General is by merit.

Article 117

General conditions for access

1. Promotion by seniority is subject to service evaluation not less 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 declaration.
2. A renunciation declaration renders the Public Prosecutor non-eligible for promotion by seniority for the next two years.
3. Renunciation declarations are presented to the High Council of the Public Prosecution Service within the time period set out in paragraph 3 of Article 134.
4. In case there are no other Public Prosecutors eligible, the renunciation declarations shall not be effective.

SUBSECTION II

Special provisions

Article 119

Deputy District Prosecutors

1. Notwithstanding the provisions of Article 128, the first appointment to the Magistracy of the Public Prosecution Service is made for the rank of Deputy District Prosecutor at counties or access places.
2. Appointments are made according to the grading order obtained in the access 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, particularly in respect to direction of or 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 is 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, considers 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 direction 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, particularly in respect to direction of or 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 are 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, by order of their occurring, successively in the proportion of three by means of competition and two by a list of seniority.
6. Public Prosecutors who are candidates to the competition, and who are not assigned by that way, may be promoted according to the list of seniority, where they have not produced a resignation declaration.
7. In promotion by means of competition, the Public Prosecutor assigned is the one with the highest mark and, in case of equality, the senior among 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 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, particularly in respect to direction of or 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 Magistrates 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 direction 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 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 from among three names proposed by the Deputy Prosecutor General with direction and co-ordination functions, from among District Prosecutors with evaluation by merit, being the relevant factors as follows:
 - a) Experience in criminal matters, especially in respect to study or direction 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 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, the Constitutional Court, the Supreme Administrative Court, the Court of Auditors and 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 are held on a temporary assignment.

Article 126

District Deputy Prosecutors General and equivalents

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.
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 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 fulfilled from among Deputy Prosecutors General, magistrates of the Judiciary and of the Public Prosecution Service, as well as from among other jurists applying thereto. The number of the Deputy Prosecutors General must not be less than two thirds of the total number of the members.
2. The requirements for assignment are as follows:
 - a) For all members, recognised scientific merit and a proven investigative capacity in the field of legal sciences;
 - b) For the magistrates of the Judiciary and of the Public Prosecution Service, twelve years of service in any of the magistracies and, with regard to magistrates who must be evaluated, a service evaluation of *Very Good*;
 - c) For other jurists, civic aptitude, twelve years of professional activity in the field of legal sciences and aged not more than 60 years.
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 duties on a temporary assignment.
2. The provisions set forth in sub-paragraph 2 Article 125 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 impede its renewal.
4. The Vice Prosecutor General ceases his 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 for 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 under the terms of the Constitution.
2. The Prosecutor General's mandate lasts for six years, notwithstanding the provisions of sub-paragraph m) of Article 133 of the Constitution.
3. Appointment implies removal from the previous post held, where the appointed person is a magistrate of the Judiciary or of the Public Prosecution Service, or a State officer.
4. After termination of his 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 Law 4/85, of 9 April, apply to Prosecutors General who are neither magistrates of the Judiciary nor of the Public Prosecution Service nor State officers.
5. Where the Prosecutor General is a magistrate, the length of service performed in that office will count in its entirety, as if the service had been performed in the Magistracy, so that he may return to the position which would be incumbent on him had he not interrupted the performance of his duties, namely without prejudice to promotions or access to which he would have been entitled in the meantime.
6. Where Public Prosecutors with seniority inferior to that of the Prosecutor General have been appointed to the Supreme Court of Justice, the High Council of the Judiciary reopens the competition in which, in the terms of the preceding paragraph, the Prosecutor General would have participated, and he takes up the post which is due to him.

7. Whenever Public Prosecutors with seniority inferior to that of the Prosecutor General have been appointed to the Supreme Court of Justice, the Prosecutor General maintains the right to the remuneration granted up to the date when his duties cease, with the exception of the allowance 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 less 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. Magistrates who seek to be assigned 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 considered.
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 within one year counted from the date when they began to fulfil their duties.
2. Members of the Public Prosecution Service are 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 access county or place to a first promotion county or place, the period referred to in paragraph 3 is of three years counted from the first appointment.
5. Repealed.
6. Interchanges are authorised, notwithstanding the provisions of the preceding paragraphs and the rights of others.

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 of performance of duties is required.
4. Notwithstanding 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 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 promotion counties or places, and may not request assignment in either of these if they have been placed in final promotion counties or places.
3. Deputy District Prosecutors may not be placed in final promotion counties or places unless they have performed their duties in first promotion counties or places, and they may not be placed in either of these unless they have performed their duties 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 prior decision of 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 paragraph 3 of Article 81 and in paragraph 3 of the preceding article, and those concerning the performance of duties in areas of international co-operation, namely with the member States of the Community of Portuguese Speaking Countries, do 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 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 «*Diário da República*» (official gazette).
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 hereinabove.

Article 142
Establishing body

1. Members of the Public Prosecution Service are established in office as follows:
 - a) The Prosecutor General, before the President of the Republic;
 - b) The Vice Prosecutor General and the Deputy Prosecutors General, before the Prosecutor General;
 - c) The District Prosecutors, before the District Deputy Prosecutor General for the respective judicial district;
 - d) The Deputy District Prosecutors, before the respective 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 established in office before another entity.

Article 143
Failure to attend the taking up of a position

1. As regards the first appointment, unjustified failure to taking 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 relevant 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 voluntary retirement are sent to the Prosecutor General's Office, which sends them to the administration of the «*Caixa Geral de Aposentações*» (Retirement Office).

Article 146

Retirement on grounds of inability

1. Public Prosecutors retire on grounds of inability where, due to physical or mental weakness displayed during the fulfilment of their duties, they cannot continue to hold their office without serious miscarriage of justice or of the services.
2. Public Prosecutors who fall within the provisions set out in the preceding paragraph are given notice that they benefit from a 30-day period either to request retirement or to produce, in writing, such remarks as deemed 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 remuneration perceived.

Article 147

Effects of retirement on grounds of inability

Retirement on grounds of inability does not cause a reduction in the retirement pension.

Article 148

Retirement with full honours

1. Members of the Public Prosecution Service who retire on grounds of age, inability or pursuant to Article 37 of the Retirement Statute, the application of any disciplinary sanction being not in cause, 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.
3. Public Prosecutors who fall within the provisions of paragraph 1 above may make a declaration renouncing the retirement with full honours or may request temporary suspension of that situation. In such cases they become subject, either definitively or temporarily, to the general system of public retirement.

Article 149

Rights and Duties

1. The provisions falling within paragraphs 1 and 2 of Article 95, within sub-paragraphs a), b), c), e), g) and h) of paragraph 1 and paragraph 2 of Article 107, apply to Public Prosecutors retired with full honours.
2. The retirement pension is calculated, without any reduction as to the amount ascertained, on the basis of all remunerations that affect the respective allowance.
3. 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 there has been a final assessment of the amount.
4. Public Prosecutors retired with full honours are bound to the obligations imposed by such situation.
5. The situation of retirement with full honours may be withdrawn by way of disciplinary proceedings.

Article 150

Supplementary and subsidiary system

The system established for the civil service applies to the retirement of members of the Public Prosecution Service in all matters not governed by the preceding paragraphs.

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 when they reach the legal age for retirement as applied to the State officer;
- b) On the day when the decision discharging them from office is published;
- c) On the day following the one in which the edition of the «*Diário da República*» (official gazette) containing 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 when they are given notice of the order which sets the day of trial regarding accusations against them concerning intentional criminal offences;
- b) On the day when they are given notice of preventive suspension on grounds of disciplinary proceedings by the application of any sanction involving withdrawal from office;
- c) On the day when they are given notice of suspension as set out in paragraph 3 of Article 146.

CHAPTER VI
Seniority

Article 153
Seniority as regards staff list and rank

1. The seniority of members of the Public Prosecution Service as regards the staff list and rank is estimated from the date of publication of the assignment in the «*Diário da República*» (official gazette).
2. The publication of assignments must respect, in its ordering, the ranks provided 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 allocated seniority, as regards the staff, equal to that of the Deputy Prosecutor General who, at the date of publication of the appointment is the least senior, and they shall sit to his left.

Article 154

Time of service counted for seniority

1. For the purposes of seniority, the following is not discounted:
 - a) Time spent carrying out duties as President of the Republic or as a member of Government;
 - b) Time spent on preventive suspension ordered during disciplinary proceedings or decided by indictment in criminal proceedings, where such proceedings are filed or lead to acquittal;
 - c) Time spent during suspension of duties ordered under the provisions of paragraph 3 of Article 146;
 - d) Time spent in preventive detention imposed in the scope of criminal proceedings, where such proceedings are discontinued or lead to acquittal;
 - e) Time spent in 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, service provided in the Autonomous Regions and in Macao is increased by one quarter.

Article 155

Time of service not counted for purposes of seniority

The following does not count for purposes of seniority:

- a) Time spent in inactive situation or while on long-term unpaid leave;
- b) Time which, in accordance with the provisions concerning disciplinary procedure, is considered to be lost;
- c) Time of illegitimate absence from service.

Article 156

Calculation of seniority

Where several Public Prosecutors are appointed or assigned by a decision published on the same date, the following rules are observed:

- a) Where appointments are preceded by training courses, after which a ranking list has been drawn up, seniority is determined in accordance with the ordering established in that list;
- b) Where promotions are by merit, seniority is determined by the order of promotion;
- c) Where appointments are by 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 respective Bulletin or offprint thereof.

2. Public Prosecutors are ordered in each rank in accordance with time 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 «*Diário da República*» (official gazette).

Article 158
Complaints

1. Public Prosecutors who believe that they have been impaired by the rank order appearing in the seniority list may make a claim, within a 60-day period, to be counted from the date referred to in paragraph 4 of the preceding article. This is done by way of an application directed to the High Council of the Public Prosecution Service, accompanied by as many duplicates as the number of Public Prosecutors that may be impaired by the complaint.
2. Public Prosecutors who may be impaired must be identified in the application, and they are given notice to respond within a 15-day period.
3. Whenever the replies have been presented, or the period of time reserved for them has elapsed, the High Council of the Public Prosecution Service makes a decision within a 30-day period.

Article 159
Effect of complaint on moves already carried out

Where a complaint is substantiated, the complainant is appointed to the post for which he had been passed over, 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 order, 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 awaiting 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 undergoing a penalty;
- c) Where the post they occupy becomes extinct;
- d) Where compulsory military service has been completed;
- e) In such other cases as provided for by law.

2. The condition of availability does not cause loss of seniority, salary or remuneration.

CHAPTER VIII
Disciplinary proceedings

SECTION I
General provisions

Article 162
Disciplinary liability

Members of the Public Prosecution Service are subject to disciplinary measures under the terms of the articles to follow.

Article 163
Disciplinary offence

Disciplinary offences consist of those acts committed by members of the Public Prosecution Service in breach of their professional duties, as well as those 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.

Article 164
Liability 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 undergoes the penalty if he 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 comes to light of a criminal offence, 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 are liable to the following penalties:
 - a) Warning;
 - b) Fine;
 - c) Transfer;
 - d) Suspension from duties;
 - e) Removal from active list;
 - f) Compulsory retirement;
 - g) Dismissal.
2. Notwithstanding the provisions of paragraph 4, the penalties applied must always be registered.
3. Pardons do not eradicate the effects produced by the application of the penalties, and they must be registered in the relevant individual file.
4. The penalty set out in sub-paragraph a) of paragraph 1 above may be applied without the need for proceedings, provided there is a hearing and the defendant has the right to defend himself. This penalty is not registered.

Article 167
Warning

The warning penalty consists of the simple observation of an irregularity that has been committed or an admonition with the purpose of preventing the Public Prosecutor from an action or omission that might cause a disturbance to the performance of his duties or which might have a bearing such that is incompatible with the dignity that is required of him.

Article 168
Fine

Fines are fixed in days, with a minimum of 5 days and a maximum 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 previously performed his 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 period 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 for less than one year or for more than two years.

Article 171

Compulsory retirement and dismissal

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

SUBSECTION II
Effects of penalties

Article 172
Effects of penalties

Disciplinary penalties produce effects other than those inherent to them as set out in the articles to follow.

Article 173
Fine

Fines involve deduction from the Public Prosecutor's salary of an amount corresponding to the number of days applied.

Article 174
Transfer

The penalty of transfer involves the loss of 60 days length of service.

Article 175

Suspension from duties

1. The penalty of suspension from duties involves 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 involves, together with the effects set out in the preceding paragraph, the provisions set forth in sub-paragraph b) of paragraph 3, where the Public Prosecutor subject to the penalty cannot maintain himself in a position to carry out his duties without damaging the prestige required of him.
3. Where the penalty of suspension applied is higher than 120 days, it may also imply, apart from the effects set out in paragraph 1 above, the following:
 - a) Non-eligibility for promotion or access for one year counted from the completion of the penalty;
 - b) Transfer to an identical post at a court or service other than that in which the Public Prosecutor was carrying out his duties at the time when the offence occurred.
4. The application of the penalty of suspension does not impair the right of the Public Prosecutor to the welfare to which he was entitled or to receiving the family allowance and the 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 raised 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 involves the immediate removal from service and the loss of rights and privileges conferred by this Statute, without prejudice to the entitlement to the pensions fixed by law.

Article 178

Dismissal

1. The penalty of dismissal involves the loss of the statute of Public Prosecutor conferred by this Law and of the corresponding rights.

2. This penalty does not imply loss of the right to retirement, under 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 was dismissed.

Article 179

Promotion of Public Prosecutors while in the situation of defendant

1. While criminal or disciplinary proceedings are pending the Public Prosecutor is ranked for promotion or access, but this shall remain suspended and the respective vacancy shall be reserved until the final decision is reached.
2. Where proceedings are discontinued, the condemnatory decision is repealed or a penalty is applied though without prejudice to promotion or access, the Public Prosecutor is promoted or appointed and he occupies his place in the seniority list, with the right to receive the differences in remuneration or, if he had to be passed over, the move shall be completed in relation to the vacancy that had been reserved to him.

SUBSECTION III

Applying the penalties

Article 180

Warning

The penalty of warning applies to slight faults that should not be overlooked without comment.

Article 181

Fine

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

Article 182

Transfer

The penalty of transfer applies to breaches involving damage to the prestige that is required from a Public Prosecutor in order to keep himself in a position to carry out his duties.

Article 183

Suspension and removal from the active list

1. The penalties of suspension and removal from the active list apply to cases of serious negligence or serious indifference in the performance of professional duties or where Public Prosecutors are given an imprisonment sentence, except where the sentence imposes the penalty of dismissal.
2. Time spent in prison is deducted from the disciplinary penalty.

Article 184

Compulsory retirement and dismissal

1. The penalties of compulsory retirement and dismissal 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 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

Length of penalty

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

Article 186

Special mitigation of penalty

The penalty may be subject to special mitigation with imposition of a lower type of penalty, where the circumstances before or after the breach, or contemporary with it, significantly diminish the seriousness of the act or the guilt.

Article 187

Recidivism

1. Recidivism occurs where the offence is committed before the end of a three-year period counted since the date when the Public Prosecutor committed the last offence - for which a more severe sentence than that of warning had been imposed - and where the case shows that the sentence previously applied had no preventive effect.
2. Where the penalty imposed is among those set out in sub-paragraphs b), d) and e) of paragraph 1 of Article 166, in the case of recidivism, the 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 the ones referred to in the preceding paragraph, a penalty from the next scale 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 final.
2. Where there are concurrent offences, a single penalty shall be applied and, where the offences correspond to different penalties, the most serious of these shall be applied, aggravated according to the concurrence, if variable.

Article 189
Replacement of penalties imposed on retired Public Prosecutors

Where Public Prosecutors are retired or for any other reason are not in active service, the penalties of fine, suspension from duties and removal from the active list are replaced with loss of pension or payment of any kind for 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 final:

- a) Six months, for the penalties of warning and fine;
- b) One year, for the penalties 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 standards

Article 191
Disciplinary proceedings

1. Disciplinary proceedings are the means by which disciplinary liability is enforced;
2. Disciplinary proceedings are drawn up in writing, but they do not require special formalities, provided that there is a hearing and an opportunity for the defendant to put forward a defence.
3. The investigating magistrate must refuse such measures as are clearly ineffective or time-wasting, giving grounds for the refusal.

Article 192

Impediments and suspicions

The system of impediments and refusals for criminal proceedings applies, with the necessary adjustments, to disciplinary proceedings.

Article 193

Confidential nature of disciplinary proceedings

1. Disciplinary proceedings are confidential in nature until a final decision has been reached.
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 period for investigation

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

Article 195

Number of witnesses in the investigation phase

1. During the phase of investigation there is no limit on the number of witnesses.
2. The investigating magistrate may refuse to hear witnesses where he considers the evidence produced to be sufficient.

Article 196

Preventive suspension of the defendant

1. The Public Prosecutor-defendant may, upon the proposal of the person in charge of the proceedings, be suspended from his duties on preventive grounds where there is strong evidence that the offence is to be punished by at least transfer, and where continued performance of the duties might impair the preparation of the case or the service or even the prestige and dignity of the office held.
2. Preventive suspension is carried out in such a form as 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

1. Once the investigation has been concluded and the disciplinary records of the defendant have been submitted, the investigating magistrate launches a prosecution within a 10-day period, specifying the facts that constitute the disciplinary offence and those aggravating or mitigating circumstances that he considers to be relevant, setting out the legal principles that are applicable to the case.
2. If sufficient facts are not brought forward likely to establish the offence or the liability of the defendant, or if the disciplinary proceedings become null and void, the investigating magistrate draws up his report within ten days, in accordance with the applicable legislation.

Article 198

Notice to the defendant

1. A copy of the charges is delivered to the defendant, or sent by registered letter, setting a period of from ten to thirty days for producing his defence.
2. If the defendant's whereabouts are not known, he is given notice by way of edits.

Article 199

Appointment of a defence counsel

1. Where the defendant is unable to prepare his own defence due to absence, illness, mental disorder or physical disability, the investigating magistrate designates a defence counsel to act on his behalf.
2. Where the defence counsel is designated subsequent to the date of the notice referred to in the preceding article, the time period for producing the defence re-commences as of the date when the defence counsel is given notice of the charges.

Article 200
Examination of files

The defendant, his appointed counsel or lawyer may, during the time period for delivery of the defence, examine the files at the place where they have been deposited.

Article 201
Defendant's defence

1. The defendant may, together with the defence, indicate witnesses, enclose documents and make applications.
2. No more than three witnesses may be put forward in relation to each count of the charges.

Article 202
Report

After the evidence has been adduced, the investigating magistrate draws up within a 15-day period, a report setting out the facts that are deemed to have been established and the penalty to be imposed.

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, in accordance with the provisions of Article 198.

Article 204
Nullities and irregularities

1. An irreversible nullity arises where the defendant does not have a hearing with the opportunity to defend himself or where there is an omission of the essential measures to ascertain the truth that can still be effectively carried out.
2. Other nullities and irregularities are considered remedied if they have not been argued in the defence or, where they occur subsequently, within five days from the date when they become known.

SUBSECTION II
Abandonment of post

Article 205
Action for abandonment

Where a Public Prosecutor fails to appear at his place of work for a 10-day period, expressly showing his intention to abandon the post, or if he continues to remain absent for a continuous period of 30 working days without justified grounds, an action is instituted for abandonment of post.

Article 206
Presumption of intention to abandon

1. Unjustified absence from post for a continuous period of 30 working days gives rise to the presumption of abandonment.
2. The presumption referred to in the preceding paragraph may be rebutted in disciplinary proceedings by means of proof.

SECTION IV
Review of disciplinary decisions

Article 207
Review

1. Condemnatory decisions against the defendant that are given in disciplinary proceedings may be reviewed at all times where there are circumstances or evidence that can establish the falsity of the facts that led to the punishment and that could not have been used by the defendant at the time of the hearing.
2. Review may not, under any circumstances, lead to an increase of the 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 mention 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 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 magistrate is appointed.

Article 210

Favorable review

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

CHAPTER IX

Inquiries and investigations

Article 211

Inquiries and investigations

1. Inquiries aim at determining the truth of specific facts.
2. Investigations take place where notice is given of facts that require a general examination into the function of the services.

Article 212

Preparing the case

The preparation of the case concerning the inquiry and investigation proceedings is subject, with the necessary adjustments, to the provisions regarding disciplinary proceedings.

Article 213

Report

Once the case has been prepared, the person in charge of the inquiries or of the investigations draws up a report proposing that the disciplinary proceedings be discontinued or commenced, 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 the inquiry or the investigation proceedings in which the defendant has been heard constitute the investigative steps of the disciplinary proceedings.
2. In the case referred to in the preceding paragraph, notification to the defendant of the decision of the High Council of the Public Prosecution Service determines the beginning of the disciplinary proceedings.

CHAPTER X

Auxiliary bodies

Article 215

Secretariats and officers

1. Notwithstanding the support and assistance rendered by court offices or secretariats, the Public Prosecution Service has access to its own technical-administrative services.
2. The technical-administrative services assure support, namely, in the following areas:
 - a) Prevention and criminal investigation;
 - b) International judicial co-operation
 - c) Co-operation with the criminal police bodies and institutions of treatment, recovery and social reintegration;
 - d) Direction of human resources, management and stewardship;
 - e) Evaluation and statistical analysis;
 - f) Communication and information technology support.
3. At the State Contentious Matters Departments, the duties of assistance may also be ensured by staff of the Public Administration, on temporary assignment, requisition or secondment, and by experts and legal executives hired to that end.

CHAPTER XI

Final and transitional provisions

Article 216

Supplemental system

In all situations which do not contradict this Law, the provisions of the Disciplinary Statute for Civil Servants, the Criminal Code and the Code of Criminal Procedure apply on a supplemental basis.

Article 217

District Prosecutors in the seats of judicial districts

The system of assistance established in paragraph 2 of Article 45, 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 Law.

Article 218

Implementation of paragraph 3 of Article 153

The system of seniority established in paragraph 3 of Article 153 is applicable to all Deputy Prosecutors General therein referred to who, at the time of entry into force of this Law, have already been appointed.

Article 219

Seniority

1. Seniority of members of the Public Prosecution Service consists of 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 vis-à-vis the other magistrates, appearing in the last definitive seniority list prior to the date of entry into force of this Law, are safeguarded.

Article 220

Safeguarded situations

1. The provisions set forth in paragraph 1 of Article 224 of Law No 39/78, of 5 July, shall remain in force.
2. The provisions set forth in paragraph 4 of Article 102 and of paragraph 3 of Article 101, pursuant to the wording given by the preceding Statute, shall not impair rights acquired by permanent assignment.

Article 221

Financial and budgetary measures

1. The Prosecutor General's Office is 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 implement this Statute.

Schedule referred to in paragraph 1 of Article 96

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
Access	100