

**REPUBLIC OF ALBANIA
GENERAL PROSECUTOR'S OFFICE
GENERAL PROSECUTOR**

ORDER

No, 141, on July 19, 2014

“ON ADOPTION OF RULES ON ETHICS AND CONDUCT OF PROSECUTORS”

Aiming to, standardize rules on ethics and conduct of prosecutors, to ensure and guarantee professionalism, independence, impartiality, honesty, integrity and correctness in the efficient exercise of constitutional and legal functions in interest of the public and society and in the name of the state, to prevent and punish any corruptive act or conduct of the prosecutors, and

To improve and increase institutional and inter-institutional relations with other criminal proceeding bodies, with national and international institutions and organizations, by avoiding conflict of interest and preserving professional secret, in interest of criminal justice and increase of the public trust in the institution of prosecution;

Pursuant to Article 8, Item 2, letter “gj” and following of Law 8737, of February 12, 2001, “On the Organization and Functioning of the Prosecution Office in the Republic of Albania”, (as amended),

ORDER

1. The adoption of the “Rules on Ethics and Conduct of Prosecutors” attached,
2. All prosecutors and head prosecutors in all levels are responsible for the implementation of this order. The prosecutor – Inspector of Ethics and the Directorate of Inspection and Human Resources in the General Prosecutor's Office are signed with the inspection and control of the implementation of this order.
3. This order is effective immediately.

General Prosecutor
Adriatik Llalla

**REPUBLIC OF ALBANIA
GENERAL PROSECUTOR'S OFFICE**

RULES

ON

ETHICS AND CONDUCT OF PROSECUTORS

PREFACE

Rules on ethics and conduct of prosecutors (hereafter The Rules) aim to establish , preserve and strengthen rules of conduct, and to increase the efficiency of all prosecutors in the exercise of their constitutional and legal functions, on account of the society, in the interest of the public and in the name of the state, as a part of the criminal justice system and rule of law. The Rules support the observance of high standards in the professional behavior of prosecutors in all levels, in accordance with proper conduct in the office, court of law, and outside their offices, as well as the strengthening of their professional and personal dignity, independence and integrity.

The Rules serve as a guideline for all prosecutors and candidates for prosecutors in the country, to increase awareness, accountability, and efficiency in the exercise of their functions.

The Rules, complete the framework of normative acts issued for prosecutors, aiming the increase of transparency and public trust towards prosecutors.

LEGAL BASIS

- The Constitution of the Republic of Albania, Articles 148, 116, 118, and following;
- The Criminal Procedure Code of the Republic of Albania, adopted by Law No, 7905 of March 21, 1995 (as amended) Articles 24, 25 and following;
- Law No. 8737, of February 12, 2001, “On the Organization and Functioning of the Prosecution Office in the Republic of Albania”, (as amended) Article 8, Item 2, Letter “gj” and following;
- Law No. 8331, of April 21, 1998 “For the execution of criminal decisions” (as amended), Articles 9, 12, 13 and following;
- Law No. 8677, of November 11, 2000 “For the functioning of the Judicial Police”, (as amended), Articles 4, and following;
- Recommendations Rec (2000), 19 “On the role of the prosecution in the criminal justice system” (Adopted by the European Council Ministers Committee on June 6, 2000), paragraphs 4 and 10;
- European Guidelines “On ethics and conduct of prosecutors”, adopted by the 6th Conference of the European General Prosecutors (Budapest, May 29-31, 2005), “Budapest Guidelines”;

CHAPTER I GENERAL PROVISIONS

Article 1 Scope

1. The Rules define the principles, norms and guidelines on ethics and conduct of prosecutors to ensure and guarantee professionalism, independence, impartiality, honesty, integrity and correctness in the efficient exercise of constitutional and legal functions, to improve and increase institutional and inter-institutional relations with other criminal proceeding bodies, with national and international institutions and organizations, by avoiding conflict of interest

and preserving professional secret, in interest of criminal justice and increase of the public trust in the institution of prosecution.

Article 2
Field of application

1. The Rules are binding to all prosecutors of the three instances and to the magistrates that are candidates for prosecutors during professional internship in the prosecution office.

PART I
GENERAL RULES

Article 3
Basic Principles

1. The prosecutors, at all times and under any circumstance, should:
 - a) Exercise their duties, observing the Constitution, the ratified international agreements, the laws and by-laws in force;
 - b) Maintain the dignity and honor of their profession, considering that they act in the name of the state, society and public interest;
 - c) Accomplish their functions by, maintaining the highest professional standards, integrity and due diligence, acting with honesty, fairness, devotion and in due time.
 - ç) Strengthen rule of law by respecting, protecting and guaranteeing human rights and integrity, and by avoiding any form of discrimination;
 - d) Respect the principles of a due, equal and legal process, in order to protect lawful rights, interests and freedoms of the victims or witnesses as well as of suspects, people under investigation, defendants and convicts;
 - dh) Strive to define a balance between general interests of the society and the rights of the individual;
 - e) Demonstrate high moral and professional values, be legally qualified and trained, aware at any time of their work to protect the reputation of the prosecution office;
 - ë) Be objective, independent, impartial, avoiding any noncompliance with their functions, aware of their ethical and professional obligations, acting in such a manner as to increase the public trust in their dignity, integrity and honesty;
 - f) Show respect and be cautious not to express publicly any personal thoughts about judges, witnesses or defendants, except those thoughts that pertain to the observance of the law;

PART II
INDEPENDENCE, IMPARTIALITY

Article 4
Independence

1. The prosecutors, in the independent exercise of their functions or duties, should:
 - a) Exercise their functions based on an accurate assessment of the facts, in compliance with a

correct understanding and implementation of the law and free from any unnecessary or external influence;

- b) Avoid any improper or illegal attempts that aim to influence or manipulate their valuation or decision-making;
- c) Not seek or accept any benefits or advantages, material or other, for themselves or their family, third persons or institutions, in the interest of, or directly or indirectly related with the outcome of a proceeding or case that they are working with;
- ç) Not conduct any economical activity, including any type of work or business for gaining material or non material benefits, which may influence their independence, or which may create the impression of abuse of office for personal interests or interests of others, and should not be members of social organizations, which cast suspicions and compromise the image of the prosecutor or which are incompatible with their functions.
- d) Not be influenced by interests of certain groups and from the pressure of media or the public;
- dh) Respect the rights of all person so that they are all equal before the law, and avoid discrimination of any person on grounds of sex, race, color, language, religion, political or other convictions, sexual orientation, social or national origins, connection with national minorities, and status of wealth, birth, health or any other status,
- e) Not allow their names and reputation to be used by other persons for the purpose of unrighteous benefits;

Article 5 Impartiality

1. The prosecutors, in the impartial exercise of their functions or duties, should:
 - a) Not allow that the suspect, person under investigation or the defendant become object to violence, pressure or torture, especially in forcing them to incriminate themselves or to be convicted based on explanations obtained illegally;
 - b) Respect the rights of all persons so that they are all equal before the law, acting objectively and impartially, avoiding any discrimination or prejudice on grounds of political, ethnic, social, cultural or religious affiliation, gender, sexual orientation, age, status, physical or mental disability;
 - c) Be impartial – appear to be impartial – and be perceived by the public as impartial;
 - ç) Respect presumption of innocence and the rights of the individual under investigation and of the defendant in a criminal proceeding;
 - d) Stand above cultural prejudice which may influence their understanding and assessment of facts, as well as their interpretation and observance of the law;
 - dh) Be tolerant and open for discussion and alternative legal solutions offered, take into consideration the perspective, legal interests, private life and concerns of the people that approach them.
 - e) Not provide legal service to their family members or relatives, except in cases of protection of personal/individual rights.

PART III PROFESSIONAL CONDUCT

Article 6 Professionalism

1. The prosecutors, in order to maintain a high professional level in the exercise of their powers, should be, well informed, trained and in coherence with the respective legal and social developments.
2. They must develop their professional abilities, by being up to date with all legal changes in the criminal branch, by following all Albanian and international judicial correspondence, by deepening their knowledge about the structures where they perform their functions and by participating in professional trainings/courses.

Article 7 Competences

1. The prosecutors, in the exercise of their competences with the highest professional standards, should, at all times:
 - a) Act with competence and diligence, exercising their functions with fairness, impartially, and objectively, respecting legal provisions, independently and having primarily in consideration the public interest;
 - b) Accomplish their duties with patience, courtesy and correctness, without delays, maintaining always proper conduct, avoiding conflicts which may cast suspicion for prejudice, lack of ability or preparation;
 - c) Proceed decisively and decide based on evidence beyond any reasonable doubts and based on the law;
 - ç) Examine the proposed evidence to determine whether they have been obtained legally;
 - d) Reject, in any case, the use of evidence which are believed to have been obtained through illegal practice, which constitute a serious violation of the rights of the suspects, people under investigation or of the defendants;
 - dh) Make sure that the proper action and measures have been taken against the individuals that are responsible for obtaining evidence by illegal means;
 - e) Respect the principal of equality of parties, especially by providing to the defendant or the person representing them with all the evidence in accordance with the law and the principal of a fair and due legal process;
 - ë) Guarantee that all possible and necessary investigations have been conducted or are under way, before reaching a final decision concerning the proceeding, or before other decisions are taken which may influence the flow of the legal solution of the proceeding/case;
 - f) Review all respective circumstances of a case, including those that pertain to the suspect, regardless of the fact that later they may be advantageous or disadvantageous to him;
 - g) Not start a proceeding, or if the proceeding has started, drop charges or dismiss the case when an impartial investigation shows that charges were unsubstantiated, as stipulated in the laws, by ensuring transparency in the exercise of the decision-making, as well as by reasoning the grounds on which it was decided not to start the proceeding, interrupt investigation or dismiss the case;
 - gj) Support the principle of a fair proceeding and trial as stipulated in the Constitution¹, Human Rights Convention², and the Law³;
 - h) Seek to ensure that the system of criminal justice performs in the most expedient way

1 See, Article 42 of the Constitution

2 See, Article 6 of the Human Rights Convention

3 See, Article 1 and following of the Criminal Procedure Code

possible, in accordance with the interest of justice.

Article 8 Honesty and Justice

1. The prosecutors in guaranteeing an honest and just proceeding, should:
 - a) Provide to the court of law all the evidence and data collected even when they are in favor or disfavor of the prosecution or the accused;
 - b) Deal with all cases in the right way, but especially with the cases involving detainees, minors and women;
 - c) Take proper care – within their competence – that subjects of criminal proceedings, are informed accurately about their role in the process and their rights;
 - ç) Maintain secrecy of the investigations and administer confidential information or information received in good faith;
 - d) Show a correct attitude and behavior outside their professional sphere, so that there are no suspicions on their professional honesty.

Article 9 Maintaining professional secret

1. The prosecutors in order to maintain professional secret, should
 - a) Not use confidential or secret informations that they possess because of their duty, for their personal interest or for the interests of other persons, except when provided otherwise in the Law.
 - b) Not provide to others or receive from their colleagues informations pertaining to an investigation, except when this is part of their work, to help the investigation or when the disclosing of information is authorized by Law;
 - c) Show maximum discretion in the administration of information pertaining to the victim, witnesses, or accused, by not giving access to anyone, except when provided by Law.

Article 10 Integrity and Correctness

1. The prosecutors in the exercise of their function with integrity and correctness, should, at all times:
 - a) Use the means provided to them because of their job compliant to their institutional destination, and be conscious of their use;
 - b) Not use for personal reason, seized or confiscated items that are not in the ownership of the Prosecution in accordance with the law. They cannot buy these items and/or other items subject to a confiscation or seizure in a criminal proceeding or civil process related to a criminal proceeding that was investigated by them, or any other proceeding where the prosecutor is a party, except the cases when he is a co-owner.
 - c) Should be cautious in the administration of office files outside of office premises;
 - ç) Use working hours efficiently for the accomplishment of official duties. This time should not be used for any other purposes, except when its use for other purposes is authorized officially.

2. Apparel and appearance of the prosecutors should be formal and serious, so that they are decently represented during working hours and in their daily life. Especially during working hours, it is unacceptable to dress inappropriately⁴;
3. The prosecutors shall not use substances that have an impact on their condition, which are not recommended by a doctor. They shall not consume/or be under the influence of alcohol or other substances effecting their mental or emotional ability during the exercise of their duties.
4. Prosecutors should not frequent places or bars which damage their image as prosecutors.
5. Prosecutors should respect the laws and comply at all times with law enforcement bodies.

PART IV CONFLICT OF INTEREST AND EXTERNAL ACTIVITIES

Article 11 Conflict of Interest and Prohibited Benefits

1. The Prosecutors should not:
 - a) Use their office to gain privileges to themselves or other individuals;
 - b) Take procedural/professional decisions influenced by political preferences or financial interests of themselves, family members, friends or third parties; or based in the influence that might come from any organization or group to which the prosecutor belongs;
 - c) Seek or receive, directly or indirectly, any gifts, favors, promises or preferential treatments, because of their position, from any individuals, natural person or legal entities. Exempt to this rule are cases defined by acts of competent bodies, which allow gifts or preferential treatment for protocol reasons;
 - ç) Allow that their name and reputation be used by others for improper gain.
2. Higher ranking prosecutors should not except services or gifts from subordinate prosecutors or employers.
3. The prosecutor that has requested a promotion, transfer or other position, should not exercise any influence towards the individuals that are involved in the evaluation, assessment, and decision-making regarding his request.
4. The prosecutor must observe obligations provided in law no. 9367, of April 7, 2005, “For the prevention of Conflict of Interest in the exercise of official functions”, (as amended).

Article 12 External Activities

1. External activities, as provided for in Article 39, item 2 of Law no 8737, of 12 February 2001 “On the Organization and Functioning of the Prosecution Office in the Republic of Albania” (as

⁴ See, Inappropriate Dress Code: Sport uniforms, short trousers, mini skirts, jeans, running shoes, clothes with slogans, bleached, torn, tights, dirty, transparent and/or provocative.

- amended), can be performed when they do not impede the prosecutor's tasks and do not affect his independence.
2. At any case, the prosecutor shall notify the prosecution head for his commitment in these activities, and receive in advance approval.

CHAPTER II

INSTITUTIONAL AND INTER-INSTITUTIONAL RELATIONS

Article 13

Relations between superiors and subordinates, colleagues and administration

1. Compliant to the organization and functioning of the prosecution office as a centralized institution and to the rule of respect for hierarchy, the relations between superiors and subordinates among prosecutors shall ensure maximum cooperation in order to achieve the best results in the administration of justice. In these relations:
 - a) Prosecutors should be guided by respect, dedication, transparency, seriousness, courtesy and honesty in the punctual execution of legal orders and directions issued by a superior prosecutor;
 - b) Superior prosecutors should respect the rights and dignity of subordinate prosecutors, appraise them for the accomplishment of their duties, assist them when facing difficulties in the exercise of their assigned duties and functions and cooperate with them in the interest of increasing the efficiency and lawfulness of the prosecution institutional activities.
2. In relations with their colleagues:
 - a) The prosecutors should show respect and will not speak or act in such a manner as to violate the personality and dignity of others;
 - b) The prosecutors shall cooperate and share experiences, however, without influencing the decision-making of their colleagues in actual cases;
 - c) The prosecutors should not undertake actions and influence decisions of their colleagues in violation of the rules defined in this Code.
3. In relations with their subordinates and the administration
 - a) The prosecutors should show respect, consideration and fairness;
 - b) The prosecutors should cooperate with them and provide information or access to data in order for them to accomplish the assigned duties;
 - c) The prosecutors should cooperate and assist for their professional growth;
 - ç) The prosecutors should not influence or pressure their subordinates forcing them into actions that constitute failure to accomplish their duties accordingly.

Article 14

Relations with subjects of criminal proceedings

1. In relations with judges, the prosecutors should:
 - a) When defending a case, carry out and observe correctly and punctually all their duties and rights provided by legislation in the criminal field, refraining from inappropriate action or conduct, that diminishes the dignity of the prosecution in the eyes of the public;
 - b) Respect the independence and impartiality of judges, regardless of their convictions, without questioning their decisions and by ordering the execution of court decisions, except the cases

- when exercising the right of appeal in accordance with the law;
- c) Be objective and correct during the judicial procedures and assist the court in the good administration of justice;
 - ç) Respect court sessions timetable and present legal requests to make possible and ensure the right of trial within a reasonable time-frame.
2. In relations with the judicial police, the prosecutors should:
- a) Encourage proper and functional cooperation;
 - b) Establish correct relations based on trust and reciprocity;
 - c) Mutually exchange experiences and legal knowledge with judicial police officers and agents;
 - ç) Issue clear orders and directions, and direct, assist and control their activities in order to achieve an efficient prosecution;
 - d) Ensure transparency, but without impairing the investigation.
3. In relations with the accused, victims and witnesses, the prosecutors should:
- a) Perform their duties with fairness, impartiality, objectively and efficiently;
 - b) Respect human dignity and personality;
 - c) Lead investigations in search of truth, administering the evidence in favor of the defendant and not allowing, in their knowledge, the use of unlawfully collected evidence;
 - ç) Ensure legal and/or social assistance in accordance with legal requirements in any actual case;
 - d) Provide relevant information to these parties concerning their status, avoiding personal opinions or declarations regarding the outcomes of the case.

Article 15

Relations with institutions and organizations

1. In relation with national and international institutions and organizations, the prosecutor should:
- a) Cooperate with professionalism, respecting the independence and competence of each institution. Relations should be based on principles of cooperation, nondiscrimination, mutual trust and respect, and observance of legal requirements;
 - b) Cooperate with international judicial authorities, respecting human rights, adopted international documents and the domestic and international legislation, avoiding unnecessary delays.

Article 16

Freedom of expression and relations with the media

1. The prosecutors should:
- a) Exercise their right to freedom of expression in compliance with the dignity of their office;
 - b) Not make public statements or remarks that are detrimental to the authority of the prosecution or that cast suspicions on its impartiality;
 - c) Not make public or disclose to third parties data that could damage the case under investigation or trial, as well as data of confidential or reserved nature;
 - ç) Not make statements or give opinions concerning the activity of other bodies.
2. The prosecutor, gives notifications concerning his activity, within the boundaries provided for in

the procedural criminal law and in by legal acts adopted by the Prosecutor General which regulate the relations with the media.

CHAPTER III VIOLATION OF RULES AND INSPECTION FOR THEIR IMPLEMENTATION

Article 17 Violation of rules

1. Violation of the rules, when not constituting a criminal offense, is grounds for starting a disciplinary proceeding.
2. Actions that seriously discredit the image of the prosecutor ⁵, constitute violation of the Rules, defined in: article 4, item 1, letters “b”, “c”, “d”, “e”; article 5, item 1, letters “a”, “e”; article 7, item 1, letters “d”, “dh”, “e”; article 8, item 1, letter “d”; article 10, item 1, letters “a”, “b”; and items 2, 3 and 4; article 11, item 1, letters “a”, “b”, “c”, “ç”, and item 2; article 13, item 3, letter “ç”; article 14, item 1, letter “a”; article 16, item 1, letters “b”, “c”; as well as other acts and conducts in violation of the Rules, which in case by case basis are considered to have seriously discredited the position and the image of the prosecutor.
3. In cases when actions or conduct of the prosecutor are considered to have similar effects with the Rules, even if not expressly stipulated in the Rules, are to be considered as a violation of the Rules.

Article 18 Inspection of the Implementation of the Rules

1. All prosecutors in all levels and head prosecutors are assigned with the implementation of the Rules.
2. The prosecutor – Ethics Inspector in the structure of the Inspection and Human Resources Directorate is assigned to observe and control the implementation of the Rules. He may carry out other duties as part of this Directorate.

Article 19 Ethics Inspector and the Procedure he Follows

1. The Ethics Inspector is assigned by order of the General Prosecutor, or one of the supervisors in the General Prosecutor's Office.
2. The Ethics Inspector, on his initiative or within 10 days from receiving information on a violation of the Rules by a prosecutor, starts a verification procedure to determine whether or

⁵ See, - article 149/2 of the Constitution and article 32/d of the law no. 8737, of February 12, 2001 “For Organization and Functioning of the Prosecution Office in the Republic of Albania”, which provide the expression “acts and conduct (actions) that seriously discredit the position and image of the prosecutor”. - The Constitutional Court, in its interpretation of this expression: in decision no. 75/2002 has emphasized that: “... they are related with improper, indecent behavior that these public officials ... commit not only during the exercise of duty and because of it, but also out of duty, with the abuse and violation of the public trust and mainly related to the impairment that they bring to the state and society. The indecent acts and behavior that they commit should be so severe as to seriously discredit the image and position of ... prosecutor and diminish the dignity of the body that they represent ...”.

- not there has been such a violation.
3. Any prosecution office employee that is aware of violations of the Rules, should cooperate with the Ethics Inspector, by giving true and complete statements and by showing the existence of circumstances and the location of evidence.
 4. The Ethics Inspector, informs the General Prosecutor, on the results of the verification process, and recommends accordingly for each case, a criminal proceeding, disciplinary process or special trainings. A copy of this information is notified to the interested prosecutor.
 5. The Ethics Inspector reviews the valuation act of the prosecutor and coordinates with the Head Prosecutor, the Director of Inspection and Human Resources and Prosecution Council, on issues of work discipline valuation for prosecutors.

Article 20

Cooperation with the Ethics Inspector

1. The prosecutor provides a written report to the Ethics Inspector for violations of the Rules by his supervisors, colleagues or subordinates, after he has suggested to them to make such report themselves and given them time to do so, however not more than 10 days.
2. The prosecutor, who is not certain whether or not a specific conduct constitutes violation of the Rules, may notify the Ethics Inspector concerning all the facts and circumstances pertaining to that situation and ask for his opinion. The Ethics Inspector shall reply immediately in writing.
3. The prosecutor that has received a written response from the Ethics Inspector and has followed his instructions, is subject to a disciplinary proceeding, except in those cases when the violation constitutes a criminal offense.

CHAPTER IV

FINAL PROVISIONS

Article 21

Updating the Rules

1. The Rules shall be continuously reviewed and may be amended at any time in accordance with the amendments of the proper provisions in the Criminal Procedure Code and normative acts based on it.
2. Amendments and/or extensions will be adopted after a notion for approval has been issued by the Prosecution Council. Any amendment adopted shall have no retroactive effect.

Article 22

Notifications

1. The Rules, will be notified, reception confirmed by signature, to:
 - a) The magistrates that are candidates for prosecutors⁶ during the professional internship in the prosecution office;
 - b) the prosecutor, at the moment of his assignment by Decree of the President;
 - c) All prosecutors or Judicial Police agents working in the prosecution office;
 - c) Prosecutors must be notified for any amendments or extensions to these Rules

⁶ See, article 23 of Law no. 8737, on February 12, 2001 “For the Organization and Functioning of the Prosecution Office in the Republic of Albania”.

Article 23
Adoption and Entering into Force

1. The Rules were adopted, after broad discussions with prosecutors of all levels and after the notion/approval of the Prosecution Council.
2. The Rules enter into force immediately.