



Republika e Kosovës
Republika Kosova – Republic of Kosovo
Këshilli Prokurorial i Kosovës -Tužilački Savet Kosova – Kosovo Prosecutorial Council

Kosovo Prosecutorial Council pursuant to Article 7, paragraph 1, subparagraph 1.31 of Law nr.06/L – 056 on Kosovo Prosecutorial Council, Article 2, paragraph 3 and Article 60, paragraph 12 of Law no. 08/L-197 on Public Officials, at the meeting held on June 18, 2024 approved:

REGULATION NO. 05/2024

**ON THE DISCIPLINARY PROCEDURE OF ADMINISTRATIVE STAFF IN THE
PROSECUTORIAL SYSTEM OF KOSOVO**

Article 1
Purpose

This Regulation defines the disciplinary procedure, the establishment and composition of the Disciplinary Commission and the types of measures imposed on administrative staff in the prosecutorial system, depending on the types of violations of their work duties.

Article 2
Scope

This Regulation applies to administrative staff in the prosecutorial system who are employed in the prosecutorial system.

Article 3
Definitions

1. The terms used in this regulation have the following meaning:

- 1.1 LZP - means the Law no. 08/L-197 for Public Officials;
- 1.2 SPRK – means the Prosecutorial System of the Republic of Kosovo;
- 1.3 DPSKPK - means the General Director of the Secretariat of the Prosecutorial Council;
- 1.4 DBNJ - means the Department of Human Resources;
- 1.5 DSA - means the Division of Administrative Staff;
- 1.6 KD – means the Disciplinary Committee;
- 1.7 Administrative staff employed in the prosecutorial system - means all employees in the prosecutorial system, who enjoy the status of civil servant with special status in accordance with the Law on Public Officials.

Article 4
Disciplinary responsibility

1. Administrative staff in SPRK have disciplinary responsibility for violations of duties and responsibilities, in cases when they do not perform the duties assigned to them, when they make improper implementation of them, or when during their exercise they act contrary to the normative acts in force. The disciplinary violation can be done by action or inaction.
2. Criminal liability does not exclude disciplinary liability, if the cause of the criminal report also constitutes a violation of the duties or responsibilities of the job.
3. Exemption from criminal liability does not mean exemption from disciplinary liability, if the violation committed constitutes a violation of the duties or responsibilities of the job.

Article 5
The Principles of Individualization of Disciplinary Measures

1. For determining the applicable disciplinary measure, the direct supervisor or Disciplinary Commission is based on:
 - 1.1. the causes, circumstances of the violation, its significance and consequences;
 - 1.2. the degree of guilt;
 - 1.3. the existence of other previously unimpaired disciplinary measures;
 - 1.4. Previous attempts of the employee to avoid or limit the damage.
2. For each violation, only one disciplinary measure is imposed.

Article 6
Violations of duties and responsibilities

1. Violations of work duties and responsibilities can be:
 - 1.1. minor violations and
 - 1.2. serious violations
2. Minor violations are considered to be:
 - 2.1. unreasonable absence from work for up to two (2) consecutive working days;
 - 2.2. Non-observance of working hours;

- 2.3. improper conduct while working with supervisors, colleagues, subordinates and the public;
- 2.4. violation of the Code of Professional Ethics for employees supporting the prosecutorial system;
3. Serious violations are considered to be:
 - 3.1. non-disclosure of conflict of interest in cases where it has knowledge;
 - 3.2. failure to fulfill the duties of the job;
 - 3.3. continuous negligence in the performance of work duties;
 - 3.4. failure to meet deadlines for the performance of work duties;
 - 3.5. failure to comply with legal provisions for the performance of functional duties;
 - 3.6. acts or omissions that have caused consequences;
 - 3.7. violation of the rules set out in the Code of Ethics;
 - 3.8. inappropriate conduct that harms the reputation of the prosecutorial system;
 - 3.9. misleading the prosecutorial system by providing incorrect information or hiding official data when requested for official purposes;
 - 3.10. receiving or offering, directly or indirectly, gifts, favors, promises or preferential treatment due to duty;
 - 3.11. abandonment of work or unreasonable and continuous absence for three (3) or more working days;
 - 3.12. Repetition of minor disciplinary violations two (2) or more times.
 - 3.13. failure to report serious violations related to the work duties by the administrative staff of the prosecutorial system;
 - 3.14. damage to state property, its use outside the official definition or misuse of state property;
 - 3.15. carrying out activities that are contrary to the interests of the prosecutorial system or actions that harm the prosecutorial system and other state bodies;
 - 3.16. behavior or threats that impede, hinder, or hinder others from the successful performance of their official duties;

- 3.17. concealing official facts, evidence or data when they are required for official purposes;
- 3.18. not to maintain confidentiality in relation to information that is important to the institution in the performance of its tasks;
- 3.19. violation of the rules for the storage of classified information and documents;
- 3.20. the use of narcotics and other prohibited narcotic substances;
- 3.21. the use of alcohol in the workplace or coming to work drunk;
- 3.22. misuse of official duty related to the recruitment procedure by members of the recruitment commission who are civil servants;
- 3.23. harassment in the workplace or in the exercise of duty, which violates moral and physical integrity, as well as sexual ones;
- 3.24. discrimination on the basis of gender, racial and other grounds, according to the relevant anti-discrimination law;
- 3.25. Violation of the obligations defined in the legislation in force.

Article 7 **Disciplinary procedure**

1. Disciplinary procedure means the administrative activity from the moment of written notification, by which it is alleged that the administrative staff of the prosecutorial system has committed disciplinary violations and until the final decision is taken by the direct supervisor or by the Disciplinary Commission.
2. The disciplinary procedure begins on the basis of reasonable suspicion of violating the duties and responsibilities of the administrative staff of the prosecutorial system. Information received anonymously, along with other evidence, may serve as a basis for establishing grounded suspicion of initiating disciplinary proceedings.
3. The direct supervisor is obliged to initiate the disciplinary procedure for minor violations of the duties and responsibilities of the work by the administrative staff of the prosecutorial system.
4. The Disciplinary Committee initiates the procedure for serious violations of the duties and responsibilities of the job:
 - 4.1. at the request of the direct supervisor of the administrative staff of the prosecutorial system;
 - 4.2. based on the findings and/or recommendations of any other public body or unit with administrative control, financial inspection or audit powers, or any other

official within the prosecutorial system, as well as at the request of the citizen;

- 4.3. Upon the initiative of any member of the commission, on the basis of reasonable suspicion of committing a disciplinary offence.
5. The disciplinary procedure starts without delay, but not later than within two (2) years from the date of committing the slight violation and not later than five (5) years from the date of committing the serious violation.
6. If there is reason to believe that the continuation of the exercise of office by the administrative staff of the prosecutorial system, against whom a disciplinary procedure has been initiated, hinders the disciplinary investigation or may violate the appropriate exercise of its duty, the Disciplinary Commission may impose a temporary suspension of the administrative staff of the prosecutorial system or take any other appropriate measures, until a final decision is taken. The decision to suspend, according to this paragraph, is an intermediate procedural action, against which no appeal is allowed.

Article 8 **Reporting violations of duties and responsibilities**

1. Administrative staff of the prosecutorial system, when they are aware of or suspect a serious violation of duties and responsibilities, performed by other administrative staff of the prosecutorial system, shall report it in writing to the direct supervisor of the administrative staff for whom they are alleged to have committed the violation.
2. When the violation is reported by citizens, institutions and/or officials outside the prosecutorial system where the administrative staff alleged to have committed the violation, it is reported to the General Director of KPCS.
3. The notification submitted under paragraphs 1 and 2 of this Article shall be sent without delay to the direct supervisor or to the Disciplinary Committee, as the case may be.

Article 9 **Competence for the imposition of disciplinary measures**

1. Disciplinary measures for minor violations are imposed by the direct supervisor and General Director of the SKPK.
2. Disciplinary measures for serious violations are imposed by the Disciplinary Committee.

Article 10 **Registration of disciplinary measures**

The disciplinary measures are recorded in the individual physical and electronic file of the administrative staff from the Division for Administrative Staff, with the exception of the verbal remark.

Article 11
Establishment and composition of the Disciplinary Committee

1. The General Director of SKPK by decision establishes the Disciplinary Committee with a two (2) year mandate.
2. The Disciplinary Committee consists of three (3) members comprising one (1) member of management level, one (1) member of professional level and one (1) member from the DBNJ, at least one of the members must be a lawyer.
3. In cases where the Disciplinary Committee terminates the mandate set forth in paragraph 1 of this Article and considers procedures that have not been completed, the Commission shall terminate those procedures for which the review has begun.
4. In case the disciplinary procedure is initiated for one of the members of the disciplinary committee, he is replaced by the General Director of KPCS with another member of the administrative staff of the same level from the prosecutorial system.
5. In case when the Chairperson or members of the Disciplinary Committee have a conflict of interest or when a conflict of interest arises in the meantime, they are replaced by the General Director of the SKPK for the following cases:
 - 5.1. where the chairman or a member of the Commission is in the position of direct supervisor to the alleged offender or vice versa;
 - 5.2. when the chairman or member of the commission has been injured by the alleged offender;
 - 5.3. When the chairman or the member of the commission with the alleged offender meets the conditions provided in the LPPA for cases of exclusion from the procedure.
6. For the procedure and decision-making of the Disciplinary Committee, the provisions of the LPPA.

Article 12
Competence of the Disciplinary Committee

1. The Disciplinary Committee has the following powers:
 - 1.1. To examine the evidence related to the alleged violation;
 - 1.2. To decide on the basis of evidence whether a violation has been committed and
 - 1.3. To determine the measure to be imposed.

Article 13
Sessions of the Commission

1. The Commission shall immediately review the facts and evidence in the disciplinary procedure upon receipt of the request for initiation of the disciplinary procedure by the Administrative Staff Division.
2. The Administrative Staff Division shall, within 10 days from the date of receipt of the request for initiation of the disciplinary procedure, proceed to the Disciplinary Committee for consideration.
3. The Commission shall assess the facts and circumstances of the case which are necessary for the decision to be taken.
4. The Commission will also carry out the following actions until the decision is taken:
 - 4.1. may question the administrative staff, against whom the disciplinary procedure has been initiated, witnesses and verify the facts;
 - 4.2. take a look at the documentation;
 - 4.3. may invite the initiator of the disciplinary procedure to receive his statement regarding the case and
 - 4.4. Perform any other action necessary to verify the event.
5. The administrative disciplinary procedure guarantees the right of the administrative staff of the prosecutorial system to be informed about the initiation of the procedure, to be informed about the alleged factual violation and the evidence for its commission, the right to be heard, to submit evidence, the right to access documents related to the procedure, for legal protection, the right to be assisted, as well as the right to appeal against the final decision.
6. The sessions of the Commission are closed, unless otherwise provided by the legislation in force and are held in the presence of all members.
7. The procedure and decision-making is carried out in accordance with the relevant law on administrative procedure and is completed within (35) days from the day of receipt of the request by the Administrative Staff Division.
8. The disciplinary procedure must be completed within forty-five (45) days after receipt of the request for initiation of the disciplinary procedure in the Administrative Staff Division.
9. The Commission's decision is submitted to the civil servant and the DBNJ, a copy of the decision becomes part of the civil servant's personal file.

Article 14
Contents of the decision

1. The decision of the Disciplinary Committee shall include:
 - 1.1. the logo of the prosecutorial system;
 - 1.2. the legal basis;
 - 1.3. the data of the administrative staff, against whom the disciplinary measure has been imposed;
 - 1.4. the type of disciplinary measure that has been taken;
 - 1.5. the type of disciplinary violation;
 - 1.6. the reason for the decision;
 - 1.7. cases of previous disciplinary violations if there are also measures taken and
 - 1.8. The legal advice.

Article 15
The Disciplinary Committee's Decisions

1. The Disciplinary Committee, after holding a disciplinary hearing, assessment of the facts and evidence, may decide on:
 - 1.1. to terminate the disciplinary procedure when:
 - 1.1.1. It has been proven that there are no disciplinary violations.
 - 1.2. To impose the disciplinary measure when it is established from the facts and evidence that the administrative staff in the prosecutorial system has committed the violation, for which the notification is filed or the request.
2. The decision of the Commission must be in writing and must be communicated to the offender by the Head of Department for Human Resources/Division for Administrative Staff within three (3) working days from the receipt of the decision.

Article 16
Disciplinary Measures in Case of Committing a Criminal Offense

1. No disciplinary measure may be applied against the administrative staff of the prosecutorial system that has committed a criminal offense, which is punishable under the criminal law, before taking a final decision.
2. Personal liability for the commission of a criminal offense or misdemeanor in the exercise of administrative duties does not exclude the disciplinary responsibility of the administrative staff of the prosecutorial system, provided that the offense also constitutes a breach of duty, as defined by this Regulation.

3. The General Director of the SKPK may suspend the administrative staff of the prosecutorial system according to their official duty in cases where:
 - 3.1. a criminal procedure has been initiated against him/her for the commission of a criminal offense during the exercise of his/her functions;
 - 3.2. the administrative staff is held in custody pending trial and
 - 3.3. When the presence of administrative staff in the office may hinder investigations.
4. The administrative staff of the prosecutorial system, suspended on official duty, during the suspension benefits 50% of the full salary, excluding any kind of addition to the salary until the end of the suspension.
5. In case the disciplinary procedure or the criminal procedure is terminated without a disciplinary measure, i.e. a criminal sentence, the administrative staff of the prosecutorial system that has been suspended with fifty percent (50%) of her/his salary shall be compensated the prohibited part of the basic salary.
6. The period of suspension shall be counted as work experience in the civil service if found not guilty by a final decision or if the procedure is terminated for other reasons.
7. If the administrative staff accused of committing the criminal offense is found not guilty:
 - 7.1. he/she will return to the workplace and no mention of the criminal procedure and/or suspension will be included in the file;

Article 17

Disciplinary measures

1. Disciplinary measures are stated in the right report with the committed violation.
2. Disciplinary measures that can be imposed on administrative staff in the prosecutorial system for minor violations are:
 - 2.1. The verbal remark by the direct supervisor is pronounced in proportion to the consequences caused and is intended to advise and warn staff of other, more serious, disciplinary measures in the event of a recurrence of the violation.
 - 2.2. The written warning from the direct supervisor is pronounced in proportion to the consequences caused and placed in the personal file of the administrative staff.
 - 2.3. Written remarks and inscriptions in the personal file of the administrative staff of the prosecutorial system are pronounced by the direct supervisor.

2.1.1 The imposition of the measure provided for in sub-paragraph 2.1 of this Article shall be made within two (2) working days, and for the measures provided for in subparagraphs 2.2 and 2.3 of this Article it shall be made within seven (7) days from when the violation is suspected to have been committed.

3. Disciplinary measures for serious violations of work duties, defined in Article 5 of this Regulation, administrative staff of the prosecutorial system maybe imposed the following disciplinary measures:

- 3.1. prohibition from twenty percent (20%) to fifty (50%) of the basic salary for a period of up to six (6) months;
- 3.2. prohibition of advancement/appointment to the higher category, for a period of one (1) to five (5) years;
- 3.3. transfer to a similar position in the same class and category;
- 3.4. Decrease in the position.
- 3.5. suspension from the position free of charge for up to six (6) months;
- 3.6. suspension from a position with a ban of up to fifty percent (50%) of the basic salary, up to one (1) year and
- 3.7. Dismissal from civil service.

Article 18 **Prescription of disciplinary measures**

1. The disciplinary measures evidenced in the individual file are deleted from the file after the expiry of these deadlines:
 - 1.1. six (6) months from the notification to the Party of the measure set out in paragraph 2, sub-paragraph 2.2 of Article 17 of this Regulation;
 - 1.2. one (1) year from the Party's notification of the measure set out in paragraph 2, sub-paragraph 2.3 of Article 17 of this Regulation;
 - 1.3. two (2) years from the expiry of the period for which the measure has been imposed for in paragraph 3, subparagraphs 3.1 and 3.2 of Article 17 of this Regulation;
 - 1.4. three (3) years from the expiry of the period for which the measure set out in paragraph 3, sub-paragraph 3.3 of Article 17 of this Regulation has been applied;
 - 1.5. four (4) years from the notification to the Party of the measure set out in paragraph 3, sub-paragraph 3.4 of Article 17 of this Regulation;

- 1.6. five (5) years from the notification to the Party of the measure determined under paragraph 3, sub-paragraphs 3.5 and 3.6 of Article 17 of this Regulation and
- 1.7. Eight (8) years from the notification to the Party of the measure determined under paragraph 3, subparagraph 3.7 of Article 17 of this Regulation.
2. The declaration of the deletion of the disciplinary measure is made as an official duty or at the request of the member of the administrative staff of the prosecutorial system, to whom disciplinary measures have been imposed by a decision of the DSA.
3. After the expiry of the deadlines, according to paragraph 1 of this article, the measure is deleted from the individual physical and electronic file.

Article 19

Administrative Services for the Disciplinary Committee

1. The DSNJ/DSA shall provide the technical administrative services to the Disciplinary Committee, including:
 - 1.1. sending a notification or request to the KD after its receipt;
 - 1.2. Regulation on Disciplinary Procedures of Administrative Staff in the Prosecutorial System of Kosovo;
 - 1.3. providing procedural guidance to members of the committee;
 - 1.4. providing the necessary documents during the development of the procedure;
 - 1.5. the timing of the hearing;
 - 1.6. to send invitations to the competent persons, who are required to be present at the session of the Disciplinary Committee, which includes the date, time and place of the holding of the session;
 - 1.7. keeping a record of disciplinary proceedings and
 - 1.8. submitting and communicating the decision to the initiator of the procedure and the administrative staff against whom the disciplinary procedure has been conducted.

Article 20

Right of complaint

The party dissatisfied with the decision of the Disciplinary Commission may submit a complaint to the Independent Supervisory Council of the Civil Service of Kosovo within thirty (30) days from the date of receipt of the decision of the Disciplinary Commission.

Article 21
Entry into force

1. This Regulation shall enter into force on the day of its adoption by the Kosovo Prosecutorial Council.
2. With the entry into force of this regulation, the mandate of the current composition of the Commission continues until the period indicated by the decision by which they were appointed.

Prishtinë, on 18/06/2024

Ardian Hajdaraj

Chairman of Kosovo Prosecutorial Council