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ASSEMBLY OF THE REPUBLIC

ACT 60/98

Dated the 28th August 1998

Pursuant to Article 165(p) and to Article 166(3) of the Constitution, the Assembly of the Republic enacts as follows:

Article 1

The Act 47/86, dated the 15th October, as modified by Act 2/90, dated the 20th January, Act 23/92, dated the 20th August, and Act 10/94, dated the 5th May, shall read as follows_

STATUTE OF THE PUBLIC PROSECUTION SERVICE

PART I

ON THE PUBLIC PROSECUTION SERVICE

HEADING I

Structure, Functions and Forms of Intervention

CHAPTER I

Structure and Functions

Article 1

Definition

The Public Prosecution Service represents the State, defends the interests prescribed by the law, takes part in the enforcement of the 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, under the terms of this Act.
2. The autonomy of the Public Prosecution Service is materialised in its being bound by criteria of legality and objectivity and in the exclusive submission of the Public Prosecutors to the directives, orders and instructions set out in this law.

Article 3.

Powers

1. It is specially incumbent on the Public Prosecution Service _
 - a) To represent the State, the Autonomous Regions, the local authorities, the disabled persons, the persons having no permanent residence and those whose whereabouts are unknown;
 - b) To take part in the enforcement of the criminal policy as defined by the organs of sovereignty;
 - c) To carry out the prosecution pursuant to the principle of legality;
 - d) To represent ex-officio the workers and their families in view of the defence of their social rights;
 - e) To defend the collective and diffuse interests in the cases falling within the law;
 - f) To defend the independence of the courts within its powers and to ensure that the jurisdictional duties are carried out pursuant to the Constitution and the statutory laws applying thereto;
 - g) Within its powers to promote the enforcement of the courts decisions;
 - h) To direct the criminal investigation even in cases where it is carried out by other bodies;
 - i) To promote and implement crime prevention initiatives;
 - j) To supervise the constitutionality of the statutory legislation;
 - l) To intervene on bankruptcy and insolvency proceedings, as well as in all other proceedings which are embodied of public interest;
 - m) To carry out consultative duties in accordance with this Act;
 - n) To supervise the procedural activity of criminal police bodies;

- o) To appeal from a decision where it has been reached by collusion of the parties in view of defrauding the law, or where such decision has been rendered in clear violation of the law;
 - p) To carry out all other duties conferred by the law.
2. The powers referred to in sub-paragraph (f) of paragraph 1 hereabove includes a binding duty to appeal in cases falling within, and under the terms of, the Act on the Organisation, the Operation and the Proceedings of the Constitutional Court.
 3. While exercising its duties, the Public Prosecution Service is assisted by justice officers and by criminal police bodies, and it can have access to advisory and consultative services.

CHAPTER II

System of intervention

Article 4.

Representing 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 Audit Court, by the Attorney General;
 - b) At the Courts of Appeal and at the Central Administrative Court, by Deputy Attorneys General;
 - c) At the lower courts, by District Attorneys and by Deputy District Attorneys.
2. At the other courts the Public Prosecution Service is represented under the terms prescribed by this Act.
3. The Public Prosecutors are supplied as provided in this Act.

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 disabled persons, the persons having no permanent residence and those whose whereabouts are unknown;
 - d) Where it defends ex-officio the workers and their relatives 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 Services ceases immediately after the respective counsel has been appointed.

Where it represents the disabled persons, the persons having no permanent residence and those whose whereabouts are unknown, the main intervention of the Public Prosecution Service ceases when their legal representatives file a petition opposing to the representation by the Public Prosecution Service.

3. The Public Prosecution Service has a complementary intervention in proceedings_
- a) Where, in cases other than those falling within paragraph 1 hereabove, the Autonomous Regions, the local authorities, the public moral persons, the moral persons of public utility, the disabled persons 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 by statutory provisions.

Article 6.

Complementary Intervention

When intervening in a complementary capacity, the Public Prosecution Service sees to the interests entrusted to it, and it takes such measures as deemed appropriate.

2. The terms of the intervention are set out in the procedural law.

HEADING II

The bodies and agents of the Public Prosecution Service

CHAPTER I

General Provisions

Article 7

Bodies

The bodies of the Public Prosecution Service are_

- a) The Attorney General's Office;
- b) The District Deputy Attorneys General's Offices;
- c) The District Attorneys' Offices.

Article 8

Agents of the Public Prosecution Service

1. The agents of the Public Prosecution Service are_

- a) The Attorney General;
- b) The Vice Attorney General;
- c) The Deputy Attorneys General;
- d) The District Attorneys;
- e) The Deputy District Attorneys.

2. The agents of the Public Prosecution Service may be assisted by advisors, in the terms determined by the law.

CHAPTER II

The Attorney General's Office

SECTION I

Structure and powers

Article 9.

Structure

- 1. The Attorney General's is the highest body of the Public Prosecution Service.

2. The Attorney General's Office comprises the Attorney General, the Superior Council of the Public Prosecution Service, the Consultative Council of the Attorney General's Office, the Legal Auditors and the Technical and Administrative Support Services..
3. The Central Department of Investigation and Prosecution, the Office for Documentation and Comparative Law and the Technical Advisory Unit operate under the Attorney General's Office.
4. The organisation, the staff list and the staff regimen of the Bureau for Documentation and Comparative Law and of the Technical Advisory Unit are defined in specific statutory provisions.

Article 10.

Powers

The Attorney General's Office is competent_

- a) To promote the democratic legality;
- b) To appoint, assign, transfer, promote, to dismiss or remove from office, consider the professional merit, take disciplinary action and carry out, in general, all acts of a similar nature concerning the Public Prosecutors, except for the Attorney General;
- c) To direct, coordinate and supervise the activity of the Public Prosecution Service, and to issue directives, orders and instructions binding on the Public Prosecutors while carrying out their functions;
- d) To give legal opinion on the lawfulness of agreements in which the State is an interested party;
- e) To give a legal opinion in cases of consultation provided for in law and where requested by the President of the Assembly of the Republic or by the Government;
- f) To propose legislative measures to the Minister of Justice in view of increasing the efficiency of the Public Prosecution Service and to attain the improvement of the judicial institutions;
- g) To inform the Assembly of the Republic and the Government, through the Minister of Justice, on ambiguities, deficiencies or contradictions found in statutory provisions;
- h) To supervise the procedural activity of the criminal police bodies;
- i) To carry out other functions assigned to it by the law.

Article 11.

Presidency

The Attorney General's Office shall be presided over by the Attorney General.

SECTION II

The Attorney General

Article 12.

Powers

1. It is incumbent on the Attorney General_
 - a) To preside over the Attorney General's Office;
 - b) To represent the Public Prosecution Service at the Courts referred to in Article 4(1)(a);
 - c) To require to the Constitutional Court the issuing of a legally binding declaration on the unconstitutionality or unlawfulness of any rule.
2. As president of the Attorney General's Office, it is incumbent on the Attorney General_
 - a) To promote the democratic legality;
 - b) To direct, coordinate and supervise the activity of the Public Prosecution Service, and to issue directives, orders and instructions binding on the Public Prosecutors;
 - c) To call the Superior Council of the Public Prosecution Service and the Consultative Council of the Attorney General's Office, and to preside over the respective meetings;
 - d) To inform the Minister of Justice of the need for statutory provisions likely to ensure the enforcement of constitutional principles;
 - e) To supervise the procedural activity of the criminal police bodies;
 - f) To inspect, or order the inspection of, the services of the Public Prosecution Service and to order any inquiries, investigations and criminal or disciplinary proceedings concerning the Public Prosecutors;
 - g) To propose legislative measures to the Minister of Justice in view of increasing the efficiency of the Public Prosecution Service and of improving the operation of the judicial institutions;

- h) To intervene, either in person or by representation, in contracts in which the State is a concerned party, should the law so require;
 - i) To supervise the inspection services of the Public Prosecution Service;
 - j) To invest powers in the Vice Attorney General, the Deputy Attorneys General and the Inspectors of the Public Prosecution Service;
 - l) To apply the powers granted to the Ministers - except in case of appointment - to the staff of the Technical and Administrative Support Services of the Attorney General's Office and to those services operating under it;
 - m) To carry out such other functions as assigned by law.
3. The directives referred to in paragraph 2(b) hereabove concerning the interpretation of the statutory provisions are published in the II Series of the Official Gazette Diário da República.
 4. The Attorney General is assisted by his Legal Advisory Staff.
 5. The structure and composition of the Legal Advisory Staff of the Attorney General are defined in specific statutory provisions.

Article 13.

Assistance and supply

1. The Attorney General is assisted and supplied by the Vice Attorney General.
2. By the Courts referred to in Article 4(1)(a), the assistance and the supply are also assured by Deputy Attorneys General, the number of whom is specified in a schedule set by decision of the Minister of Justice, upon the proposal of the Superior Council of the Public Prosecution Service.
3. The Attorney General shall appoint, every two years, a Deputy Attorney General entrusted with the coordination of the activities of the Public Prosecution Service by each of the Courts referred to in paragraph 2 hereabove.

Article 14.

Supply of the Vice Attorney General

Should he be absent or otherwise prevented from acting, the Vice Attorney General shall be supplied by a Deputy Attorney General designated to the effect by the Attorney General or, failing so, by the senior of all the Deputy Attorneys General holding office in Lisbon.

SECTION III

The Superior Council of the Public Prosecution Service

SUBSECTION I

Organisation and operation

Article 15.

Composition

1. The Attorney General's Office carries out its powers as regards the disciplinary and management matters through the Superior Council of the Public Prosecution Service.

2. The Superior Council of the Public Prosecution Service is composed of_
 - a) The Attorney General;
 - b) The District Deputy Attorneys General;
 - c) A Deputy Attorney General elected from and among the Deputy Attorneys General;
 - d) Two District Attorneys elected from and among the District Attorneys;
 - e) Four Deputy District Attorneys elected from and among the Deputy District Attorneys, 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. The Public Prosecutors may not decline the charge of members of the Superior Council of the Public Prosecution Service.

Article 16.

Election principles

1. The election of the Public Prosecutors as referred to in article 15(2)(c), (d) and (e) is made by universal and secret ballot, each of the rankings being represented by an electoral college composed of the respective Prosecutors in tenure of office.

2. The Public Prosecutors' census is organised *ex-officio* by the Attorney General's Office.
3. The electors may vote by post.

Article 17.

Active and passive electoral capacity

Are deemed electors and eligible the Prosecutors belonging to each rank and in effective tenure of office within the Public Prosecution Office.

Article 18.

Date of elections

1. The elections shall 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 Attorney General shall announce the date of election 45 days minimum beforehand by notice published in the official gazette *Diário da República*.

Article 19.

Special form of election

1. The members of the Superior Council of the Public Prosecution Service referred to in article 15(2)(d) and (e) shall be elected by means of lists signed by a minimum of 20 or 40 electors, respectively.
2. The election of the Public Prosecutors referred to in paragraph 1 hereabove shall be 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 ascertained 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 categories as mandates assigned to the respective body;
 - c) The mandates belong to the lists to which correspond the categories of the series established by the rule above, each of the lists receiving as many mandates as there are categories in the series;

- d) Where one or more mandates remain to be assigned and where the categories of the series are equal and the lists are different, the mandate(s) shall fall within the list(s) which obtained the highest number of votes. If more than one list obtains the same number of votes, no mandate may be assigned and the election has to be repeated.
3. The lists comprise two substitute candidates for every permanent candidate.
 4. Candidates may not appear on more than one list.
 5. In the absence of candidates, the election shall be carried out pursuant to a list prepared by the Superior 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 Attorneys is carried out as follows_
 - 1st mandate: the Deputy District Attorney proposed by the judicial district of Lisbon;
 - 2nd mandate: the Deputy District Attorney proposed by the judicial district of Oporto;
 - 3rd mandate: the Deputy District Attorney proposed by the judicial district of Coimbra;
 - 4th mandate: the Deputy District Attorney proposed by the judicial district of Évora;

Article 21.

Election Committee

1. The supervision of the regular effectiveness of the elections and the final ascertainment of the voting are incumbent on an election committee.
2. The election committee is composed of the Attorney General and the members referred to in Article 15(2)(b).
3. One representative from each list competing in the election has the right to join the election committee.
4. The charge of president is carried out by the Attorney General, and the decisions are taken by a majority vote. The president has the casting vote.

Article 22.

Responsibilities of the election committee

The election committee is specially responsible for the resolution of any doubts arising as regards the interpretation of the election regulations and for the decision-making upon complaints arising 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.

Regulating provisions

Those stages of the electoral process which do not fall within the articles hereabove are set out in regulations published in the Diário da República.

Article 25.

Tenure of office

1. The members referred to in Article 15(2)(c), (d) and (e) shall hold their offices for a term of three years, renewable once in the term immediately following.
2. Whenever, during his term of office, a Public Prosecutor ceases to belong to the original hierarchical ranking or grade, or if there is an impediment, the first substitute is called forward or, failing this, the second substitute. If not possible, than a vacancy is declared and a new election is held pursuant to the articles hereabove.
3. The substitutes and the members subsequently elected hold the respective office until the office in which the original holder was invested expires.
4. The mandate of the members elected by the Assembly of the Republic expires with the first meeting of a subsequently elected Assembly.
5. The mandate of the members designated by the Minister of Justice expires when a new minister takes up the office. The new minister must either confirm them or make a new designation.
6. In spite of the expiration of the respective mandates, the elected or designated members remain in office until those who are to replace them take the charge.

7. The Superior Council of the Public Prosecution Service decides on cases where the duties of the member should be carried out in full or with a reduction of service corresponding to the original office.
8. The members of the Superior Council 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 an allowance under the terms and in the amount set out by the Minister of Justice and, if residing outside Lisbon, to assistance with expenses pursuant to the law.

Article 26

Composition

1. The Superior Council of the Public Prosecution Service shall operate in plenary session or in sections.
2. The plenary session comprises all the members of the Council.

Article 27.

Powers

The Superior Council of the Public Prosecution Service is competent_

- a) To 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 the Public Prosecutors, except for the Attorney General;
- b) To approve the electoral regulations of the Council, the internal regulations of the Attorney General's Office, the regulations provided for in Article 134(4), and the budget proposal for the Attorney General's Office;
- c) To deliberate upon, and to issue, directives regarding internal organisation and staff management.
- d) To propose to the Attorney General the issuing of directives binding on the Public Prosecutors while carrying out their duties;
- e) To propose to the Minister of Justice, through the intermediary of the Attorney General, the legislative measures necessary to increase the efficiency of the Public Prosecution Service and to improve the response of the judicial institutions;
- f) To acknowledge claims falling within this Act;

- g) To approve the annual plan of inspections and to order the carrying out of inspections, investigations and inquiries;
- h) To give opinion regarding the judicial organisation and, in general, the administration of justice;
- i) To carry out such other functions as assigned by law.

Article 28.

Operation

1. The Superior Council of the Public Prosecution Service shall ordinarily meet every two months and, extraordinarily, whenever called by the Attorney General, on his initiative or at the request of, at least, seven of its members.
2. The decisions are taken by a majority vote, the Attorney General having the casting vote.
3. For decisions to be valid, 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 Attorney General's Office.

Article 29.

Sections

1. As regards the evaluation of professional merit, the Superior Council of the Public Prosecution Service may meet in sections, in terms defined by internal regulations of the Attorney 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 Attorney General and of the following members of the Board_
 - a) Five of the members referred to in Article 15(2)(b), (d) and (e), elected by their peers, in proportion to their respective representation;
 - b) The Deputy Attorney General referred to in Article 15(2)(c);
 - c) Three of the persons referred to in Article 15(2)(f) elected by and among their peers for terms of 18 months;
 - e) One of the persons referred to in Article 15(2)(g) chosen by the drawing of lots, for rotating terms of 18 months

4. Where an election is not possible or where there is a tie, the Attorney General shall appoint the non-elected members pursuant to the provisions of the final part of subparagraph (a) of paragraph 4 hereabove.
5. Objections to decisions of the sections should be made to the Council sitting in plenary session.

Article 30.

Assignment of matters subject to opinion

1. The matters subject to opinion are assigned following a drawing of lots among the members of the Council according to the internal regulations.
2. The member to whom a matter is assigned becomes its reporter.
3. In the case of a claim to the plenary session, the matter shall be assigned to a different reporter.
4. The reporter 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 sub judice rule and in such a manner as not to cause harm to the parties.
5. Where the reporter's understanding 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 reporter 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 reporter in charge of the matter may be expressed by means of an agreeing decision, without need for a report thereon.

Article 31.

Delegation of powers

The Superior Council of the Prosecution Service may delegate on the Attorney 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 shall attend meetings of the Superior 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.

Appeals

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

SUBSECTION II

The Inspection Services

Article 34.

Composition

1. The Inspection of the Public Prosecution Service operates by the Superior Council of the Public Prosecution Service.
2. The Inspection of the Public Prosecution Service is composed of Inspectors and Inspection Secretaries, the number of whom appear in a schedule approved by a decision of the Minister of Justice, upon proposal of the Superior Council of the Public Prosecution Service.
3. Any inspection intended to collect information on the service and merit of the Public Prosecutors, as well as the disciplinary inquiries and proceedings may not be carried out by inspectors of a ranking or seniority below those of the Public Prosecutors subject to inspection.
4. The Inspection Secretaries are recruited among justice officers and are appointed in commission.
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 undertake inspections, inquiries and investigations to 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 Superior Council of the Public Prosecution Service or upon the Attorney General's initiative.
2. Supplementarily the Inspection services aim at collecting information on the service and the merit of the Public Prosecutors.

SECTION IV

The Consultative Council of the Attorney General's Office

Article 36.

Composition

1. The Attorney General's Office carries out consultative functions through its Consultative Council.
2. The Consultative Council of the Attorney General's Office is composed of the Attorney General and Deputy Attorneys General, the number of whom appear in a schedule approved by the Minister of Justice, upon proposal of the Superior Council of the Public Prosecution Service.

Article 37.

Powers

It is incumbent on the Consultative Council of the Attorney General's Office_

- a) To give 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) to give opinion, at the request of the Government, on the wording and contents of bills;
- c) to give opinion on the legality of agreements in which the State is concerned, where its opinion is required by the law or requested by the Government;

- d) To inform the Government, through the Minister of Justice, of any ambiguities, deficiencies or contradictions found in statutory texts and to propose the appropriate amendments thereto;
- e) to give opinion on matters submitted to it by the Attorney General;
- f) To approve internal rules.

Article 38.

Operation

1. The assignment of the matters subject to opinion shall be made by the drawing of lots, according to the seniority of the Deputy Attorneys General admitted to assignment.
2. Notwithstanding the provisions of paragraph 1 hereabove, the Attorney General may decide that such matters should be assigned according to the criterion of specialisation of the Deputy Attorneys General.
3. The quorum for the Consultative Council to meet is at least half of its members plus one.

Article 39.

Period for producing the opinions

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

Article 40

Meetings

1. The Consultative Council meets once every fortnight and extraordinarily when called by the Attorney General.
2. During the annual judicial holiday the Council meets once to consider any urgent matters.
3. The Secretary of the Attorney General's Office shall act as Secretary for the Consultative Council.

Article 41.

Voting

1. The resolutions of the Consultative Council shall be taken by a majority vote, and the opinions shall be signed by the Deputy Attorneys General having intervened therein. Any statements thereto are to be enclosed.
2. The Attorney General has the casting vote, and he also signs the opinions.

Article 42.

Binding force of the opinions

1. The Attorney General may decide, under the powers conferred on him by Article 12(2)(b), that the doctrine comprised in the Consultative Council opinions are to be followed and upheld by Public Prosecutors.
2. All Public Prosecutors are informed of the contents of the opinions referred to in paragraph 1 hereabove, which shall be published in the II Series of the official gazette *Diário da República* with reference to the decision which grants them binding force..
3. On his own initiative or upon a grounded statement of any Public Prosecutor, the Attorney General may submit questions to be reconsidered for possible review of the doctrine previously set out.

Article 43.

Ratification and effect of the opinions

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

SECTION V

The Legal Auditors

Article 44.

Legal auditors

1. By the Assembly of the Republic, by each ministry and by the Ministers of the Republic for the Autonomous Regions may be assigned one Deputy Attorney General bearing the ranking of Legal Auditor.
2. The Legal Auditors are appointed on commission.
3. The Legal Auditors may combine their functions with those assigned to them by the Attorney General in the scope of the powers of the Public Prosecution Service which, by law, do not belong to specific bodies.
4. The expenses with the Legal Auditors are supported by specific funds included in the budget of the Ministry of Justice.

Article 45.

Powers

1. The Legal Auditors carry out 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 Ministers of State for the Autonomous Regions by which they operate.
2. The Legal Auditors must propose to the Attorney 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 set out by the Auditors, they may submit the matter to the Consultative Council of the Attorney General's Office for appreciation.
4. Where consultations are being discussed in relation to the Assembly of the Republic or to ministries by which they are carrying out duties, the Legal Auditors shall take part in the meetings of the Consultative Council of the Attorney General's Office, being granted the right to vote.

SECTION VI

The Central Department of Investigation and Prosecution

Article 46

Definition and Composition

1. The Central Department of Investigation and Prosecution is a body which coordinates and directs the investigation and prevention of the violent, highly organised or particularly complex crime.
2. The Central Department of Investigation and Prosecution is composed of a Deputy Attorney General, who leads the department, and Attorney for the Republic, the number of whom appears in a schedule approved decision of the Minister of Justice, after consultation with the Superior Council of the Public Prosecution Service.

Article 47

Powers

1. The Central Department of Investigation and Prosecution is responsible for the coordination and the direction of the investigation of the following crimes_
 - a) Crimes against peace and humanity;
 - b) Terrorist organisations and terrorism;
 - c) Crimes against national security, except for electoral crimes;
 - d) Trafficking in narcotics, psychotropic substances and precursors, except in situations of direct distribution to the consumer, and criminal association in view of trafficking in drugs;
 - e) Money laundering;
 - f) Corruption, embezzlement and economic subterfuge in business;
 - 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 using information technology.
 - l) Economic or financial breaches on an international or transnational level.
2. The functions of coordination of the Central Department of 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 Investigation and Prosecution seated at the judicial districts, on the nature, the volume and the tendencies of the evolution of the criminal activity, as well as on the results achieved as regards the prevention, the detection and the control.
3. The Central Department of Investigation and Prosecution shall be responsible for the direction of inquiries and the carrying out of the prosecution_
- a) In what concerns the crimes falling within paragraph 1 hereabove, when the criminal activity occurs in areas belonging to different judicial districts;
 - b) Following an order of the Attorney General, whenever - considering the specially serious crimes - the particular complexity or the extent of the criminal activity throughout the territory justify a concentrated direction of the investigations.
4. The Central Department of Investigation and Prosecution is responsible for the implementation of actions of prevention provided for in law, concerning the following crimes_
- a) Money laundering;
 - b) Corruption, embezzlement and economic subterfuge in business;
 - 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 using information technology.
 - f) Economic or financial breaches on an international or transnational level.

SECTION VII

The Bureau for Documentation and Comparative Law

Article 48

Powers

1. It is incumbent on the Bureau for Documentation and Comparative Law _
- a) To assist in legal matters, to collect, deal with and widespread legal information, especially in the areas of community, foreign and international law, as well as to carry out studies and widespread information regarding comparative systems of law, notwithstanding the powers of other services of the Ministry of Justice;
 - b) To cooperate in the organisation and treatment of documentation originating from international bodies;

- c) To give support to the Minister of Justice in the area of international legal and judicial co-operation;
 - d) To participate in international meetings by appointing Public Prosecutors or officers for that purpose, to support the experts selected to participate in such meetings and to collaborate with national representatives in international organisations;
 - e) To prepare, publish and distribute publications organised or directed by the Attorney General's Office or by the Attorney General;
 - f) To collaborate in the disclosure abroad of the Portuguese legal system, namely among the member States of the Community of Portuguese speaking countries;
 - g) To develop projects of legal data processing and management, within the scope of the powers granted to the Attorney General's Office, according to the plans approved by the Ministry of Justice;
 - h) To carry out other functions conferred on it in the field of documentation and legal information.
2. The organisation, the staff list and the staff regimen of the Office for Documentation and Comparative Law shall be defined in specific statutory provisions.

SECTION VIII

The Technical Advisory Unit

Article 49

Powers

1. It is incumbent on the Technical Advisory Unit to ensure the rendering of technical consultation and advice to the Attorney General's Office and, in general, to the Public Prosecution Service on economic, financial, banking and accountancy matters, as well as on the securities market.
2. The provisions of Article 48(2) also apply hereunto.

SECTION IX

The Technical and Administrative Support Services of the Attorney General's Office

Article 50

Structure, staff and assignment regimen

The structure, staff and assignment regimen as regards the Technical and Administrative Support Services of the Attorney General's Office are set out by Order, after consultation with the Attorney General's Office.

CHAPTER III

State Conflict Matters

Article 51

State Conflict Departments

1. There may be created State Conflict Departments.
2. The State Conflict Departments are competent to act in civil or administrative matters or in matters combining civil and administrative issues.
3. The State Conflict Departments are created by decision of the Minister of Justice, upon proposal of the Superior Council of the Public Prosecution Service.
4. The decision of the Minister of Justice shall establish the territorial jurisdiction of the State Conflict Departments. It shall also establish the respective staff of Prosecutors and the regulations of the support services, pursuant to Article 215.
5. The State Conflict Departments are organised under the supervision of the Attorney General's Office or the District Deputy Attorneys General's Offices, depending on whether their territorial jurisdiction falls within or exceeds the area of the judicial district.

Article 52

Composition

1. The State Conflict Departments are directed by Deputy Attorneys General or by District Attorneys.
2. District Attorneys and Deputy District Attorneys carry out functions in the State Conflict Departments.

Article 53

Powers

The State Conflict Departments are competent to_

- a) Represent the State in court, in the defence of its patrimonial interests;
- b) Prepare, examine and follow up forms of extrajudicial resolution of conflicts where the State has interest.

CHAPTER IV

Access to Information

Article 54

Information

1. It is assured the 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.
2. For the purposes set out in paragraph1 hereabove, press offices may be set up by the Attorney General's Office and the District Deputy Attorneys General's Offices, under the supervision of the Attorney General or the District Deputy Attorneys General.

CHAPTER V

The District Deputy Attorneys General's Offices

SECTION I

District Deputy Attorney General's Office

Article 55

Structure

1. The seat of every judicial district shall have a District Deputy Attorney General's Office.
2. The Deputy Attorneys General shall carry out functions in the District Deputy Attorney General's Office.

Article 56

Powers

It is incumbent on the District Deputy Attorney General's Office_

- a) To promote the defence of democratic legality;
- b) To direct, coordinate and supervise the activity of the Public Prosecution Service in the judicial district and to issue orders and instructions binding on Public Prosecutors when carrying out their duties;
- c) To propose directives to the Attorney General aiming at the standardisation of the activity of the Public Prosecution Service;
- d) To coordinate the activity of the criminal police bodies;
- e) To supervise the procedural activity of the criminal police bodies;
- f) To supervise compliance with the law in the enforcement of penalties and restraining measures, as well as in the fulfilment of any coercive treatment, requesting clarification and proposing inspections whenever deemed necessary;
- g) To carry out studies on trends relating to doctrine and case-law, with a view to uniting the law and defending the principle of equal of rights for all citizens before the law;
- h) To carry out, together with the criminal police bodies, studies on factors and trends regarding the future of criminality;
- i) To produce the annual activity report and progress reports that are deemed necessary or hierarchically ordered;
- j) To carry out all other functions conferred by law.

SECTION II

The District Deputy Attorneys General

Article 57

Statute

1. The District Deputy Attorney General's Office is directed by a Deputy Attorney General who receives the designation of District Deputy Attorney General.

2. The District Deputy Attorney General is supplied, in case of absence or impediment to carry out his duties, by a Deputy Attorney General designated by him or, failing such designation, by the senior Deputy Attorney General.
3. The provisions of the present section apply, with the necessary changes, to the Public Prosecutors carrying out functions by the Central Administrative Court.
4. The District Deputy Attorney General may propose the designation of an officer from the services of the Ministry of Justice to act as his Secretary, on commission.

Article 58

Powers

1. It is incumbent on the District Deputy Attorney General_
 - a) To direct and coordinate the activity of the Public Prosecution Service in the judicial district and to issue orders and instructions;
 - b) To represent the Public Prosecution Service by the Court of Appeal;
 - c) To propose to the Attorney General the adoption of directives aiming at the standardisation of the Public Prosecution Service procedures;
 - d) To coordinate the activity of the criminal police bodies;
 - e) To supervise the operations of the Public Prosecution Service and the procedural activity of the criminal police bodies and to keep the Attorney General informed thereon;
 - f) To supervise the legality of the enforcement of measures depriving from liberty, measures for coercive treatment, and to propose inspection measures to the premises or services, as well as to propose the adoption of criminal or disciplinary provisions when deemed necessary;
 - g) To invest powers in the District Attorneys and in the Deputy District Attorneys in the county seat of the judicial district;
 - h) To organise the assignment of service among the District Attorneys of the same county, department or judicial *círculo*, notwithstanding the provisions of the procedural law;
 - i) To carry out all other functions conferred by law;
2. The District Deputy Attorney General may delegate on any other Deputy Attorneys General the supervision and coordination of the judicial district, according to areas of material intervention of the Public Prosecution Service.
3. The District Deputy Attorney General and the Deputy Attorneys General may be assisted by District Attorneys.

Article 59

Deputy Attorneys General

The Deputy Attorneys General holding their office in the District Deputy Attorney General's Office are responsible for:

- a) Representing the Public Prosecution Service in the Court of Appeal, under the supervision of the District Deputy Attorney General;
- b) Supervising and coordinating the areas of intervention that have been delegated to them.

CHAPTER VI

The District Attorneys' Offices

SECTION I

District Attorneys' Offices

Article 60

Structure

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

Article 61

Powers

The District Attorneys' Offices are specially responsible for directing, coordinating, and supervising the activity of the Public Prosecution Service in the area of the respective judicial *círculo* or by the courts or departments which they supervise.

Article 62

Direction

1. The District Attorney's Office is directed by one District Attorney.
2. By the courts and departments where there is more than one District Attorney, the District Attorneys may be appointed with specific functions of coordination.
3. The District Attorney is supplied, in case of absence or impediment to carrying out his duties, by the senior Prosecutor of the same rank or, failing so, by the Deputy District Attorney designated by the District Attorney.

SECTION II

The District Attorneys

Article 63

Powers

1. It is incumbent on the District Attorneys_
 - a) To represent the Public Prosecution Service by the lower courts. Where the seriousness of the offence committed, the complexity of the cases or the particular relevance of the interest in cause, namely in hearings handed by a bench of judges or a jury, the District Attorney himself must ensure the representation of the Public Prosecution Service;
 - b) To direct and supervise the carrying out of Public Prosecution Service duties and to keep the District Deputy Attorney General informed thereon;
 - c) To give orders and instructions;
 - d) To invest powers in the Deputy District Attorneys;
 - e) To render the decisions provided for in the procedural law;
 - f) To define forms of working with the criminal police bodies, social reintegration bodies and establishments of guidance, treatment and cure.
 - g) To carry out all other functions conferred by the law.
2. It is incumbent on the Coordinating District Attorney_
 - a) To define criteria for the management of services, after consultation with the other District Attorneys.

- b) To establish rules of procedure, with a view to attaining the objectives of standardisation, correction, and rationalisation, after consultation with the other District Attorneys;
 - c) To ensure the collection and treatment of procedural and statistical information concerning the Public Prosecution Service and to transmit such information to the District Deputy Attorney General;
 - d) To establish mechanisms for working together with the structures of the Public Prosecution Service which mediate in other procedural phases, in order to improve the operation and the efficiency;
 - e) To coordinate the work with criminal police bodies, social reintegration bodies and establishments of guidance, treatment and cure.
 - f) To render decisions on the supply of District Attorneys, in cases of absence or impediment likely to render void the feasibility of the information to be given in reasonable time to the District Deputy Attorney General in reasonable time.
 - g) To make decisions concerning internal power conflicts;
 - h) To ensure the external representation of the District Attorney's Office.
3. The Coordinating District Attorney may accumulate the functions referred to in paragraph 2 hereabove with the direction of one or more sections.
 4. In case of accumulation of service, vacancy of post or impediment of its holder for a period exceeding a fortnight, the District Deputy Attorneys General may, subject to previous communication to the Superior Council of the Public Prosecution Service, assign the service of other counties, courts or departments to the District Attorneys.
 5. The measure provided for in paragraph 4 hereabove ceases to apply after a 6-month period, and it may not be renewed as regards the same District Attorney, without the agreement of the latter, before a period of three years has elapsed.
 6. The District Attorneys 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 Superior Council of the Public Prosecution Service, between the limits of one fifth of and the total salary.

SECTION III

The Deputy District Attorneys

Article 64

Deputy District Attorneys

1. The Deputy District Attorneys carry out functions in counties according to the schedule enclosed to in the legislation on judicial organisation.
2. It is the responsibility of the Deputy District Attorneys to represent the Public Prosecution Service by the lowers courts, notwithstanding the provisions of Article 63 (1)(a).
3. Notwithstanding the guidance of the respective District Deputy Attorney General, the assignment of service among Deputy District Attorneys in the same district is subject to decision of the competent District Attorney.
4. The provisions of Article 63 4),(5) and (6) also apply, with the necessary changes, to the Deputy District Attorneys.

Article 65.

Supply of Deputy District Attorneys

1. In the counties with two or more Deputy District Attorneys, these will supply each other according to the order established by the District Attorney.
2. Where the absence or the impediment does not exceed a fortnight, the District Attorney may indicate another Deputy District Attorney from the same county.
3. The District Attorney may also designate another competent person to supply, preferably qualified and possessing a degree in Law.
4. Notwithstanding the provisions of paragraphs 1, 2 and 3, the Deputy District Attorneys shall be supplied, in case of absence or impediment from acting, by the notary of the municipality where the court is located.
5. In counties with more than one notary, the supplier shall be designated by the District Attorney.
6. Suppliers who are not Public Prosecutors and carry out duties for a period exceeding a fortnight are entitled to remuneration fixed by the Minister of Justice, after consultation with the Superior Council of the Public Prosecution Service, between the limits of one third of and the total salary.

Article 66.

Supply in urgent cases

In case of an urgency and if the supply cannot be made in the manner indicated in the preceding paragraphs, the judge shall appoint a competent person for each case, preferably qualified and possessing a degree in Law.

Article 67.

Representation of the State in civil actions

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

Article 68.

Representation of the State in criminal actions

1. In criminal actions, and notwithstanding the provisions of Article 47(3)(b) and Article 73(1)(c), the Attorney General may appoint any Public Prosecutor to assist or supply another Prosecutor to whom the process has been allocated, wherever this is justified by grounded reasons of procedural complexity or social consequences.
2. The District Deputy Attorney 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. Where there is a conflict between bodies, persons or interests which the Public Prosecution Service has a duty to represent, the District Attorney shall request the Bar to appoint a lawyer to represent one of the parties.
2. Where the matter is urgent and while an appointment cannot be made under the terms of paragraph 1, the judge shall appoint a lawyer to take part in the proceedings.
3. The fees due for the assistance referred to in the previous paragraphs shall be borne by the State.

CHAPTER VII

The Departments of 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 Investigation and Criminal Prosecution.

Article 71

Counties

1. Departments of Investigation and Prosecution may be created in counties where there is a significant volume of cases.
2. For the purposes of paragraph 1, counties considered to have a significant volume of cases are those which have registered more than 5000 inquiries annually in at least three of the last five judicial years.
3. The Departments of Investigation and Prosecution in the counties are created by decision of the Minister of Justice, after consultation with the Superior Council of the Public Prosecution Service.

Article 72

Structure

1. The Departments of Investigation and Prosecution may be organised in sections, in response to the nature and frequency of crimes.
2. The Departments of Investigation and Prosecution in the county corresponding to the seat of the judicial district are directed by Deputy Attorneys General or by District Attorneys.
3. The Departments of Investigation and Prosecution in the counties are directed by District Attorneys.
4. When the Departments of Investigation and Prosecution are organised in sections, these are directed by District Attorneys.
5. Notwithstanding the provisions of paragraphs 1, 2, 3 and 4, District Attorneys and Deputy District Attorneys carry out functions in the Departments of Investigation and Prosecution, their number being fixed by decision of the Minister of Justice, upon a proposal from the Superior Council of the Public Prosecution Service.

Article 73

Powers

1. It is incumbent on the Departments of Investigation and Prosecution in the counties corresponding to the seat of the judicial district_
 - a) to direct the inquiry and carry out the prosecution as regards the crimes committed in the county area;
 - b) To direct the inquiry and carry out the prosecution as regards the crimes indicated in Article 47(1), when the criminal activity occurs in counties belonging to different *círculos* of the same judicial district.
 - c) Following an order from the District Deputy Attorney General, to direct the inquiry and carry out the prosecution when, concerning particularly serious or complex crimes or where the criminal activity is widespread throughout the territory, a concentrated direction of the investigation is justified.
2. The Departments of Investigation and Prosecution in the counties referred to in Article 71 shall be responsible for directing the inquiry and carrying out the prosecution as regards the crimes committed in the county.

PART II

ON THE MAGISTRACY OF THE PUBLIC PROSECUTION SERVICE

SINGLE HEADING

The Public Prosecutors

CHAPTER I

Organisation and statute

Article 74.

Scope

1. The Public Prosecutors are subject to the provisions of this Act, regardless of their situation.
2. The provisions of this Act shall also apply, with the due amendments, to the suppliers of the Public Prosecutors where in tenure of office.

Article 75.

Parallelism with the Judiciary

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

Article 76.

Statute

1. The Public Prosecutors are subject to liability, and they are hierarchically subordinate.
2. The liability is translated into their being answerable, under the law, for the fulfilling of their duties and the compliance with the directives, orders and instructions they received.
3. The hierarchy consists of the subordination of Public Prosecutors of a lower rank to those of a higher rank, under the terms of this Act, and of their 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, the civil liability can only be enforced through a recursive action of the State.

Article 78.

Mobility

The Public Prosecutors may not be transferred, suspended, promoted, retired, dismissed or have their position in any way altered unless as provided for in this Act.

Article 79.

Limits to the direction powers

1. The Public Prosecutors may request to the hierarchical superior that orders or instructions be sent in writing; order must always be given in this form when they are to produce effects in a given proceedings.
2. The Public Prosecutors 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 previous paragraphs apply, the Public Prosecutor who has issued the directive, order or instruction may carry it out himself or assign it to another 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 Attorney General, unless on grounds of unlawfulness;
6. Unjustified use of the right to refuse is liable of a disciplinary sanction.

Article 80

Powers of the Minister of Justice

It is incumbent on the Minister of Justice_

- a) To transmit, through the Attorney General, specific instructions in civil actions and proceedings for extrajudicial resolution of conflicts in which the State has an interest;
- b) To authorise the Public Prosecution Service , following consultation with the relevant Government department, to admit, settle or withdraw from civil actions in which the State is a party;]
- c) To request, through the Attorney General, service reports and information from any Prosecutor or agent of the Public Prosecution Service;
- d) To request information and clarification from the Superior Council of the Public Prosecution Service and to communicate with it whenever deemed necessary;
- e) To request to the Attorney General to carry out inspections, investigations and inquiries, namely to the criminal police bodies.

CHAPTER II

Incompatibilities, duties and rights of Public Prosecutors

Article 81.

Incompatibilities

1. The carrying out of any other public or private function of a professional nature, other than teaching, scientific research of a legal nature or managerial functions in representative organisations of the Magistracy of the Public Prosecution Service, is incompatible with the performance of the office of Public Prosecutor.
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 the compliance of the official duties.
3. The activity of full-time Prosecutor member of the Superior Council of the Public Prosecution Service, of Prosecutor member of the Attorney General's Legal Advisory Staff, of management or teaching in the Centre for Judicial Studies, and of 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.

Political activities

1. The Public Prosecutors are forbidden from taking part in party political activities of a public nature while in tenure of office.
2. The Public Prosecutors may not hold political offices, with the exception for 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. The Public Prosecutors may not serve in a tribunal or court in which duties are being carried out by the Judges or Public Prosecutors, 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. The Public Prosecutors may not serve in a court or department belonging to a judicial *círculo* in which they have had a lawyer's office in the last five years.

Article 84.

Sub judice rule.

1. The Public Prosecutors may not make 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 aiming at the fulfilment of rights and legitimate interests, namely that of access to information, and which is not a matter covered by the secrecy of justice or by professional secrecy, is not covered by the *sub judice rule*.

Article 85.

Necessary residence

1. The Public Prosecutors have necessary residence where the court or the place of service is located, although they may reside in any part of the district 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, the Public Prosecutors may be authorised to live in a location other than that set out in paragraph 1.

Article 86.

Absence

1. The Public Prosecutors may be absent from their district while in the fulfillment of their duties, in leave of absence or during the annual judicial holidays, Saturdays, Sundays and public holidays.
2. Absence during the annual judicial holidays, Saturdays, Sundays and public holidays must not impair the performance of urgent service, a rotation system being organised for that purpose.
3. Unjustified absence shall imply 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 Public Prosecutors may be absent from the area in which they perform their duties 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, and where they do not result into default of any act of service or disruption thereof.
3. Absences that occur as a result of the performance of managerial duties in representative organisations of the Magistracy of the Public Prosecution Service are considered as equal to those referred to in the previous paragraph, up to a limit of four per month.
4. In case of absence, the Public Prosecutors must inform on their whereabouts.

Article 88

Leave of absence

1. If it is of no inconvenience for the service, the Superior Council of the Public Prosecution Service or the District Deputy Attorney General, acting as its delegate, may permit leave of absence for Public Prosecutors to attend congresses, symposiums, courses, seminars, meetings, or other events taking place either in the country or abroad, connected with their professional activity.
2. The provisions of Order 272/88, of 3 August, apply to Public Prosecutors, with the necessary changes, when they propose to undertake work or study programmes, or to participate in courses or training of recognised public interest.
3. The intentions referred to in paragraph 2 are subject to decision of the Minister of Justice, upon proposal of the Superior Council of the Public Prosecution Service, in which reference must be made to the duration, conditions and terms of the programmes and training.

Article 89.

Public Prosecutors on long-term unpaid leave

The Public Prosecutors on long-term unpaid leave may not invoke such quality in any means of identification relating to the profession that they carry out.

Article 90.

Treatment, honours and professional dress

1. The Attorney General has the same rank, treatment and honours as the President of the Supreme Court of Justice, and he uses the same professional dress.

2. The Vice Attorney General has the same rank, treatment and honours as the judges of the Supreme Court of Justice, and he uses the same professional dress.
3. The Deputy Attorneys General have the same rank, treatment and honours as the judges of the Court of Appeal, and they use the same professional dress.
4. The District Attorneys and the Deputy District Attorneys have the same rank, treatment and honours as the judges in the courts where they carry out duties and use the same professional dress..

Article 91.

Preventive detention

1. The Public Prosecutors 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 in flagrant committing a crime likely to be punished with imprisonment of more than three years.
2. In case of arrest or detention, the Public Prosecutor shall be immediately brought before the competent judicial authority.
3. The Public Prosecutors 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 Public Prosecutor, this shall be presided over, under penalty of invalidity, by a competent judge, who will give prior notice to the Superior 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, investigation and trial of Public Prosecutors due to a criminal offence, as well as for appeal in matters against the national order, is the one hierarchically placed immediately above the Court to which the Public Prosecutor is assigned. In the case of the Attorney General, the Vice Attorney General and the Deputy Attorneys General the competent court is the Supreme Court of Justice.

Article 93.**Exercise of advocacy**

The Public Prosecutors may advocate on behalf of themselves, of their spouses or their descendents.

Article 93**Relations between Public Prosecutors**

The 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 the Public Prosecutors comprises the following_
 - a)Salary;
 - b)Supplements.
2. Allocation of any other type of payment, not covered by the remuneration components referred to in paragraph 1, is not allowed, notwithstanding the provisions of Article 98.

Article 96.**Salary and supplements**

1. The structure of the salaries to be monthly paid to the Public Prosecutors is set out in the indexing scale appearing in the list enclosed to this Act, of which it is part.
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 paragraph 2 is automatic, u under the terms of Article 2 of Act 26/84, of 31 July, with the wording given by Article 1 of Act 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 Act.

Article 97.

Settlement allowance

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

Article 98.

Representation expenses allowance

1. The Attorney General is entitled to a subsidy corresponding to 20 % of his salary, under the heading of representation expenses.
2. The Vice Attorney General and the District Deputy Attorneys General are entitled to a subsidy corresponding to 10% of their salaries, under the heading of representation expenses.

Article 99.

Relocation expenses

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

Article 100.

Expenses

Expenses are due whenever the Public Prosecutor travels on duty outside the district where the court or service to which he is assigned is located.

Article 101.

Distribution of official publications

1. The Attorney General, the Vice Attorney General and the Deputy Attorneys General are entitled to free distribution of the I and II Series of the official gazette *Diário da República*, of the I and II series of the parliamentary report *Diário da Assembleia da República*, of the bulletin of the Ministry of Justice *Boletim do Ministério da Justiça*, and of the bulletin on work and employment *Boletim do Trabalho e do Emprego*.
2. District Attorneys and Deputy District Attorneys are entitled to free distribution of the I series of the *Diário da República* in either its print or electronic version, of the *Boletim do Ministério da Justiça* and, where they so request, of all other publications referred to in paragraph 1.

Article 102.

Lodging house

1. In locations where it is deemed necessary, the Ministry of Justice shall place at the disposal of the Public Prosecutors, 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 Public Prosecutors who do not benefit from a lodging house under the terms of paragraph 1, 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 Superior Council of the Public Prosecution Service and the representative organisations of the 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 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.

Article 105.

Holidays and leave

- 1 The Public Prosecutors 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 period under the terms of the law.
2. By reason of a public or other legally fixed service the Public Prosecutors may take their holidays during a period other than that referred to in paragraph 1.
3. Absence due to holidays and the location to which the Prosecutor travels must be communicated to his superior.
4. The Prosecutor's superior may require him to return to 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.
5. The Public Prosecutors carrying out duties in the Autonomous Regions are entitled to take the annual judicial holidays on the Continent, accompanied by their families, the travelling expenses being borne by the State.
6. When, whilst taking holidays as provided for in the preceding paragraph, Public Prosecutors have to return to the Autonomous Region where they are assigned to fulfil a duty according to rotation, the travelling expenses shall be borne by the State.

Article 106.

Holiday rotations

1. The Attorney General shall organise a rotation service to assure urgent service during the judicial holidays or when the service so requires. The Deputy Attorneys General take part in such rotations.
2. The Public Prosecutors assure urgent service in the terms provided for in law.

Article 107.

Special rights

1. The Public Prosecutors are specially 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 Attorney General;
 - c) Entry and free passage in stations, ports and airports, upon simple display of an identification card;
 - d) While on duty within the respective area of operation, 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 territorial limits of the district within which they are carrying out duties or while on duty, in the circumstances set out in the final part of paragraph 2 of Article 85, between that area and the place of residence;
 - f) To make telephone calls using a confidential system, if this is accepted favourably by the Superior 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 Attorney General's Office;
 - h) Special security for their person, family and goods, requested by the Superior Council of the Public Prosecution Service or by the District Deputy Attorney 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) The 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 Superior Council of the Public Prosecution Service, being renewed where 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 Attorney General and the Vice Attorney General are entitled to a diplomatic passport and the Deputy Attorneys General are entitled to a special passport. Special passports may also be issued to District Attorneys and Deputy District Attorneys when travelling to other countries in the course of their duties.

4. The rights set out in paragraph 1(e) and (g), paragraph 2 and paragraph 3 in relation to the special passport, are extended to all members of the Superior 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 the Public Prosecutors on a subsidiary basis.

CHAPTER III

Evaluation

Article 109

Evaluation of the Public Prosecutors

The District Attorneys and the Deputy District Attorneys are evaluated by the Superior Council of the Public Prosecution Service with *Very Good*, *Good with Distinction*, *Good*, *Sufficient* and *Insufficient*¹, 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 volume 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 shall imply 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 where it is concluded that the Prosecutor is unfit, to allow for the possibility of his 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 Prosecutor.

¹ T.N.: these evaluations correspond in the British system to the marks A (Very Good), B+ (Good with distinction), B (Good), C (Sufficient) and D (Insufficient)

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 Minister of Justice's opinion shall qualify the concerned Prosecutor to take up a suitable office within the dependence of the Ministry services.

Article 111.

Evaluation of Public Prosecutors in commission

The Public Prosecutors in commission are not evaluated unless the Superior Council of the Public Prosecution Service has sufficient information on him or can obtain it through the necessary inspections. Otherwise the last evaluation shall be deemed updated.

Article 112.

Frequency of the evaluations

1. The District Attorneys and the Deputy District Attorneys are evaluated at least every four years.
2. The evaluation shall be considered out-of-date after four years unless the Public Prosecutor is not responsible for such situation or he 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 Prosecutor request 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 shall be given to the results of the preceding inspections, inquiries, investigations or disciplinary proceedings, tenure of office, annual reports and any complementary information in the possession of the Superior Council of the Public Prosecution Service.
2. Consideration is also given to the volume of work under the responsibility of the Public Prosecutor, the conditions of work and, as regards Public Prosecutors with less than five years service, the fact that the inspected service has been rendered in an access county or post.

3. The 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 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 courses or trainings, 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

The training courses are held in the Centre for Judicial Studies, under the terms of the Statute that governs the Centre.

Article 116.

Access

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

Article 117.

General conditions for access

1. The 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 shall be 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 shall be given to seniority.

Article 118.

Renunciation

1. The Public Prosecutors to be promoted on a certain move list may produce a renunciation declaration.
2. A renunciation declaration shall render the Prosecutor non-eligible for promotion by seniority for the next two years.
3. Renunciation declarations are produced to the Superior Council of the Public Prosecution Service within the time period set out in Article 134(3).
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 Attorneys

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 Attorney at access counties or places.
2. Appointments are made according to the grading order obtained in the access courses or trainings.

Article 120.

Deputy District Attorneys by the Departments of Investigation and Prosecution

The assignment of the vacancies for Deputy District Attorney by the Departments of Investigation and Prosecution in the county corresponding to the seat of the judicial district shall be made from among Deputy District Attorneys with at least seven years of service. The following criteria constitute grounds for preference_

- a) Evaluation by merit;
- b) Experience in criminal matters, especially in respect to study or direction of investigations into violent or highly organised crime;
- c) Specific training or the performance of investigative tasks in the field of criminal science.

Article 121

District Attorneys

1. The assignment of the vacancies for District Attorney shall be made by transfer or by promotion from among Deputy District Attorneys.
2. Vacancies not assigned by transfer shall be assigned by promotion.
3. Promotion shall be by means of competition or according to a list of seniority.
4. Only Deputy District Attorneys with a 10-year service minimum may be promoted by means of competition.
5. Vacancies are assigned, by order of their occurring, successively in the proportion of three by means of competition and two by a list of seniority.
6. The Public Prosecutors candidates to the competition, who are not assigned by that way, may be promoted according to the list of seniority, where they have not produced a renunciation 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 assigned by means of competition and in the case of no competitors, the promotion is effected according to the list of seniority.
9. When vacancies are to be assigned according to the list of seniority, the vacancies are successively assigned in the proportion of three by merit and one by seniority.

Article 122

District Attorney by the Departments of Investigation and Prosecution in the county corresponding to the seat of the judicial district

1. The assignment of posts of District Attorney by the Departments of Investigation and Prosecution in the counties corresponding to the seat of the judicial district is from among District Attorneys with evaluation by merit.
2. The Public Prosecutor with the highest evaluation is appointed and, among those with the same highest evaluation, the senior.

Article 123

District Attorney by the Central Department of Investigation and Prosecution and Coordinating District Attorney~

1. The assignment of the posts of District Attorney at the Central Department of Investigation and Prosecution is from among District Attorneys with evaluation by merit, preference being given to those with-
 - 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 assignment of the post of Coordinating District Attorney is made, upon proposal of the District Deputy Attorney General, from among District Attorneys with the evaluation of *Very Good* and with a length of service of not less than five years.
3. The offices referred to in the preceding paragraphs are carried out on commission.

Article 124

Legal Auditors

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

Article 125

Deputy Attorneys General by the supreme courts

1. The posts of Deputy Attorney General by the Supreme Court of Justice, the Constitutional Court, the Supreme Administrative Court, the Audit Court and the Supreme Military Court are assigned from among Deputy Attorneys General or, through promotion, from among District Attorneys with the evaluation of *Very good*.
2. The appointment is made upon a proposal from the Attorney General, and the Superior Council of the Public Prosecution Service may not veto more than two names for each vacancy.
3. The offices referred to in paragraph 1 are carried out on commission.

Article 126

District Deputy Attorneys General and equivalents

1. The posts of District Deputy Attorney General or of Deputy Attorney General by the Central Administrative Court are assigned from among Deputy Attorneys General or, through promotion, from among District Attorneys with the evaluation of *Very good*.
2. The Superior 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 also apply.

Article 127

Deputy Attorney General by the Central Department of Investigation and Prosecution, by the State Conflict Departments and by the Departments of Investigation and Prosecution

The posts of Deputy Attorney General by the Central Department of Investigation and Prosecution, by the State Conflict Departments and by the Departments of Investigation and Prosecution in the counties corresponding to the seat of the judicial district are assigned from among Deputy Attorneys General or, through promotion, from among District Attorneys with the evaluation of *Very Good*, upon proposal of the Attorney General. These offices are carried out on commission.

Article 128

Members of the Consultative Council

1. The posts of member of the Consultative Council of the Attorney General's Office are fulfilled from among Deputy Attorneys General, Judges and Public Prosecutors, as well as from among other jurists applying thereto. The number of the Deputy Attorneys General must not be less than two thirds of the total number of the members.
2. The requirements for assignment are the following_
 - a) For all members, recognised scientific merit and a proven investigative capacity in the field of legal sciences;
 - b) For the Judges and the Public Prosecutors, twelve years of service in any of the branches of the Magistracy and, with regard to members of the Magistracy who have to 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 shall be made upon proposal of the Attorney General. The Superior Council of the Public Prosecution Service may not veto more than two names for each vacancy.
4. The assignment shall be made on commission for renewable periods.

Article 129.

Appointment and removal from office of the Vice Attorney General

1. The Vice Attorney General is appointed upon proposal of the Attorney General, from among Deputy Attorneys General and carries out his duties on commission.
2. The provisions of Article 125(2) apply to the appointment.
3. The appointment of the Vice Attorney General as a judge of the Supreme Court of Justice does not imply termination of the commission nor does it impede its renewal.
4. The Vice Attorney General ceases his duties when a new Attorney General takes office.

Article 130.

Appointment to the office of judge

The Public Prosecutors 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 Attorney General

1. The Attorney General is appointed and removed from office under the terms of the Constitution.
2. The Attorney General's mandate lasts six years, notwithstanding the provisions of article 133(m) of the Constitution.
3. Appointment implies removal from the previous post held, where this related to a Judge or to a Public Prosecutor, or a State officer.
4. After termination of his duties, the Attorney General appointed under the terms of the preceding paragraph is entitled to return to the post previously held, without loss of seniority or right to promotion. The provisions of articles 24 to 31 of Act 4/85, of 9 April, apply to Attorneys General who are neither Judges or Public Prosecutors nor State officers.
5. Where the Attorney General is a member of the Magistracy, 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 if he had 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 Attorney General have been appointed for the Supreme Court of Justice, the Superior Council of the Judiciary shall reopen the competition in which, in the terms of the preceding paragraph, the Attorney General would have participated, and he shall take up the post which is due to him.
7. Whenever Public Prosecutors with seniority inferior to that of the Attorney General have been appointed for the Supreme Court of Justice, the Attorney General maintains the right to the remuneration given up to the date when his duties cease, with the exception of the subsidy referred to in article 98.

SECTION II

The Inspectors

Article 132.

Recruitment

1. The Inspectors are appointed, on commission, from among Public Prosecutors of a rank not less than that of the District Attorney, 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 Attorney 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 a vacancy.

Article 134.

Preparation of moves

1. Public Prosecutors who seek to be assigned a post, whether by appointment, transfer, promotion, term of commission or return to service, shall send their applications to the Attorney General's Office.
2. Applications are registered in the secretariat and expire when the move takes place.
3. For each move, applications shall be considered which have entered at least fifteen days prior to the date the Superior Council of the Public Prosecution Service meets
4. As regards the counties corresponding to the seat of the judicial district, the Public Prosecutors may apply for specific courts or departments, in the terms of the regulations approved by the Superior Court of the Public Prosecution Service.

Article 135.

Transfers and Interchanges

1. Except where there is a disciplinary reason, the Public Prosecutors may not be transferred within one year counted from the date they began to fulfil their duties.

2. The Public Prosecutors are transferred upon request or as a result of a disciplinary ruling.
3. The Public Prosecutors 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 five years counted from the first appointment.
5. Where the transfer upon request is made from a first promotion county or place to a final promotion county or place, the period referred to in paragraph 3 is of eight years from the date of the first appointment.
6. Interchanges shall be authorised, notwithstanding the provisions of the preceding paragraphs and the rights of others.

Article 136.

Rules of assignment and preference

1. The assignment of the Public Prosecutors must be made with prevalence of the needs of the service and the way in which the interested 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 shall be taken into consideration.
3. When the specialised training occurs in the course of service in a specialised court, two years of performance of duties shall be 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 Attorneys may not refuse the first assignment after the fulfilling of their duties in an admission or access county or place.
2. Deputy District Attorneys 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 Attorneys may not be placed in final promotion counties or places unless they have performed duties in first promotion counties or places, and they may not be placed in either of these unless they have performed duties in admission counties or places.

Article 138

Auxiliary Public Prosecutors

1. By need of service, the Supreme Council of the Public Prosecution Service may make such temporary secondments of auxiliary Prosecutors to courts of services as are deemed necessary.
2. The 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 Superior Council of the Public Prosecution Service may decide that the secondment referred to in paragraph 1 should cause a vacancy.

SECTION IV

Commissions on service

Article 139

Commissions on service

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

Article 140

Tenure of commissions

1. Where there are no special provisions, commissions shall last for three years, and they shall be renewable.

2. Occasional secondments may be authorised for periods up to one year, and are renewable.
3. Occasional commissions do not cause a vacancy.
4. The commissions set out in Article 81(3) and paragraph 3 of the preceding article, and those which have regard to 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 commission is considered, for all purposes, as that of effective service in the post.

SECTION V

Investing with a function

Article 141.

Requirements and delay for being invested

1. The act of being invested must be done in person and at the place where the Public Prosecutor is going to carry out his duties.
2. When there is no special delay, the delay to be invested with functions is 30 days counted from the day following the publication of the appointment in the *Diário da República*.
3. Where justifiable, the Superior Council of the Public Prosecution Office may extend the period for being invested with functions or authorise it to be done at a place other than the one referred to in paragraph 1.

Article 142.

Investing entity

1. The Public Prosecutors are invested as follows_
 - a) the Attorney General, before the President of the Republic;
 - b) the Vice Attorney General and the Deputy Attorneys General, before the Attorney General;
 - c) the District Attorneys, before the District Deputy Attorney General for the respective judicial district;

- d) the Deputy District Attorneys, before the respective District Attorney or before the District Deputy Attorney General in the counties corresponding to the seat of judicial districts that have more than one District Attorney;
- e) Where justifiable, the Superior Council of the Public Prosecution Office may authorise the Public Prosecutors falling with sub-paragraphs (c) and (d) to be invested before another entity.

Article 143.

Failure to attend

1. As regards the first appointment, unjustified failure to be invested within the delay shall cause, without the need for any formalities, the voidance of the appointment and the non-eligibility of the offender to be appointed to the same post for a period of two years.
2. In all other cases, unjustified failure to be invested 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 being invested while on commission

The Prosecutors who are promoted while in commission are admitted into the new rank, regardless of being invested 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 Attorney General's Office, which sends them to the administration of the Retirement office *Caixa Geral de Aposentações*.

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 produce, in writing, such remarks as deemed appropriate.
3. Where the provisions of paragraph 1 above apply, the Superior Council of the Public Prosecution Service may decide to suspend the performance of duties of a Prosecutor, specially when his inability justifies so.
4. The suspension set out in this article shall be carried out in such a manner as to preserve the prestige of the post and the dignity of the Prosecutor, and it shall not affect the remuneration perceived.

Article 147

Effects of retirement on grounds of inability

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

Article 148.

Retirement with full honours

1. The Public Prosecutors 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 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. The Public Prosecutors who fall within the provisions of paragraph 1 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 of Article 95(1) and (2), Article 107(1)(a), (b), (c), (e) and (h) and Article 107(2) apply to Public Prosecutors retired with full honours.
2. The retirement pension shall be calculated, without any reduction as to the amount ascertained, on the basis of all remunerations that affect the respective allowance.
3. The Public Prosecutors retired with full honours re 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. The Public Prosecutors retires 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 shall apply to the retirement of Public Prosecutors in all matters that are not governed by the preceding paragraphs.

SECTION II

Termination and Suspension of duties

Article 151.

Termination of duties

The Public Prosecutors terminate duties as follows_

- a) on the day 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 containing the new situation arrives at the county or place where they carry out their duties.

Article 152.

Suspension of duties

The Public Prosecutors suspend their respective duties as follows:-

- a) On the day they are given notice of the order which sets the day of trial regarding accusations against them concerning felonious crimes;
- b) On the day 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 they are given notice of suspension as set out in paragraph 3 of Article 146.

CHAPTER VI

Seniority

Article 153.

Seniority as regards staff and rank

1. The seniority of the Public Prosecutors as regards the staff and the rank is estimated from the date of publication of the assignment in the Diário da República.
2. The publication of assignments must respect, in its ordering, the ranking made by the Superior Council of the Public Prosecution Service.
3. The Deputy Attorneys General who are appointed to the Consultative Council of the Attorney General's Office from among persons other than Public Prosecutors, are allocated seniority, as regards the staff, equal to that of the Deputy Attorney General who, at the date of publication of the appointment is the least senior, and they shall sit to his left.

Article 154.

Service time counted for seniority

1. For the purposes of seniority, the following shall not be discounted:
 - a) Time spent carrying out duties as President of the Republic or as a member of the 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 a criminal proceedings, where such proceedings are filed or lead to acquittal;
 - e) Time spent in compulsory military service;
 - f) Absences due to illness, which do not exceed 90 days in each year;
 - g) Absences referred to in Article 87.
2. For the purposes of retirement, service spent in the Autonomous Regions and in Macao is increased by one quarter.

Article 155.

Service time 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 various Public Prosecutors are appointed or assigned by a decision published on the same date, the following rules shall be observed_

- a) Where appointments are preceded by training courses, after which a ranking list has been drawn up, seniority shall be determined in accordance with the ordering established in that list;
- b) Where promotions are by merit, seniority shall be determined by the order of promotion;
- c) Where appointments are by selection, the provisions of the preceding subparagraphs shall apply;

- d) In all other cases, seniority shall be determined according to the seniority that prevailed in the post previously held.

Article 157.

Seniority List

1. The seniority list of the Public Prosecutors is published every year by the Ministry of Justice in the respective Bulletin or offprint thereof.
2. The 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 place of birth.
3. Copies of each edition of the Bulletin are sent to the Attorney General's Office.
4. The distribution date of the Bulletin or offprint referred to in paragraph 1 shall be announced in the *Diário da República*.

Article 158

Complaints

1. The 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 Superior 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. The Public Prosecutors who may be impaired must be identified in the application, and they shall be given notice to respond within a 15-day period.
3. When the replies have been presented, or the period of time reserved for them has elapsed, the Superior 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 deemed justified, 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 Superior 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 previous paragraph, as soon as they are published in the seniority list, shall be subject to the system in Articles 157 and 158.

CHAPTER VII

Availability

Article 161.

Availability

1. The Public Prosecutors 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 commission has expired;
 - 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 by law.
2. The condition of availability does not cause loss of seniority, salary or remuneration.

CHAPTER VIII

Disciplinary procedure

SECTION I

General provisions

Article 162.

Disciplinary liability

The Public Prosecutors are subject to disciplinary measures under the terms of the following articles.

Article 163.

Disciplinary offence

Disciplinary offences consist of those acts committed by Public Prosecutors in breach of their professional duties, as well as those acts and omissions of their public life - or which have a consequence on them - that are incompatible with the decorum and dignity necessary to the performance of their duties.

Article 164.

Liability to disciplinary powers

1. The removal from office or a change of situation does not prevent punishment for offences committed during performance of the duties.
2. Where there has been removal from office, the Public Prosecutor is deemed to have undergone the penalty if he resumes active service.

Article 165.

Autonomy of disciplinary powers

1. Disciplinary proceedings are independent from criminal proceedings.
2. Where, running the disciplinary proceedings, evidence comes to light of a criminal offence, notice of such fact is given immediately to the Attorney General's Office.

SECTION II

Penalties

SUBSECTION I

Types of penalty

Article 166.

Scale of penalties

1. The Public Prosecutors 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 paragraph 1(a) 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 penalty

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 Prosecutors from an action or omission that might cause a disturbance to the performance of duties or which might have a bearing such that is incompatible with the dignity that is required of him.

Article 168.

Fine penalty

Fine penalties are fixed in days, with a minimum of 5 days and a maximum of 30 days.

Article 169.

Penalty of transfer

The penalty of transfer consists of placing the Public Prosecutor in a post of the same rank outside the area or service in which he previously performed duties.

Article 170.

Penalties of 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.

Penalties of 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 penalty

The penalty of fine involves deduction from the Prosecutor's salary of an amount corresponding to the number of days applied .

Article 174.

Penalty of transfer

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

Article 175.

Penalty of 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 of paragraph 3(b) where the Public Prosecutor subject to the penalty cannot maintain himself in a position to carry out duties without damaging the prestige required to 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, 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 duties at the time 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.

Penalty of 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.

Penalty of 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.

Penalty of dismissal

1. The penalty of dismissal involves the loss of the statute of Public Prosecutor conferred by this Act 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 shall be ranked for promotion or access, but this shall remain suspended and the respective vacancy shall be reserved until the final decision.
2. Where proceedings are filed, the condemnatory decision is repealed or a penalty is applied though without prejudice to promotion or access, the Public Prosecutor is promoted or given access 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 penalty

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

Article 181.

Fine penalty

The penalty of fine shall apply to cases of negligence or indifference in the performance of the duties inherent to the office.

Article 182.

Penalty of 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.

Penalties of 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 the 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.

Penalties of compulsory retirement and dismissal

1. The penalties of compulsory retirement and dismissal are imposed where the Public Prosecutor_
 - a) proves to be clearly unfit for 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 flagrant and of serious abuse of post, with a clear and serious violation of the duties inherent to the post.
2. Abandonment of post shall at all times result into 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 mens rea, his personality and 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.

Repeat offences

1. The situation of repeat offences occurs where the offence in cause is committed before the term of a three-year period counted since the date the Public Prosecutor committed the last offence - for which a harder sentence than a 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 Article 166(1)(b), (d) and (e), in the case of repeat offences, 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 imposed and, where the offences correspond to different penalties, the most serious of these shall be imposed aggravated according to the concurrence, if variable.

Article 189.

Replacement of penalties imposed on retired 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 shall be replaced for 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 warning and fine penalties;
- b) one year, for transfer penalties;
- c) three years, for penalties of suspension from duties and removal from the active list;
- d) five years, for 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 person in charge of the proceedings 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 shall apply, 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 forwarded upon application on grounds 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 person in charge of the proceedings must give notice to the Superior Council of the Public Prosecution Service and to the Defendant of the date on which the investigation of the proceedings shall commence.

Article 195.

Number of witnesses in the investigation phase

1. During the phase of investigation there shall be no limit on the number of witnesses.
2. The person in charge of the investigation may refuse to hear witnesses where he considers the evidence produced to be sufficient.

Article 196.

Preventive suspension of the Defendant

1. The Prosecutor Defendant may, upon the proposal of the person in charge of the proceedings, be suspended from duties on preventive grounds where there are strong indications that the offence shall be punished by at least transfer, and where continued performance of the duties might impair the investigation of the proceedings or the duties or the prestige and dignity of the office
2. Preventive suspension shall be 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 and the disciplinary record of the Defendant have been concluded, the person in charge of the proceedings brings charges within a ten-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 person in charge of the proceedings shall draw up his report within ten days, in accordance with the applicable legislation.

Article 198.

Notice to the Defendant

1. A copy of the charges shall be delivered to the Defendant, or sent by registered letter, setting a period of between ten and thirty days for producing his defence.
2. If the Defendants whereabouts are not known, he shall be given notice by way of edits.

Article 199.

Appointment of defence counsel

1. Where the Defendant is unable to prepare his own defence due to absence, illness, mental disorder or physical disability, the person in charge of the proceedings shall designate a defense 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 paragraph, the time period for producing the defence shall re-commence as of the date when counsel is given notice.

Article 200.

Examination of proceedings

The Defendant appointed counsel or lawyer may, during the time period for delivery of the defence, examine the proceedings 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 person in charge of the proceedings shall draw 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 shall be given notice of the final decision, accompanied by a copy of the report referred to in the preceding paragraph, in accordance with the provisions of Article 198.

Article 204.

Nullities and irregularities

1. An irreversible nullity shall arise 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 shall be considered remedied if they have not been argued in the defence or, where they occur subsequently, within five days from the date on which they become known.

SUBSECTION II

Abandonment of post

Article 205.

Action for abandonment

Where a Public Prosecutor fails to appear at service 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 shall be 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 shall give 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 interested party to the Superior 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 interested party has been able to obtain.

Article 209.

Sequence of review proceedings

1. Once the application has been received, the Superior Council of the Public Prosecution Service shall decide, within 30 days, whether there are grounds for a review.

2 In case of a review, a new person to be in charge of the proceedings is appointed.

Article 210.

Favourable review

1. Where the application for review of the judgement is deemed to have been justified, the decision given in the reviewed proceedings shall be revoked or amended
2. Without prejudice to other rights provided by law, the interested party shall be compensated for payments that were not received due to 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.

Preliminary investigation

The preliminary investigation concerning the inquiry and investigation proceedings shall be subject, with the necessary adjustments, to the provisions regarding disciplinary proceedings.

Article 213.

Report

Once the preliminary investigation has been concluded, the person in charge of the proceedings or the investigator shall draw up a report proposing that the disciplinary proceedings be fled or continued, as the case may be.

Article 214.

Conversion to disciplinary proceedings

1. Where a breach has been ascertained, the Superior Council of the Public Prosecution Service may decide that the inquiry or the investigation proceedings in which the Defendant has been heard shall constitute the preliminary investigation of disciplinary proceedings.
2. In the case referred to in the preceding paragraph, the notification to the Defendant of the decision of the Superior Council of the Public Prosecution Service shall determine the beginning of the disciplinary proceedings.

CHAPTER X

Auxiliary bodies

Article 215.

Secretariates and officers

1. Notwithstanding the support and assistance rendered by the divisions and the judicial secretaries, the Public Prosecution Service shall avail of its own technical-administrative services.
2. The technical-administrative services assure the support, namely, in the following areas:
 - a) Prevention and criminal investigation;
 - b) International judicial co-operation
 - c) Working together with the criminal police bodies and institutions of treatment, recovery and social reintegration;
 - d) The direction of human resources, management and stewardship;
 - e) Evaluation and statistical analysis;
 - f) Communication and information technology support.
3. In the State legal departments, the duties of assistance may also be assured by staff of the Public Administration, on commission, requisition or detachment, and by experts and legal executives contracted for that purpose.

CHAPTER XI

Definitive and temporary provisions

Article 216

Supplementary system

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

Article 217

District Attorneys in the seats of judicial districts

The system of assistance established in Article 45(2) of the previous statutory provisions shall continue to apply to District Attorneys carrying out duties in the seats of judicial districts until the date of entry into force of this Act.

Article 218

Article 153(3)

The system of seniority established in Article 153(3) is applicable to all Deputy Attorneys General therein referred to, if they are appointed until the date of entry into force of this Act.

Article 219

Seniority

1. For purposes of seniority of the Public Prosecutors it is considered the length of service in the Judiciary, as a sub-Deputy District Attorney qualified in Law and as a staging Deputy District Attorney.
2. The relative positions, appearing in the last definitive seniority list prior to the date of entry into force of this Act, are exempted.

Article 220.

Exempted situations

1. The provisions of Article 224(1) of Act 39/78, of 5 July, shall remain in force
2. The provisions of Article 102(4) and of Article 101(3) , pursuant to the reading given by the previous statutory provisions, shall not impair rights acquired by permanent assignment.

Article 221.

Financial and budgetary provisions

1. The Attorney General's Office shall be exempt from stamp duty and 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.

Approved on 29 June 1998.

The President of the Assembly of the Republic, *António de Almeida Santos*.

Approved on 30 July 1998.

Issued,

The President of the Republic, *JORGE SAMPAIO*.

Countersigned on the 6 August 1998,

The Prime Minister, *António Manuel de Oliveira Guterres*.

Annex of Schedule referred to in Article 96, Paragraph 1.

Rank/Scale	Scale index
Attorney General	260
Vice Attorney General	260
Deputy Attorney General with 5 years service	250
Deputy Attorney General	240
District Attorney	220
Deputy District Attorney:	
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

Salary span -- 2:6.